UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-2177
(C.A. No. 23-01124)

MICHAEL DRIGGS, *et al*., Appellants,)
)
v.)
)
CENTRAL INTELLIGENCE AGENCY, Appellee.)
)
)

JOINT APPENDIX

VOLUME 1 OF 2

On Appeal from the United States District Court for the
Eastern District of Virginia, Hon. David J. Novak, District Judge

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APPEAL,CLOSED

U.S. District Court
Eastern District of Virginia - (Alexandria)
CIVIL DOCKET FOR CASE #: 1:23-cv-01124-DJN-JFA

Driggs et. al. v. Central Intelligence Agency
Assigned to: District Judge David J. Novak
Referred to: Magistrate Judge John F. Anderson
Case in other court: 4CCA, case manager A. Walker,, 25-02177
Cause: 05:552 Freedom of Information Act

Date Filed: 08/24/2023
Date Terminated: 08/06/2025
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: Federal Question

Plaintiff

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Plaintiff

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Plaintiff

Jana Orear represented by **John Clarke**
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Plaintiff

Christianne O'Malley represented by **John Clarke**
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Plaintiff

Thomas Michael Logan represented by **John Clarke**
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Plaintiff

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Plaintiff

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George Patterson represented by **John Clarke**
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Plaintiff

Mark Sauter represented by **John Clarke**
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Date Filed	#	Docket Text
08/24/2023	1	Complaint (Filing fee $ 402, receipt number AVAEDC-9093316.), filed by David Logan, Jana Orear, Megan Marx, John Zimmerlee, Mark Sauter, Robert Moore, Terri Mumley, Michael Driggs, Christianne OMalley, Carol Hrdlicka, Thomas Michael Logan. (Attachments: # 1 Exhibit FOIA Request, # 2 Affidavit Smith, # 3 Affidavit Shipp, # 4 Civil Cover Sheet)(Clarke, John) (Entered: 08/24/2023)
08/24/2023	2	Proposed Summons by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne OMalley, Jana Orear, George Patterson, Mark Sauter, John Zimmerlee. (Attachments: # 1 Proposed Summons) (Clarke, John) (Entered: 08/24/2023)
08/24/2023		Initial Case Assignment to District Judge T. S. Ellis, III and Magistrate Judge John F. Anderson. (wgar,) (Entered: 08/25/2023)
08/24/2023	3	Summons Issued as to U.S. Attorney and U.S. Attorney General NOTICE TO ATTORNEY: Please remove the headers and print two duplexed copies of the electronically issued summons for each Defendant. Please serve one copy of the summons and a copy of the Complaint upon each Defendant. Please ensure that your process server returns the service copy (executed or unexecuted) to your attention and electronically file it using the filing events, Summons Returned Executed as to USA or Summons Returned Unexecuted as to USA. (Attachments: # 1 Notice to Attorney)(wgar,) (Entered: 08/25/2023)
08/25/2023		Notice of Correction: The filing user has been notified that a Proposed Summons was not submitted as to defendant - Central Intelligence Agency. (wgar,) (Entered: 08/25/2023)
08/29/2023	4	Corporate Disclosure Statement by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 08/29/2023)
08/29/2023	5	FILED IN ERROR AND REMOVED (nneb,). (Entered: 08/29/2023)
09/01/2023	6	Proposed Summons by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 09/01/2023)
09/06/2023	7	Summons Issued as to Central Intelligence Agency, NOTICE TO ATTORNEY: Please remove the headers and print two duplexed copies of the electronically issued summons for each Defendant. Please serve one copy of the summons and a copy of the Complaint upon each Defendant. Please ensure that your process server returns the service copy (executed or unexecuted) to your attention and electronically file it using the filing events, Summons Returned Executed or Summons Returned Unexecuted. (Attachments: # 1 Notice to Attorney)(nneb) (Entered: 09/06/2023)
10/12/2023	8	ANSWER to Complaint by Central Intelligence Agency.(Barghaan, Dennis) (Entered: 10/12/2023)
01/05/2024	9	SCHEDULING ORDER: **Initial Pretrial Conference set for 1/31/2024 at 11:00 AM** in Alexandria Courtroom 401 before Magistrate Judge John F. Anderson. Discovery due by 3/29/2024. **Final Pretrial Conference set for 4/26/2024 at 10:00 AM** in Alexandria Courtroom 900 before District Judge T. S. Ellis III. Signed by District Judge Leonie M. Brinkema on 1/5/2024.

		(Attachments: # 1 Magistrate Consent Form, # 2 Pretrial Notice) (tran) (Entered: 01/05/2024)
01/18/2024	10	ORDERED that the initial pretrial conference before the undersigned is cancelled. Signed by Magistrate Judge John F. Anderson on 1/18/2024. (Dcrow,) (Entered: 01/18/2024)
01/18/2024	11	ORDERED that all civil actions currently assigned to the Honorable T.S. Ellis, III, other than 42 U.S.C. 1983 prisoner rights cases and habeas cases filed under 28 U.S.C. 2254, 28 U.S.C. 2241, and 28 U.S.C. 2255, be transferred to the Honorable David J. Novak, effective as of the date of this Order. Signed by Chief District Judge Mark S. Davis on 01/18/2024. (wgar,) (Entered: 01/18/2024)
01/18/2024		Case Reassigned to District Judge David J. Novak. District Judge T. S. Ellis, III no longer assigned to the case. (swil) (Entered: 01/18/2024)
01/23/2024	12	ORDER (Setting Status Conference): This matter comes before the Court following reassignment from Senior Judge T.S. Ellis, III 11 . To assist in the efficient resolution of this case, the Court hereby SCHEDULES an on-the-record conference call with counsel at 10:00 a.m. on Tuesday, January 30, 2024. Signed by District Judge David J. Novak on 1/23/2024. (tran) (Entered: 01/23/2024)
01/23/2024		Set Hearings: **OTR Status Conference set for 1/30/2024 at 10:00 AM** in Alexandria Telephonically before District Judge David J. Novak. (tran) (Entered: 01/23/2024)
01/24/2024		On-The-Record Initial Pretrial Conference set for 1/30/2024 at 10:00 AM Telephonically before District Judge David J. Novak. (cgar) (Entered: 01/24/2024)
01/30/2024		Minute Entry for proceedings held before District Judge David J. Novak:OTR Initial Pretrial Conference held on 1/30/2024. (Court Reporter Rebecca Stonestreet.)(cgar) (Entered: 01/30/2024)
01/30/2024	13	**VACATED PER ORDER ENTERED** ORDER (Suspending Discovery and Scheduling Conference Call): To efficiently resolve this case, the Court hereby VACATES the scheduling order entered in this matter 9 and SUSPENDS all discovery. The Court further DIRECTS the parties to meet and confer regarding the material at issue to resolve the case. Finally, the Court hereby SCHEDULES an on-the-record conference call with counsel at 10:30 a.m. on April 9, 2024. If the parties resolve the entirety of their disputes by March 22, 2024, and so report that to the Court, then the conference call on April 9, 2024, will be canceled. Signed by District Judge David J. Novak on 1/30/2024. (tran) Modified on 3/27/2024 to vacate the order (wgar,). (Entered: 01/30/2024)
01/30/2024		Set Hearings: **On-The-Record Telephone Conference set for 4/9/2024 at 10:30 AM** Telephonically before District Judge David J. Novak. (tran) (Entered: 01/30/2024)
01/30/2024		OTR Status Conference set for 4/9/2024 at 10:30 AM Telephonically before District Judge David J. Novak. (cgar) (Entered: 01/30/2024)
02/27/2024	14	NOTICE of Appearance by Matthew J. Mezger on behalf of Central Intelligence Agency (Mezger, Matthew) (Entered: 02/27/2024)
02/27/2024	15	MOTION for Clarification re 13 Order,, by Central Intelligence Agency. (Mezger, Matthew) (Entered: 02/27/2024)
02/27/2024	16	Memorandum in Support re 15 MOTION for Clarification re 13 Order,, filed by Central Intelligence Agency. (Attachments: # 1 Exhibit DEX 1)(Mezger, Matthew) (Entered: 02/27/2024)
02/27/2024	17	Waiver of re 16 Memorandum in Support, 15 MOTION for Clarification re 13 Order,, *(Hearing)* by Central Intelligence Agency (Mezger, Matthew) (Entered: 02/27/2024)

02/29/2024		On-The-Record Status Conference set for 3/13/2024 at 10:30 AM Telephonically before District Judge David J. Novak. (cgar) (Entered: 02/29/2024)
03/13/2024	18	ORDER (Setting Case Deadlines and Granting Motion for Clarification) (See order for details). Signed by District Judge David J. Novak on 03/13/2024. (jlan) (Entered: 03/13/2024)
03/13/2024		Minute Entry for proceedings held before District Judge David J. Novak:OTR Status Conference held on 3/13/2024. (Court Reporter Rebecca Stonestreet.)(cgar) (Entered: 03/13/2024)
03/22/2024	19	Memorandum in Support re 15 MOTION for Clarification re 13 Order,, *MEMO OF LAW RE SEARCH OF OPERATIONAL RECORDS* filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 03/22/2024)
03/27/2024	20	ORDER (Canceling Hearing and Vacating Order): The Court VACATES the Discovery Order (ECF No. 13) and CANCELS the status conference now set for April 9, 2024. Signed by District Judge David J. Novak on 03/27/2024. (wgar,) (Entered: 03/27/2024)
04/05/2024	21	Response to 19 Memorandum in Support, *in Opposition* filed by Central Intelligence Agency. (Attachments: # 1 Exhibit DEX 1, # 2 Exhibit DEX 2, # 3 Exhibit DEX 3, # 4 Exhibit DEX 4, # 5 Exhibit DEX 5, # 6 Exhibit DEX 6, # 7 Exhibit DEX 7, # 8 Exhibit DEX 8)(Mezger, Matthew) (Entered: 04/05/2024)
04/10/2024	22	TRANSCRIPT of proceedings held on March 13, 2024, before Judge David J. Novak, Court Reporter/Transcriber Rebecca Stonestreet, Telephone number 240-426-7767. **NOTICE RE REDACTION OF TRANSCRIPTS:The parties have thirty(30) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at www.vaed.uscourts.gov Transcript may be viewed at the court public terminal or purchased through the court reporter/transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER Redaction Request due 5/10/2024. Redacted Transcript Deadline set for 6/10/2024. Release of Transcript Restriction set for 7/9/2024.(stonestreet, rachel) (Entered: 04/10/2024)**
04/10/2024	23	REPLY to Response to Motion re 15 MOTION for Clarification re 13 Order,, *Reply to Opposition to Motion to Require Search of Operational Records* filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 04/10/2024)
05/10/2024	24	NOTICE by Central Intelligence Agency re 18 Order *(Joint)* (Mezger, Matthew) (Entered: 05/10/2024)
05/21/2024	25	MEMORANDUM ORDER (Denying Search of Operational Files) - the Court exercises its discretion to CONSTRUE Plaintiffs' Memorandum (ECF No. 19) as a motion requesting relief, the Court hereby DENIES that motion. Signed by District Judge David J. Novak on 05/21/2024. (jlan) (Entered: 05/21/2024)
05/23/2024	26	ORDER (Directing Periodic Status Updates) - The Court accordingly DIRECTS the parties to file joint status reports every 60 days, with the first such report due on or before June 14, 2024. Signed by District Judge David J. Novak on 05/23/2024. (wgar,) (Entered: 05/24/2024)

06/14/2024	27	STATUS REPORT *(Joint, First)* by Central Intelligence Agency. (Mezger, Matthew) (Entered: 06/14/2024)
08/13/2024	28	STATUS REPORT *(Joint, Second)* by Central Intelligence Agency. (Mezger, Matthew) (Entered: 08/13/2024)
10/15/2024	29	STATUS REPORT *(Joint, Third)* by Central Intelligence Agency. (Mezger, Matthew) (Entered: 10/15/2024)
12/03/2024	30	Consent MOTION for Extension *of time To Complete the Processing of Plaintiffs' FOIA Request* by Central Intelligence Agency. (Attachments: # 1 Proposed Order)(Mezger, Matthew) (Entered: 12/03/2024)
12/04/2024	31	ORDER (Granting Joint Motion for Extention): The Court GRANTS the parties' Motion (ECF No. 30) and, accordingly, DIRECTS the Defendant to complete production in this case no later than January 10, 2025. Signed by District Judge David J. Novak on 12/04/2024. (wgar,) (Entered: 12/04/2024)
12/16/2024	32	STATUS REPORT *(Joint, Fourth)* by Central Intelligence Agency. (Mezger, Matthew) (Entered: 12/16/2024)
01/30/2025	33	ORDER (Ordering Parties to Provide Status Update) - The Court ORDERS the parties to file a joint status update no later than February 10, 2025, informing the Court whether Defendant has completed production and, if appropriate, seeking dismissal of the case. Signed by District Judge David J. Novak on 01/30/2025. (jlan) (Entered: 01/30/2025)
02/10/2025	34	STATUS REPORT *Pursuant to January 30, 2025 Order (Joint)* by Central Intelligence Agency. (Mezger, Matthew) (Entered: 02/10/2025)
02/28/2025	35	STATUS REPORT *(Joint)* by Central Intelligence Agency. (Attachments: # 1 Proposed Order)(Mezger, Matthew) (Entered: 02/28/2025)
02/28/2025	36	ORDER (Setting Briefing Schedule for Summary Judgment) - the Court ORDERS the following: (1) Defendant's motion for summary judgment and supporting brief shall be filed no later than April 23, 2025. (2) Plaintiffs motion for summary judgment and supporting brief, as well as Plaintiffs' opposition to Defendant's motion, shall be filed no later than May 21, 2025. (3) Defendant's combined reply brief in support of its motion for summary judgment and in opposition to Plaintiffs' motion shall be filed no later than June 4, 2025. (4) Plaintiffs' reply brief in support of their motion for summary judgment shall be filed no later than June 18, 2025. Signed by District Judge David J. Novak on 02/28/2025. (jlan) (Entered: 02/28/2025)
04/23/2025	37	MOTION for Summary Judgment by Central Intelligence Agency. (Mezger, Matthew) (Entered: 04/23/2025)
04/23/2025	38	Memorandum in Support re 37 MOTION for Summary Judgment filed by Central Intelligence Agency. (Attachments: # 1 Exhibit DEX 1)(Mezger, Matthew) (Entered: 04/23/2025)
04/23/2025	39	Notice of Hearing Date re 37 MOTION for Summary Judgment , 38 Memorandum in Support (Mezger, Matthew) (Entered: 04/23/2025)
04/24/2025	40	ORDER (Cancelling Hearing) - the Court CANCELS the hearing requested by Defendant in its Notice. (ECF No. 39.) The Court will schedule a hearing if it will aid in the decision-making process. Signed by District Judge David J. Novak on 04/24/2024. (jlan) (Entered: 04/24/2025)
05/21/2025	41	MOTION for Summary Judgment by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne

		O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Attachments: # 1 Affidavit Bob Smith, # 2 Affidavit Clarke 1 of 4, # 3 Affidavit Clarke 2 of 4, # 4 Affidavit Clarke 3 of 4, # 5 Affidavit Clarke 4 of 4, # 6 Affidavit Norman Kass)(Clarke, John) (Entered: 05/21/2025)
05/21/2025	42	Memorandum in Support re 41 MOTION for Summary Judgment filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 05/21/2025)
05/21/2025	43	Notice of Hearing Date *on Summary Judgment* set for June 27, 2025 re 41 MOTION for Summary Judgment (Clarke, John) (Entered: 05/21/2025)
05/21/2025	44	Opposition to 37 MOTION for Summary Judgment , 38 Memorandum in Support filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Attachments: # 1 Affidavit Bob Smith, # 2 Affidavit Clarke 1 of 4, # 3 Affidavit Clarke 2 of 4, # 4 Affidavit Clarke 3 of 4, # 5 Affidavit Clarke 4 of 4, # 6 Affidavit Norman Kass)(Clarke, John) (Entered: 05/21/2025)
05/21/2025	45	Memorandum in Opposition re 41 MOTION for Summary Judgment filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 05/21/2025)
05/21/2025	46	MOTION In Camera Inspection by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 05/21/2025)
05/21/2025	47	Brief in Support to 46 MOTION In Camera Inspection filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 05/21/2025)
05/21/2025	48	Notice of Hearing Date re 46 MOTION In Camera Inspection (Clarke, John) (Entered: 05/21/2025)
05/22/2025	49	ORDER (Cancelling Hearing) - the Court CANCELS the hearing requested by Plaintiffs in their Notice. (ECF No. 48.) The Court will consider Plaintiffs' Notice as a request for a hearing and will schedule a hearing if necessary, at which time all parties will be informed accordingly. Signed by District Judge David J. Novak on 05/22/2025. (jlan) (Entered: 05/22/2025)
06/04/2025	50	Memorandum in Opposition re 41 MOTION for Summary Judgment filed by Central Intelligence Agency. (Attachments: # 1 Exhibit DEX 02, # 2 Exhibit DEX 03, # 3 Exhibit DEX 04, # 4 Exhibit DEX 05)(Mezger, Matthew) (Entered: 06/04/2025)
06/04/2025	51	RESPONSE in Support re 37 MOTION for Summary Judgment filed by Central Intelligence Agency. (Attachments: # 1 Exhibit DEX 02, # 2 Exhibit DEX 03, # 3 Exhibit DEX 04, # 4 Exhibit DEX 05)(Mezger, Matthew) (Entered: 06/04/2025)
06/04/2025	52	Memorandum in Opposition re 46 MOTION In Camera Inspection filed by Central Intelligence Agency. (Mezger, Matthew) (Entered: 06/04/2025)
06/18/2025	53	REPLY to Response to Motion re 41 MOTION for Summary Judgment filed by David Logan, George Patterson, Jana Orear, Megan Marx, John Zimmerlee, Mark Sauter, Robert

		Moore, Terri Mumley, Michael Driggs, Christianne O'Malley, POW Investigative Project, Inc., Carol Hrdlicka, Thomas Michael Logan. (Clarke, John) (Entered: 06/18/2025)
06/18/2025	54	REPLY to Response to Motion re 46 MOTION In Camera Inspection filed by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. (Clarke, John) (Entered: 06/18/2025)
08/06/2025	55	MEMORANDUM OPINION in re Parties' Cross Motions for Summary Judgment and Plaintiffs' Motion for In Camera Inspection. Signed by District Judge David J. Novak on 08/06/2025. (wgar,) (Entered: 08/06/2025)
08/06/2025	56	ORDER (Dismissing Plaintiffs; Granting Defendant's Motion for Summary Judgment): The Court hereby ORDERS that: Plaintiffs Robert Moore, Jana Orear, Christianne O'Malley and Mark Sauter are DISMISSED from this action; Plaintiffs' Motions for Summary Judgment and In Camera Inspection (ECF Nos. 41, 46) are DENIED; and Defendant's Motion for Summary Judgment (ECF No. 37) is GRANTED. Signed by District Judge David J. Novak on 08/06/2025. (wgar,) Modified on 8/6/2025 to correct docket text (wgar,). (Entered: 08/06/2025)
08/06/2025	57	CLERK'S RULE 58 JUDGMENT entered in favor of the Defendant and against the Plaintiffs. Signed by District Judge David J. Novak on 08/06/2025. (wgar,) (Entered: 08/06/2025)
10/02/2025	58	NOTICE OF APPEAL by Michael Driggs, Carol Hrdlicka, David Logan, Thomas Michael Logan, Megan Marx, Robert Moore, Terri Mumley, Christianne O'Malley, Jana Orear, POW Investigative Project, Inc., George Patterson, Mark Sauter, John Zimmerlee. Filing fee $ 605, receipt number AVAEDC-10501034. (Clarke, John) (Entered: 10/02/2025)
10/03/2025	59	Transmission of Notice of Appeal to US Court of Appeals re 58 Notice of Appeal, (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov) (dvanm) (Entered: 10/03/2025)
10/03/2025	60	USCA Case Number 25-2177 4CCA, case manager A. Walker, for 58 Notice of Appeal, filed by Thomas Michael Logan, Christianne O'Malley, Terri Mumley, John Zimmerlee, Megan Marx, Jana Orear, Mark Sauter, Carol Hrdlicka, Robert Moore, POW Investigative Project, Inc., Michael Driggs, George Patterson, David Logan. (dvanm) (Entered: 10/06/2025)

PACER Service Center

Transaction Receipt

10/31/2025 14:01:11

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Description:	Docket Report	**Search Criteria:**	1:23-cv-01124-DJN-JFA
Billable Pages:	8	**Cost:**	0.80

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

MICHAEL DRIGGS
4812 16th Street
Arlington, Virginia 22205,

and

ROBERT MOORE
745 East Riverside Drive
Eagle, Idaho 83616,

and

JANA OREAR
197 Aspin Hill Court
Gardnerville, Nevada 89460,

and

CHRISTIANNE O'MALLEY
4005 Bull Rider Drive
Reno, Nevada 89521,

and

THOMAS MICHAEL LOGAN
1298 Winterberry Cove
Germantown, Tennessee 38138,

and

DAVID LOGAN
1298 Winterberry Cove
Germantown, Tennessee 38138,

and

MEGAN MARX
5446 Ben Park Circle
Parker, Colorado 80134,

and

Civil Action No.

TERRI MUMLEY)
109 East Brushy Valley Drive)
Powell, Tennessee 37849,)
)
and)
)
JOHN ZIMMERLEE)
3342 Brickey Lane)
Marietta, Georgia 30068,)
)
and)
)
CAROL HRDLICKA)
948 North Mayfield Road)
Conway Springs, Kansas 67031,)
)
and)
)
GEORGE PATTERSON)
375 Ruby Street)
Laguna Beach, California 92651,)
)
)
and)
)
MARK SAUTER)
9512 Beck Court)
Bethesda, Maryland 20817,)
)
and)
)
THE POW INVESTIGATIVE)
PROJECT, INC.)
A Maryland Corporation,)
)
Plaintiffs,)
)
v.)
)
CENTRAL INTELLIGENCE)
AGENCY)
Washington, DC 20505,)
)
Defendant.)
_____)

COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF
(Violations of Freedom of Information Act, 5 U.S.C. § 552;
Improper Withholding of Operational Files under 50 U.S.C. § 3141(f);
Improper Considerations of Historical Value and Public Interest in
Decennial Reviews of Exempted Operational Files under 50 U.S.C. § 3141(g)(2))

Preliminary Statement

Plaintiffs bring this action under the Freedom of Information Act, seeking disclosure of CIA records of unrepatriated POWs from the Korean and Vietnam Wars.

Twelve individuals and a non-profit corporation bring this case. Eleven of the plaintiffs lost a family member in one of these wars. In most of the incidents, the government possessed information that the individual was not MIA, but rather was a POW, but withheld that information from the families, and thereafter wrongfully reclassified these men from MIA to KIA.

Jurisdiction and Venue

1. Jurisdiction and venue are appropriate under 5 U.S.C. § 552(a)(4)(B) of the *Freedom of Information Act* ("FOIA"), which expressly provides a venue for FOIA cases in the district where the claimant resides. Venue is also proper under 50 U.S. Code § 3141(g)(3), *Operational files of the Central Intelligence Agency,* providing for "judicial review in the district court of the United States of the district in which any of the parties reside."

Parties

2. Plaintiff Robert Moore lives in Eagle, Idaho. On June 1, 1951, Mr. Moore's brother, Air Force Captain Harry Cecil Moore, piloted an F-51 Mustang when it was shot down over North Korea. Harry was taken prisoner, and thereafter shipped to the Soviet

Union. Robert Moore is Harry Moore's brother. Harry's family tells the story of their search for him in their documentary, *Keeping the Promise Alive*, 2013.

3. Plaintiff Jana Orear lives in Gardnerville, Nevada. Jana Orear is Harry Moore's daughter.

4. Plaintiff Christianne O'Malley lives in Reno, Nevada. Ms. O'Malley is Harry Moore's granddaughter.

5. Plaintiff Thomas Michael Logan lives in Germantown, Tennessee. Mike is Sam Logan's son. On September 9, 1950, Air Force Major Sam Logan was shot down over North Korea. Sam was taken prisoner, and thereafter believed to have been held in the Soviet Union.

6. Plaintiff David Logan lives in Germantown, Tennessee. David is Sam Logan's son.

7. Plaintiff Megan Marx lives in Parker, Colorado. She is Dwight Angell's stepdaughter. On January 18, 1953 Navy Ensign Dwight Angell was aboard a Navy P2V on China's southeastern coast, when it was downed. He is believed to have been taken prisoner, and thereafter to have been led through the streets of Swatow, China, in an anti-American parade.

8. Plaintiff Terri Mumley lives in Powell, Tennessee. She is Lloyd Smith's granddaughter. Lloyd Smith, Jr. was aboard the Navy aircraft with Dwight Angell, and he too safely parachuted into the water and is believed to have been taken prisoner, and may have been the other POW on display in the Chinese anti-American parade.

9. Plaintiff Michael Driggs lives in Arlington, Virginia. He is Robert Bibb's nephew. On July 20, 1950 Master Sergeant Robert Bibb may have been captured in the Battle of Taejon, an early fight in South Korea.

10. Plaintiff John Zimmerlee lives in Marietta, Georgia. Air Force 1st Lieutenant John Henry Zimmerlee served as a navigator aboard a B26C light bomber, when, on March 21, 1952, it crashed, after three of its five crewmembers successfully parachuted out. They were taken prisoner, and last seen in the custody North Korean and Chinese guards. His son, John, is the founder and Executive Director of the Korean War POW/MIA Network. During his 20 years of research, he has helped hundreds of the families of missing men. He co-authored *American Trophies, How US POWs Were Surrendered*, 2013.

11. Plaintiff Carol Hrdlicka lives in Conway Springs, Kansas. Her husband, Air Force Captain David Hrdlicka, piloted an F-105 over Laos on May 18, 1965, when it was shot down. In her book, *Finding David, An American Wife Betrayed by Her Government*, 2012, Carol recounts her decades-long efforts to seek information on David's whereabouts, and to secure his release.

12. Plaintiff George "Luck" Paterson lives in Laguna Beach, California. On May 19, 1967, Luck's brother, Navy Lieutenant James Kelly Patterson, served as a bombardier-navigator on a A-6 Intruder over North Vietnam when it was shot down. Kelly had been taken prisoner, and shipped to the Soviet Union.

13. Mark Sauter lives in Bethesda, Maryland. He has been an investigative journalist and author since 1987. He co-authored four books, including *The Men We Left Behind: Henry Kissinger, the Politics of Deceit and the Tragic Fate of POWs After the Vietnam War*, 1993, and *American Trophies, How US POWs Were Surrendered*, 2013.

14. Mr. Sauter founded the Plaintiff POW Investigative Project, Inc., a 501(c)(3) nonprofit corporation devoted to investigating the fates of United States POWs and MIAs last reported alive in communist captivity but never returned after the Korean, Cold, and Vietnam Wars.

15. Defendant Central Intelligence Agency ("CIA") is an agency within the meaning of 5 U.S.C. § 552(f) of the FOIA, and is in possession and or control of the records which are the subject of this action

FOIA Request

16. On July 12, 2023, plaintiffs submitted a FOIA request to the CIA, a copy of which is attached hereto as Exbibit 1. It seeks disclosure of the following 28 items:

> Request 1
> For the period of March 16, 1954, through 1961, all records of CIA's efforts in undertaking "clandestine and covert action to locate, identify, and recover those U.S. prisoners of war still in Communist custody."
>
> Request 2
> The subject of the attached, redacted, version of the January 5, 1952, *CIA Information Report*, is "Preparations for Exchange of United Nations Prisoners in Central and South China." It relates that, "on 18 December, 13 American and 8 British prisoners of war were transferred," that a source "gave names," that "another source referred to American prisoners in the former US consulate," that there is "another report referring to US prisoners in the Canton area," and there is "a recent report from yet another source…." Please provide an unredacted copy of this Report, together with all intelligence material upon which it was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.
>
> Request 3
> The "main subject" of the attached July 15, 1952 CIA *Cross Reference Sheet* is "Location of Certain Soviet Transit Camps for POW from Korea, Classification Number 383.6 Korea." It reads:
>
> > Date of Basic Communication: 15 July 52 f/w
> > Date of Basic Document: 24 June 53
> > Brief Summary:
> > In December it was known that camps for POW captured by the

Communists in Korea had been established, etc. 3-plc'

Classifier 488 Routed to: C.I. File
Typist 488

Date of Classifying 17 Aug 59

Cross Reference Numbers:
040 Central Intelligence Agency

Please produce the referenced:

(a) July 15 1952 "Basic Communication;"
(b) June 24, 1953 "Basic Document;"
(c) Information described as "etcetera;"
(d) POW information in, or otherwise "Routed to, C.I. File;"
(e) POW information related to or bearing the "Cross Reference Number 040;" and
(f) POW information related to or bearing the "Classification Number 383.6 Korea."

Request 4

All records regarding the June 1, 1951 shoot down and capture over North Korea of the American F-51 piloted by U.S. Air Force Captain Harry Cecil Moore, born February 11, 1924, in Elm Grove, West Virginia, service number AO 711850, including information that he was "now a prisoner of war," and that he was held in the Soviet Union and interrogated there.

Request 5

All records Major Samuel Porter Logan Jr., shot down while piloting a B-29 Super Fortress over North Korea on September 9, 1950, declared missing-inaction and presumed dead by the Air Force on March 31, 1954. Major Logan served in the 92nd Bomb Wing, Spokane AFB, 325th Bomb Squadron, 92nd Bomb Group, APO 328.

Request 6

All records concerning Ensign Dwight Clark Angell, USNR service number 552173, born August 17, 1928, who was serving aboard a Navy P2V-5, Squadron VP-22, when it was downed on January 18, 1953.

Request 7

All records concerning Aviation Machinist Mate 1st Class Lloyd Smith Jr., USN service number 6306390, born August 21, 1922. He served aboard a Navy P2V-5, Aviation Squadron VP-22, when the aircraft was downed on January 18, 1953.

Request 8

All records concerning Air Force 1st Lieutenant John Henry Zimmerlee, Jr., service number AO1998932, born on December 6, 1911. Lieutenant Zimmerlee served as navigator aboard a B26C (No. 44-34417) in the Air Force 730th Bomb Squadron, when it was downed on March 21, 1952.

Request 9
All records regarding Master Sergeant Robert Bibb, Army Company C, 3rd Engineer Combat Battalion, 24th Infantry Division, service number RA-19076631, born December 6, 1911, captured on July 20, 1950 in Tuejon, South Korea.

Request 10
All records regarding David Louis Hrdlicka, shot down and captured over Laos on May 18, 1965 while piloting an F-105, initially incarcerated in Sam Neua, Laos, at the Pathet Lao Headquarters, and held in Laos at least as late as 1989.

Request 11
All records regarding James Kelly Patterson, shot down and captured over North Vietnam on May 19, 1967, while serving as navigator of the American F-51 piloted by Captain Eugene McDaniel, including Patterson's incarceration, interrogation, and transportation from North Vietnam to the Soviet Union, where he was held as late as 1991.

Request 12
An unredacted version of the attached July 17, 1952, three-page *CIA Information Report*, the subject of which is "Prisoner-of-War Camps in North Korea and China," subtitled "War Prisoner Administrative Office and Camp Classification," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 13
An unredacted copy of the attached December 31, 1953, *CIA Information Report*, regarding a USSR interrogation center in Korea, where, "after interrogation PWs were taken to the USSR," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 14
An unredacted copy of the attached March 24, 1954, *CIA Information Report* relating that "some PWs listed as missing were in fact turned over to the Soviets," and "will never be released because they will have learned too much about Soviet PW handling techniques," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 15
The unredacted, and complete, version of the attached April 23, 1954, *CIA Information Report*, "Subject Soviet Concentration Camps in the Vorkuta Area."

Request 16
The unredacted, and complete, version of the April 27, 1954, *CIA Information Report* relating "information regarding the presence of US prisoners captured during the Korean War" in camps in Komsomolsk, Magadan, Chita, and Irkutsk, USSR, together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports. The first page of this three-page Report is enclosed.

Request 17
The unredacted, and complete, version of the attached December 8, 1955, *CIA Information Report*, "Subject Alleged American Held in Soviet Prison."

Request 18
On January 15, 1992, an individual who had been a KGB officer from 1974 to 1984 appeared at the US Embassy in Helsinki, Finland, and reported that, to "ease his conscience," he was reporting that "three Americans were still being held in the camps of Mordovia in July 1978." The source "added that if necessary, he can provide more detailed information." For reference, a copy of the January 23, 1992 cable from Embassy Helsinki to Secretary of State is attached. Please produce any and all information related to this Report.

Request 19
A complete, and unredacted version of the attached March 9, 1988, *CIA Memorandum* to "US Army Chief, Special Office for Prisoners of War and Missing-in-Action," referencing two 1980 sightings and one 1988 sighting of "31 Caucasians, possibly American prisoners from the Korean war, in the fall of 1979," together with all intelligence material upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 20
All records relating to any of the POW/MIAs named in the attached list.

Request 21
Any and all records relating that any POW/MIAs may have been held in the prisons identified in the attached list of Russian prison camps.

Request 22
By order issued on November 28, 1951, the *Combined Command for Reconnaissance Activity Korea,* or "CCRAK," was created. For your reference, two responsive CCRAK records are attached. *See also* CIA *Clandestine Services History* Historical Paper No. 52, "The Secret War in Korea," written in 1964, and declassified 2007, at p. 78:

> By the fall of 1951, CIA Headquarters recognized there were great opportunities if more experienced CIA officers were in Korea. Accordingly,

three of the most competent senior clandestine services officers in the Agency were selected: one to be full-time CIA representative and Deputy of CCRAK, another as head of CCRAK's counterintelligence section and doubling as Chief of CIA's counterespionage staff, and the third as Chief of foreign intelligence activities.

For the period beginning June of 1951, and continuing to the present time, please produce all POW records provided to, or receive from, any office of any component of the Department of Defense, including but not limited to:

(a) CCRAK.
(b) *Air Force 6004 Air Intelligence Service Squadron* during the tenure of "Project American."
(c) *Missing in Action Office*, including those provided in response to the attached February 12, 1997 letter from U.S. House of Representative James Talent seeking "intelligence pertaining to American prisoners who were taken to China and the Soviet Union during the war," as well as "(a) the 389 American service members who into the 1980s were listed as unaccounted prisoners of war by the United Nations Command Military Armistice Commission (UNCMAC) and all US Air Force F-86 pilots who remain unrepatriated."
(d) *Air Force Office of Special Investigations*, or AFOSI.
(e) *Naval Criminal Investigative Service*, or NCIS.
(f) *Army Criminal Investigation Command*, or CID.
(g) U.S. Army *Combined Command Reconnaissance Activities Far East*, or CCRAFE.

Request 23
All POW records prepared by any officer, agent, or employee of the CIA, prepared for the Office of the President, including the *President's Daily Brief*, or PDB, that include information on the possibility of POWs being transferred to the Soviet Union or China.

Request 24
Any records reflecting communications with Members of Congress, or Congressional oversight committees concerning the capture of American airmen during the Korean conflict who may have been transported to the Soviet Union or China, and their presumed fate.

Request 25
All records concerning POWs and KGB defector Yuri (or Yury) Rastvorov, who informed the United States Government that American military personnel were taken to the Soviet Union during the Korean conflict. This request includes an unredacted version of the attached page with the heading, "Terminology."

Request 26
All intelligence material (including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports) concerning statements made by former Czech general Jan Sejna and other former Czech officials concerning US POWs held, interrogated and experiment on by Czech and Soviet advisors, and thereafter transferred to China, Czechoslovakia, East Germany and the Soviet Union.

Request 27
The withheld-in-full version of the CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*.

Request 28
The redacted portions of the November 1998 *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*, by Senator Bob Smith.

17. Plaintiffs' FOIA request asks the CIA to produce these records in electronic format, PDF, pursuant to 5 U.S.C. § 552(a)(3)(B).

Constructive Exhaustion of Administrative Remedies

18. Defendant received plaintiffs' FOIA Request on July 14, 2023.

19. To date, the CIA has failed to respond to plaintiffs' request for information.

20. Plaintiffs have constructively exhausted their administrative remedies by the CIA's failure to respond within twenty working days under 5 U.S.C. § 552 (b)(6)(A)(i).

Count I
(News Media Status)

21. Plaintiffs restate paragraphs 1-20 as if fully repeated here.

22. Plaintiffs' FOIA Request seek a news media waiver of search and review fees under 5 U.S.C. § 552 (a)(4)(a)(iii), and a waiver of duplication costs under 5 U.S.C. § 552 (a)(4)(A)(ii)(II). Plaintiff's FOIA Request sets forth the grounds for entitlement to these waivers.

Count II
(Prompt Disclosure)

23. Plaintiffs restate paragraphs 1-22 as if fully repeated here.

24. Plaintiffs have a statutory right to the records they seek, and there is no legal basis for the CIA's refusal to disclose them.

Count III
(Improper Withholding of
Operational Files under 50 U.S.C. § 3141(f))

25. Plaintiffs restate paragraphs 1-24 as if fully repeated here.

26. Plaintiffs' FOIA Request include their request to "kindly include the operational files repositories in the search, pursuant to the exception provided by 50 U.S.C. § 3141. "

27. 50 U.S.C. § 3141(f)(3) states that "when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence."

28. Attached hereto as Exhibit B is the Affidavit of the former Vice-Chairman of the Senate Select Committee on POW/MIA Affairs, 1989 to 1993, Senator Bob Smith. Mr. Smith wrote that he "personally [has] seen hundreds of classified documents that could and should be released as they pose no national security risk."

29. Attached hereto as Exhibit C is the Affidavit former CIA official Kevin Shipp, whose expertise includes classification authority. Mr. Shipp wrote that "[d]ocuments relating to the fate of POWs, including those transferred to Russia or China, can clearly be released, at least in part, without revealing the identity of any confidential source." Release

would "cause no harm to international relations or ongoing diplomatic activities. Given the age of these records, there is no longer any justification for continuing to treat them as 'operational records' under 50 U.S.C. § 3141."

30. The CIA has "improperly withheld [responsive records] because of improper placement solely in exempted operational files." 50 U.S.C. § 3141(f)(3).

31. 50 U.S.C. § 3141(f)(5) provides plaintiffs the opportunity to propound Request for Admissions.

Count IV
Improper Considerations of Historical Value and Public Interest in Decennial Reviews of Exempted Operational Files under 50 U.S.C. § 3141(g)(2)

32. Plaintiffs restate paragraphs 1-31 as if fully repeated here.

33. The CIA Act requires the CIA, every ten years, to review its files to consider "the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein." 50 U.S. Code § 3141 (g), *Decennial Review of Exempted Operational Files.*

34. The CIA Act requires the CIA to review the exemptions in force to "determine whether such exemptions may be removed from any category of exempted files or any portion thereof." *Id*.

35. The CIA Act provides that "a complainant who alleges that the Central Intelligence Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review." 50 U.S. Code § 3141(g)(3).

36. The CIA failure to comply with the disclosure provisions of the CIA Act entitle plaintiffs to judicial review.

WHEREFORE, Plaintiffs respectfully pray that this Court order Defendant Central Intelligence Agency to:

(1) Grant plaintiff Mark Sauter status as a representative of the news media under 5 U.S.C. § 552(a)(4)(A)(ii)(II);
(2) Conduct a thorough search for responsive records to include its repositories of operational files;
(3) Include among its search terms the names of the POW/MIAs in the FOIA Request, as well as the Russian prison camps identified;
(4) Disclose the information that is redacted in the CIA records provided with the FOIA Request;
(5) Promptly provide the information to plaintiffs; and
(6) Pay plaintiffs' reasonable costs and attorneys' fees incurred in the prosecution of this action, under 5 U.S.C. § 552 (a)(4)(E) and 28 U.S.C. § 2412(d).

DATE: August 16, 2023.

Respectfully submitted,

/ s/ John H Clarke
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July 12, 2023

Freedom of Information and Privacy Coordinator
Central Intelligence Agency
Washington, DC 20505

Re: FOIA requests for records regarding unrepatriated United States POWs from the Korean and Vietnam Wars

Dear Ladies and Gentlemen:

This is a request under the Freedom of Information Act, 5 USC § 552 *et seq*., for 28 items, made by twelve individuals and a non-profit corporation, all of whom I represent. They are Robert Moore, Jana Orear, Christianne O'Malley, Mike Logan, David Logan, Megan Marx, Terri Mumley, Michael Driggs, John Zimmerlee, Mark Sauter, Carol Hrdlicka, George ("Luck") Patterson, and the POW Investigative Project, Inc.

Harry Moore. A US District Court opinion summarizes:

> United States Air Force Captain Harry Cecil Moore was shot down over North Korea on June 1, 1951 during the Korean War. Captain Moore was taken prisoner and transported to the former Soviet Union, where he was interrogated. Eight months after Captain Moore was shot down over North Korea, the Chief of Naval Personnel wrote to a fellow naval officer "that there [was] a possibility that Captain Moore survived and is now a prisoner of war." But it was not until 2002 that the government revealed to Captain Moore's relatives that Moore had survived the crash and had been a prisoner of war in the former Soviet Union.

In December of 1953, the Air Force reclassified Harry from missing-in-action, to killed-in-action. The government notified Harry's family of the reclassification, but not of its information to the contrary.

Exhibit A

In 2002 the Moore family began their search for Harry. *See, e.g.*, their documentary, *Keeping the Promise Alive*. Robert Moore is Harry's brother. Jana Orear is his daughter, and Christianne O'Malley is his granddaughter.

World War II service. Harry had almost suffered a similar fate nine years earlier, in World War II. In October of 1944, the Japanese invaded western China. The U.S. Air Force 14th Squadron was tasked with bombing and strafing Japanese forces who were advancing toward Kunming. On October 10, Harry piloted the lead of five P-40 ground attack aircraft. Ground fire shot him down, and he parachuted into a rice paddy a few yards from his burning P-40. Harry's family was informed by telegram that Harry was missing-in-action.

Uninjured, and fearing capture, he fled up a mountain, walking in a stream where he was shielded from view by high grass on its banks. While the bombing and strafing campaign continued, he hid in caves. For the next seven days, Harry travelled at night, evading Japanese forces. Harry then found farmers who fed and clothed him. He thereafter joined the 93rd Chinese Army of around 600 men, walking westward 16-hours a day, for 28 days, until Harry reached Jungkang, where the Chinese army gave him 30 soldiers and a horse to take him to Sanxiu.

On December 16, 1944, fifty-one days after the shoot-down, Harry rejoined U.S. forces, whereupon Harry's wife, his mother, and his brother were informed that Harry was alive.

Sam Logan. On September 9, 1950, Samuel P. Logan, Jr., piloted a B-29 on a low-level bombing run north of the North Korean capital of Pyongyang when his aircraft was hit by anti-aircraft fire. The plane crashed to the ground, but not before five or six crew members escaped by parachute. American air crews nearby noted significant ground traffic at the crash site. Logan was listed as missing-in-action.

But two months later, an American soldier discovered scrawled on a jail cell wall at Pyongyang, "*Sam Logan, Capt USAF—Shot down 9 September. 27 September.*" Around the same time, the Soviet Union's newspaper *Pravda* released a photograph of Logan in captivity near the crash site. The following spring, March 31, 1954, the Air Force declared Logan dead, citing no "evidence of continued survival." But the photograph and jail cell graffiti confirmed that Logan had not been killed in action, but was a POW. In 2010, a filmmaker discovered 16-mm color Soviet footage of Sam with a North Korean officer and his wrecked B-29.

Sam Logan's sons, David and Mike, are convinced that their father was whisked away to the Soviet Union after his capture and brief stay in a Pyongyang jail cell. No American ever spotted him in a Korean War POW camp. Information on heavy bombers was a prime target of enemy interrogators.

World War II service. In 1942, Sam was assigned to Troop Carrier Command as a C-47 pilot. He received an Air Medal and Oak Leaf Clusters for participating in the longest unescorted, nonstop operation to drop paratroopers near the Algerian port of Oran as part of Operation Torch. After the German surrender, Sam returned to the US to train in the new B-29 for Pacific War service. He remained in the Air Force after the Japanese surrender and began flying bombing missions over Korea when the war broke out there in June 1950.

Dwight Angell, Lloyd Smith. On January 18, 1953, a Navy P2-V Neptune was on a reconnaissance mission, photographing an anti-aircraft artillery emplacement on China's southeastern coast. Chinese anti-aircraft fire downed the plane. The entire crew, 13 men, including Dwight Angell and Lloyd Smith, survived the crash, and parachuted into the water.

The Coast Guard stationed in the Philippines dispatched its amphibious PBM Mariner aircraft, with eight men on board, to rescue the men. It initially rescued 11 of the 13 crew members, Dwight Angell among them. Lloyd Smith was last seen in the water, wearing his life vest, floating towards a nearby island. He was not rescued.

But the Coast Guard's rescue was short lived. As the aircraft began its take-off, its starboard engine suddenly quit. A swell hit its right wing causing the plane to thrust upwards, to cartwheel, and to crash. With two crews in the water, over a hundred boats responded to affect a rescue. The Navy's USS Halsey Powell reached the scene and rescued ten men. Dwight Angell was not among them.

Multiple sources reported that two POWs from the crash had been led through the streets of Swatow, China, in an anti-American parade, and had then been sent onto Canton. Notwithstanding these reports, in September of 1955, the Navy reclassified both Dwight Angell and Lloyd Smith from missing-in-action to killed-in-action, citing a "lack of positive information indicating he is alive."

FOIA requester Megan Marx is Dwight Angell's stepdaughter. Requester Terri Mumley is Lloyd Smith's granddaughter.

John Zimmerlee. Air Force 1st Lieutenant John Henry Zimmerlee served as navigator aboard a B26C light bomber. Sometime after 9:00 p.m. on March 21, 1952, it crashed, after three of its five crewmembers successfully parachuted out. They were taken prisoner, and last seen in the custody North Korean and Chinese guards.

His son, John, is the founder and Executive Director of the Korean War POW/MIA Network. He has helped hundreds of the families of missing men, utilizing his databases that assembled over the course of his 20 years of research.

Robert Bibb. On July 20, 1950 Master Sergeant Robert Bibb was captured in the Battle of Taejon, an early fight in South Korea that overwhelmed the 24th Infantry Division, which was outnumbered and lacking communications and weapons. Michael Driggs is Robert Bibb's nephew.

David Hrdlicka. On May 18, 1965 Air Force Captain David Hrdlicka piloted an F-105 over Laos, when it was shot down. He was captured. David was held in Sam Neua, Laos, at the Pathet Lao Headquarters.

In 1966 the Pathet Lao released two tape recordings made by David, a letter written by him to Prince Souphanouvong asking to be released, and a photograph of David appeared in Vietnamese and Russian newspapers. Laos also advised the Red Cross that David had been captured. That year the CIA planned a rescue, codenamed operation Duck Soup.

In 1977 the government made a presumptive finding of death.

In 1989 the government received a report from a Laotian commander that David was a POW. Later that year David escaped, but had been recaptured. In 1992, Carol first learned that 1988 satellite imagery showed a POW distress symbol in the area where David had been held—only when US News and World Report published the leaked imagery.

In her book, *Finding David*, Carol recounts her decades-long efforts to seek information on David's whereabouts, and to secure his release. During this time, the government repeatedly declared that none of the intelligence on David was reliable.

James Kelly Patterson. On May 19, 1967, Lieutenant Commander Eugene McDaniel ("Red") piloted a fully loaded A-6 Intruder over North Vietnam, together with his bombardier-navigator, navy Lieutenant James Kelly Patterson ("Kelly"). It was their 81st mission. About forty miles away from their target the Intruder's instruments indicated that missiles had been launched nearby. While dodging one missile, another hit them. The controls on the damaged aircraft froze. As it pitched down and began to burn, both men ejected, one second apart, and landed in the North Vietnam jungle.

Red, though injured, survived, and was taken prisoner. As a POW, Red would suffer brutal and barbaric torture for almost six years, and earned the Navy Cross. Kelly had safely parachuted but with a badly broken left leg. After three days of evading the enemy, he had apparently been captured on the fourth day.

While Red never saw Kelly again, strong evidence indicates that Kelly had been taken prisoner. Kelly was an expert operator of the aircraft's state-of-the-art electronic systems, which were being used to defeat Vietnam's Russian-made missile defenses. Convincing evidence exists that Kelly had been shipped to the Soviet Union, where he was held in a military missile research facility that was developing technology to circumvent the American countermeasures.

Red dedicated his book, *Scars and Stripes*, "To my Bombardier-Navigator, Lieutenant James Kelly Patterson, and others like him who did not return."

FOIA requester Luck Patterson is Kelly's brother.

Mark Sauter and the POW Investigative Project, Inc. Mark Sauter is a member of the news media under 5 U.S.C. §§ 552 (a)(4)(a)(iii). Mr. Sauter founded the POW Investigative Project, Inc., a nonprofit entity devoted to investigating the fates of United States POWs and MIAs last reported alive in communist captivity but never returned after the Korean, Cold, and Vietnam Wars.

On March 16, 1954, General Nathan Twining (Air Force Chief of Staff 1953 to 1957, Chairman Joint Chiefs 1957 to 1960) sent to then CIA Director Allen Dulles a Memorandum regarding *U.S. Prisoners of War Remaining in Communist Custody After Termination of Exchange of Prisoners Under Terms of Korean Armistice Agreemen*t. General Twining wrote:

> [A] substantial number of U.S. military personnel captured in the course of the Korean War are still being held prisoners by the Communist Forces. These individuals will not necessarily be retained in North Korea or Manchuria, but may be held elsewhere within the Soviet orbit…. It is therefore requested that requirements be placed on appropriate operating organizations for clandestine and covert action to locate, identity, and recover those U.S. prisoners of war still in Communist custody. This action should take precedence over all other evasion and escape activities currently being planned or undertaken by the Agency in support of military requirements. It is further requested that any information collected pertaining to U.S. and other United Nations prisoners of war still in Communist custody be immediately forwarded to this Headquarters.

Dulles wrote back that "the Agency has had a continuing requirement for the development of information on the location of U.S. POWs. Any intelligence developed on this subject will be discussed promptly with headquarters, United States Air Force."

CIA was well equipped to develop the information. Two years earlier, by order issued on November 28, 1951, the CIA and DOD created *Combined Command for Reconnaissance Activity Korea,* or "CCRAK." CIA personnel served in three lead positions; Deputy, head of counterintelligence and counterespionage, and Chief of foreign intelligence activities.

The term "POW" in the requests refer to United States military personnel taken prisoner during the Korean War, as well as Vietnam era POW's David Hrdlicka and Kelly Patterson, who were not repatriated, and includes "MIAs," or missing-in-action. The term "POW records" should be read to include all intelligence material of whatsoever nature, including all reports, analysis, correspondence, signals intelligence or SIGNET (including transcripts of communist propaganda broadcasts), photographs, satellite imagery, and live sighting reports. The term "live sighting reports" should be read to include those based on hearsay, together with the corresponding interview notes.

These requests do not seek information that appears in any record on the CIA website, or on any Department of Defense website, but only if such records were released in full, with no redactions. In other words, please process redacted records.

Request 1
For the period of March 16, 1954, through 1961, all records of CIA's efforts in undertaking "clandestine and covert action to locate, identify, and recover those U.S. prisoners of war still in Communist custody."

Request 2
The subject of the attached, redacted, version of the January 5, 1952, *CIA Information Report,* is "Preparations for Exchange of United Nations Prisoners in Central and South China." It relates that, "on 18 December, 13 American and 8 British prisoners of war were transferred," that a source "gave names," that "another source referred to American prisoners in the former US consulate," that there is "another report referring to US prisoners in the Canton area," and there is "a recent report from yet another source…." Please provide an unredacted copy

of this Report, together with all intelligence material upon which it was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 3

The "main subject" of the attached July 15, 1952 CIA *Cross Reference Sheet* is "Location of Certain Soviet Transit Camps for POW from Korea, Classification Number 383.6 Korea." It reads:

> Date of Basic Communication: 15 July 52 f/w
> Date of Basic Document: 24 June 53
> Brief Summary:
> In December it was known that camps for POW captured by the Communists in Korea had been established, etc. 3-plc
>
> Classifier 488 Routed to: C.I. File
> Typist 488 Date of Classifying 17 Aug 59
>
> Cross Reference Numbers:
> 040 Central Intelligence Agency

Please produce the referenced:

(a) July 15 1952 "Basic Communication;"
(b) June 24, 1953 "Basic Document;"
(c) Information described as "etcetera;"
(d) POW information in, or otherwise "Routed to, C.I. File;"
(e) POW information related to or bearing the "Cross Reference Number 040;" and
(e) POW information related to or bearing the "Classification Number 383.6 Korea."

Request 4

All records regarding the June 1, 1951 shoot down and capture over North Korea of the American F-51 piloted by U.S. Air Force Captain Harry Cecil Moore, born February 11, 1924, in Elm Grove, West Virginia, service number AO 711850, including information that he was "now a prisoner of war," and that he was held in the Soviet Union and interrogated there.

Request 5
All records Major Samuel Porter Logan Jr., shot down while piloting a B-29 Super Fortress over North Korea on September 9, 1950, declared missing-in-action and presumed dead by the Air Force on March 31, 1954. Major Logan served in the 92nd Bomb Wing, Spokane AFB, 325th Bomb Squadron, 92nd Bomb Group, APO 328.

Request 6
All records concerning Ensign Dwight Clark Angell, USNR service number 552173, born August 17, 1928, who was serving aboard a Navy P2V-5, Squadron VP-22, when it was downed on January 18, 1953.

Request 7
All records concerning Aviation Machinist Mate 1st Class Lloyd Smith Jr., USN service number 6306390, born August 21, 1922. He served aboard a Navy P2V-5, Aviation Squadron VP-22, when the aircraft was downed on January 18, 1953.

Request 8
All records concerning Air Force 1st Lieutenant John Henry Zimmerlee, Jr., service number AO1998932, born on December 6, 1911. Lieutenant Zimmerlee served as navigator aboard a B26C (No. 44-34417) in the Air Force 730th Bomb Squadron, when it was downed on March 21, 1952.

Request 9
All records regarding Master Sergeant Robert Bibb, Army Company C, 3rd Engineer Combat Battalion, 24th Infantry Division, service number RA-19076631, born December 6, 1911, captured on July 20, 1950 in Tuejon, South Korea.

Request 10
All records regarding David Louis Hrdlicka, shot down and captured over Laos on May 18, 1965 while piloting an F-105, initially incarcerated in Sam Neua, Laos, at the Pathet Lao Headquarters, and held in Laos at least as late as 1989.

Request 11
All records regarding James Kelly Patterson, shot down and captured over North Vietnam on May 19, 1967, while serving as navigator of the American F-51 piloted by Captain Eugene McDaniel, including Patterson's incarceration, interrogation, and transportation from North Vietnam to the Soviet Union, where he was held as late as 1991.

Request 12
An unredacted version of the attached July 17, 1952, three-page *CIA Information Report*, the subject of which is "Prisoner-of-War Camps in North Korea and China," subtitled "War Prisoner Administrative Office and Camp Classification," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 13
An unredacted copy of the attached December 31, 1953, *CIA Information Report*, regarding a USSR interrogation center in Korea, where, "after interrogation PWs were taken to the USSR," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 14
An unredacted copy of the attached March 24, 1954, *CIA Information Report* relating that "some PWs listed as missing were in fact turned over to the Soviets," and "will never be released because they will have learned too much about Soviet PW handling techniques," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 15
The unredacted, and complete, version of the attached April 23, 1954, *CIA Information Report*, "Subject Soviet Concentration Camps in the Vorkuta Area."

Request 16
The unredacted, and complete, version of the April 27, 1954, *CIA Information Report* relating "information regarding the presence of US prisoners captured during the Korean War" in camps in Komsomolsk, Magadan, Chita, and Irkutsk, USSR, together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports. The first page of this three-page Report is enclosed.

Request 17
The unredacted, and complete, version of the attached December 8, 1955, *CIA Information Report*, "Subject Alleged American Held in Soviet Prison."

Request 18
On January 15, 1992, an individual who had been a KGB officer from 1974 to 1984 appeared at the US Embassy in Helsinki, Finland, and reported that, to "ease his conscience," he was reporting that "three Americans were still being held in the camps of Mordovia in July 1978." The source "added that if necessary, he can provide more detailed information." For reference, a copy of the January 23, 1992 cable from Embassy Helsinki to Secretary of State is attached. Please produce any and all information related to this Report.

Request 19
A complete, and unredacted version of the attached March 9, 1988, *CIA Memorandum* to "US Army Chief, Special Office for Prisoners of War and Missing-in-Action," referencing two 1980 sightings and one 1988 sighting of "31 Caucasians, possibly American prisoners from the Korean war, in the fall of 1979," together with all intelligence material upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 20
All records relating to any of the POW/MIAs named in the attached list.

Request 21
Any and all records relating that any POW/MIAs may have been held in the prisons identified in the attached list of Russian prison camps.

Request 22
By order issued on November 28, 1951, the *Combined Command for Reconnaissance Activity Korea,* or "CCRAK," was created. For your reference, two responsive CCRAK records are attached. *See also* CIA *Clandestine Services History* Historical Paper No. 52, "The Secret War in Korea," written in 1964, and declassified 2007, at p. 78:

> By the fall of 1951, CIA Headquarters recognized there were great opportunities if more experienced CIA officers were in Korea. Accordingly, three of the most competent senior clandestine services

officers in the Agency were selected: one to be full-time CIA representative and Deputy of CCRAK, another as head of CCRAK's counterintelligence section and doubling as Chief of CIA's counterespionage staff, and the third as Chief of foreign intelligence activities.

For the period beginning June of 1951, and continuing to the present time, please produce all POW records provided to, or receive from, any office of any component of the Department of Defense, including but not limited to:

(a) CCRAK.
(b) *Air Force 6004 Air Intelligence Service Squadron* during the tenure of "Project American."
(c) *Missing in Action Office*, including those provided in response to the attached February 12, 1997 letter from U.S. House of Representative James Talent seeking "intelligence pertaining to American prisoners who were taken to China and the Soviet Union during the war," as well as "(a) the 389 American service members who into the 1980s were listed as unaccounted prisoners of war by the United Nations Command Military Armistice Commission (UNCMAC) and
(b) all US Air Force F-86 pilots who remain unrepatriated."
(d) *Air Force Office of Special Investigations*, or AFOSI.
(e) *Naval Criminal Investigative Service*, or NCIS.
(f) *Army Criminal Investigation Command*, or CID.
(g) U.S. Army *Combined Command Reconnaissance Activities Far East*, or CCRAFE.

Request 23

All POW records prepared by any officer, agent, or employee of the CIA, prepared for the Office of the President, including the *President's Daily Brief*, or PDB, that include information on the possibility of POWs being transferred to the Soviet Union or China.

Request 24

Any records reflecting communications with Members of Congress, or Congressional oversight committees concerning the capture of American airmen during the Korean conflict who may have been transported to the Soviet Union or China and their presumed fate.

Request 25
All records concerning POWs and KGB defector Yuri (or Yury) Rastvorov, who informed the United States Government that American military personnel were taken to the Soviet Union during the Korean conflict. This request includes an unredacted version of the attached page with the heading, "Terminology."

Request 26
All intelligence material (including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports) concerning statements made by former Czech general Jan Sejna and other former Czech officials concerning US POWs held, interrogated and experiment on by Czech and Soviet advisors, and thereafter transferred to China, Czechoslovakia, East Germany and the Soviet Union.

Background for Requests 27 and 28

1,205 Document. On December 14, 1992, Harvard University's Dr. Stephen Morris discovered in the Soviet Union archives a transcript of the September 15, 1972, debriefing by a top Vietnamese Army General to Vietnam's Politburo. The General reported that the total number of communist-held American POWs in Southeast Asia was 1,205. Months later, Operation Homecoming returned 591 American POWs. This transcript, the so-called "1,205 Document," is regarded as the most illuminating record on the issue of the number of POWs remaining in communist hands at war's end.

National Intelligence Estimate. In April of 1998 the CIA issued its 33-page National Intelligence Estimate ("NIE"), *Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue.* The NIE contended that the 1,205 Document was unreliable.

Critical Assessment. Eight months later, in November of 1998, Senator Bob Smith issued his *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue.* Senator Smith 160-page assessment quotes evidence supporting the reliability of the 1,205 Document's statements, and described the NIE as "replete with inaccurate and misleading statements." Eighteen years later, in 2016, the CIA released Senator Smith's assessment, redacted.

Response to Critical Assessment. In February of 2000, the CIA replied to Senator Smith's charges in its 124-page *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*. Twenty-one years later, in June of 2021, the CIA released this *Review*. It withheld, in full, a classified version of this *Review*.

Request 27
The withheld-in-full version of the CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*.

Request 28
The redacted portions of the November 1998 *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*, by Senator Bob Smith.

Fee Waiver. The requesters seek a news media waiver of search and review fees under 5 U.S.C. § 552 (a)(4)(a)(iii), and a waiver of copying costs under 5 U.S.C. § 552 (a)(4)(A)(ii)(II), as disclosure will shed light on the CIA's operations and activities.

Mark Sauter is a member of the news media. He has been an award-winning investigative reporter and historian since 1987, employed by national and local television and newspaper outlets. He co-authored four books. One, written with Korean War POW expert John Zimmerlee, is titled *American Trophies*, and is subtitled, "How US POWs Were Surrendered to North Korea, China and Russia by Washington's Cynical Attitude." He coauthored with James Sanders, *The Men We Left Behind: Henry Kissinger, the Politics of Deceit and the Tragic Fate of POWs After the Vietnam War*, published in 1993. And he coauthored with James Carafano a McGraw Hill university textbook, *Homeland Security: A Complete Guide*.

Mr. Sauter served as a U.S. Army officer in the Special Forces and infantry, including service in the DMZ between South and North Korea. He has been investigating the fate of unrepatriated American POWs from the Korean and Cold Wars since 1989. He has uncovered evidence that the U.S. government knew that specific American prisoners were held at the end of the conflict but never returned, that reports of their survival in enemy hands continued to be received for decades, and that information pertaining to their fate remains classified today. Mr. Sauter's findings on the POW issue have been covered by media organizations such as the Associated Press, New York Times, ABC News, Washington Post and Wall Street Journal.

Mr. Sauter gathers information of potential interest to the general public, uses his editorial skills to turn the raw materials into a distinct work, and distributes that work to his audience. Upon disclosure of the records sought, he has concrete plans to make the information public.

Materials on POW/MIAs will contribute significantly to public understanding on the operations or activities of the government. Among other things, they will reveal the extent, nature, intensity, and duration of the government's efforts to locate POW/MIAs, a subject that has long been of intense interest to the public. The records will provide information regarding the thoroughness, scope, intensity, dedication and creativity of the search for missing POW/MIAs. Disclosure will also show how the CIA cooperated and coordinated its efforts with other agencies which possessed information on POW/MIAs.

The interest of enhancing the public's understanding of the operations or activities of the U.S. Government is clear, and the records' connection to these government activities is direct. Release of the information is will contribute to an understanding of government operations or activities regarding the Korean War POW/MIA issue, as compared with awareness prior to the disclosure.

This request seeks disclosure of records that have remained secret despite congressional inquiries and Executive Order 12812 and Presidential Decision Directive NSC 8 to disclose them. Disclosure will illuminate the extent to which the CIA did, or did not, accurately inform Congress and the public about the information it possesses on unrepatriated American citizens.

Search. While the CIA's operational files are typically exempt from search and disclosure, kindly include the operational files repositories in the search, pursuant to the exception provided by 50 U.S.C. § 3141(a).

Electronic format. Kindly produce these records in electronic format, PDF. *See* 5 U.S.C. § 552(a)(3)(B): "In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format."

Right of Appeal. The information sought is not the subject of pending litigation in the federal courts, so the CIA should not reject any administrative appeal under 32 C.F.R. Part 1900.42(c). In any event, kindly apprise the requesters of their right to administratively appeal any adverse response.

Sincerely,

John H. Clarke

cc:
Robert Moore
Jana Orear
Christianne O'Malley
Mike Logan
David Logan
Megan Marx
Terri Mumley
Michael Driggs
John Zimmerlee
Carol Hrdlicka
Luck Patterson
Mark Sauter

Enclosures:

Page

January 5, 1952, *CIA Information Report*
(Request 2). 1

July 15, 1952 CIA *Cross Reference Sheet*
(Request 3) 2

July 17, 1952, *CIA Information Report*
(Request 12) 3

December 31, 1953, *CIA Information Report*
(Request 13) 4

March 24, 1954, *CIA Information Report*
(Request 14) 5

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(Request 16) 9-11

December 8, 1955 *CIA Information Report*
(Request 17) 12

March 9, 1988, *CIA Memorandum*
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January 23, 1992, State Department cable
(Request 18) 15-17

POW/MIA list
(Request 20) 18-20

List of POW Camps in USSR
(Request 21). 21-22

CCRAK records
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February 12, 1997 letter from Rep. James Talent
(Request 22) 25-26

CIA "Terminology"
(Request 25) 27

CIA FOIA Document Page Viewer

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CLASSIFIC[redacted] ONLY

CENTRAL INTELLIGENCE AGENCY REPORT NO. [redacted]

INFORMATION REPORT

CD NO.

COUNTRY China DATE DISTR. 5 Jan 1952

SUBJECT Preparations for Exchange of United Nations Prisoners in Central and South China. NO. OF PAGES 1

PLACE ACQUIRED [redacted] NO. OF ENCLS.

DATE OF INFO. [redacted]

REFERENCE COPY

CIRCULATE

SUPPLEMENT TO REPORT NO.

GRADING OF SOURCE						COLLECTOR'S PRELIMINARY GRADING OF CONTENT					
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A.	B.	C.	D.	E.	F. X	1.	2.	3.	4.	5.	6. X

[redacted]

THIS IS UNEVALUATED INFORMATION

SOURCE [redacted]

[redacted] WAS PREVIOUSLY GRADED AS - CIA PRELIMINARY [redacted] DOI 8TL

1. Chinese Communist authorities ordered all United Nations prisoners of war in Central and South China sent to Hankow prior to 23 December 1951 for subsequent transfer to the Northeast to await exchange.

2. On 13 November, 105 Republic of Korea prisoners of war were transferred to the Northeast via the Hankow-Canton railway. On 18 December, 13 American and 8 British prisoners of war who were formerly in a building at 52 Fu Hsing Road,[1] Shameen were transferred by rail to Hankow. The Americans and British were escorted to Hankow by a company of Public Security troops under the command of LI Kuo-liang (李國良).

1. [redacted] Comment. [redacted] gave names of [redacted] another source, referred to American prisoners of war who were being kept in the former US consulate on Shameen. Another report referring to US prisoners in the Canton area [redacted] which stated that US prisoners were performing hard labor on airfields in the Canton area. A recent report from yet another source [redacted] states that as of early November 1951 there were [redacted] on Shameen.

Approved for Release [redacted] APR 1997

Document No. 003
No Change
Class. C
Auth: [redacted]
Date: AUG 29 By: 013

CLASSIFICATION [redacted]

STATE	X	NAVY	X	NSRB					
ARMY	X	AIR	X	FBI					

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BY CABLE

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5

CROSS REFERENCE SHEET

CONFIDENTIAL

MAIN SUBJECT:
Location of Certain Soviet Transit Camps for POW from Korea

CLASSIFICATION NUMBER: 383.6 Korea

To:

Date of Communication: 15 July 52 f/w

From: CIA

Date of Basic Document: 24 June 53

BRIEF SUMMARY:
In December it was known that transit camps for POW captured by the Communists in Korea had been established, etc. 3plc

Classifier: 488

Routed to: C.I. File

Typist: 488

Date of Classifying: 17 Aug 59

CROSS REFERENCE NUMBERS:

~~Navy, Central Intelligence~~ Agency

[redacted]

[redacted]

[redacted]

CONFIDENTIAL

OCS FORM 273-3
1 SEP 50

Superseder ID Form 2-5 which may be used.
★ U. S. GOVERNMENT PRINTING OFFICE: 1951—975614

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NND 911509 - 1576

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FEB 1952

[redacted] DO NOT CIRC

CENTRAL INTELLIGENCE AGENCY

CLASSIFICATION [redacted]

INFORMATION REPORT

REPORT NO. [redacted]

CD NO.

COUNTRY Korea/China

DATE DISTR. 17 July 1952

SUBJECT Prisoner-of-War Camps in North Korea and China

NO. OF PAGES 3

DATE OF INFO. [redacted]

NO. OF ENCLS. (LISTED BELOW)

PLACE ACQUIRED [redacted]

SUPPLEMENT TO REPORT NO.

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A.	B.	C. x	D.	E.	F.	1.	2.	3. x	4.	5.	6.

* Except as noted

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SOURCE [redacted]

War Prisoner Administrative Office and Camp Classification

1. In May 1952 the War Prisoner Administrative Office (Chan Fu Kuan Li Ch'u) (2069/0199/4619/3810/5710) in P'yŏngyang, under Colonel No-men-ch'i-fu (6179/7024/1148/1133), an intelligence officer attached to the general headquarters of the Soviet Far Eastern Military District, controlled prisoner of war camps in Manchuria and North Korea. The office, formerly in Mukden, employed 30 persons, several of whom were English-speaking Soviets. LIN Mai (2651/6701) and NAM Il (0589/2480) were deputy chairmen of the office.

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

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

Approved for Release
Date APR 1997

[redacted]

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CLASSIFICATION [redacted]

STATE	x	NAVY	x	NSRB		DISTRIBUTION COMNAVFE; [redacted]					
ARMY	x	AIR	x	FBI		CINCFE, PEARL; TAIWAN; ALUSNA TOKYO					

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203

CENTRAL INTELLIGENCE AGENCY

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25X1

SECRET/CONTROL--US OFFICIALS ONLY

COUNTRY	USSR	REPORT	
SUBJECT	American Prisoners-of-War Held in the USSR	DATE DISTR.	31 December 1953
		NO. OF PAGES	1 25X1
DATE OF INFO.		REQUIREMENT NO.	RD 25X1
PLACE ACQUIRED		REFERENCES	25X1

BY CABLE

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THE SOURCE EVALUATIONS IN THIS REPORT ARE DEFINITIVE.
THE APPRAISAL OF CONTENT IS TENTATIVE.
(FOR KEY SEE REVERSE)

a. As of 1951 the USSR had an interrogation center for United States POWs in the Chang-pai Shan area on the upper Yalu River. Most of the inmates were U. S. airmen, and the interrogation was done by Soviet commissars. 25X1

b. When the North Korean forces were pushed north in Korea, the center reportedly was moved to An-t'u (N 42-34, E 128-22). 25X1 the interrogatees passed through Mutanchiang (N 44-35, E 129-37), were brought down the Sungari River by boat, and after interrogation were taken to the USSR.

c. Natives of the area said they had seen a group of about seven persons, reportedly "US Army spies", including US Nisei soldiers, brought to the An-t'u center in the spring of 1952. 25X1

DPMO review completed.

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27- 11/8/23

Approved For Release 2008/12/10 : CIA-RDP80-00810A003800810008-3

Uncovered by researchers in 2015, when finally posted in CIA online database

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COUNTRY	USSR (Far East)	REPORT	
SUBJECT	Exploitation of Prisoners-of-War of the Soviets	DATE DISTR.	24 March 1954
		NO. OF PAGES	1
DATE OF INFO.		REQUIREMENT NO.	RD
PLACE ACQUIRED		REFERENCES	25X1

This is UNEVALUATED Information

614042

THE SOURCE EVALUATIONS IN THIS REPORT ARE DEFINITIVE.
THE APPRAISAL OF CONTENT IS TENTATIVE.
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25X1

25X1

1. [redacted] the Soviet Intelligence Service is exploiting United Nations, particularly US, PWs in China and North Korea. [redacted] some PWs listed as missing were in fact turned over to the Soviets by the Chinese and North Koreans. These PWs will be screened by the Soviets, and those eventually selected will be trained to be illegal residents either in the US or in other countries where they can live as Americans. 25X1

2. Some selected PW personnel will also be used in propaganda work, especially as radio announcers because there is a shortage of this type of personnel.

3. Those PWs who are found to be unsuitable will never be released because they will have learned too much about Soviet PW handling techniques. Use will also be made of the identities and biographies of dead PWs in preparing legends of new Soviet agents.

DPMO review completed.

SECRET

STATE	ARMY	NAVY	AIR	FBI	AEC					
x	x	x	x	x						

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SECURITY INFORMATION

018521

COUNTRY	USSR (Tyumen Oblast)	REPORT	25X1
SUBJECT	Soviet Concentration Camps in the Vorkuta Area	DATE DISTR.	23 April 1954
		NO. OF PAGES	3
DATE OF INFO.		REQUIREMENT NO.	RD
PLACE ACQUIRED		REFERENCES	25X1

This is UNEVALUATED Information

THE SOURCE EVALUATIONS IN THIS REPORT ARE DEFINITIVE.
THE APPRAISAL OF CONTENT IS TENTATIVE.
(FOR KEY SEE REVERSE)

25X1

1. The commander of the concentration camp complex in the Vorkuta (N 66-22, E 70-08) area is an MVD officer, Major General **Derevyankin.** The political officer at Camp No. 14 is Senior Lieutenant Kech. The following are among the camp personnel at Camp No. 2:

Major Malikov, Camp Commander
Major Dikhtyaryov, Assistant Camp Commander
Captain Makhalov, Supply Officer
Captain Pokhomov, MVD Representative (Upolnomochennyy MVD)
Senior Lieutenant Prokhorov, MVD Representative
Senior Lieutenant Kalikin, Administrative Officer
Sergeant Major Mishinko, Assistant to the MVD Representatives
Sergeant Major Kirilova (female), Head of the Medical Unit.

2. 25X1 Apparently, single guard units were responsible for guarding more than one camp, since many camps were located within a few kilometers of each other.

3. The city of Vorkuta has a population of approximately 60,000 people. Vorkuta has numerous new cultural buildings. The city is ringed with concentration camps, the prisoners being employed principally in coal mines. There are, however, also other enterprises such as brickyards, sawmills, and a cement factory, which also employ prisoners of the area. The camp numbers ranged from 1 to 60. 25X1 Camp Nos. 1, 2, 3, 5, 9, 14, 29, 30, 55, and 60; possibly some of these camps are in an area other than the Vorkuta area. (See sketch of the Vorkuta camp area on page 3.)

4. Camp No. 2 is located approximately 20 kilometers north of Vorkuta on a single-track railroad line. The camp is for political prisoners only. In December 1953 there were 2,700 prisoners at this camp. This camp operated one mine shaft, No. 7. The prisoners worked in the mine 12 hours a day, although the official work-day was nine hours. Crude mining methods were employed.

25 YEAR RE-REVIEW

SECRET/CONTROL - US OFFICIALS ONLY

STATE	X	ARMY	X	NAVY	X	AIR	X	FBI		AEC					

(Note: Washington Distribution Indicated By "X"; Field Distribution By "#".)

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5. The following nationalities were represented among the prisoners at Camp No. 2: Western Ukrainians, Lithuanians, Latvians, Estonians, Russians, Germans (including Volga Germans), Moldavians, Chechens, Georgians, Armenians, [redacted] Komi, [redacted] Hungarians, Poles, Japanese, and Chinese. Of the Germans, 120 were from Germany as opposed to the Volga Germans. Ten of the 120 Germans were repatriated [redacted] There were approximately 100 Russians in the camp. The Western Ukrainians and the Lithuanians were by far the largest two national groups at this camp. There were no Koreans at this camp. 25X1

6. There were among the prisoners at Camp No. 2 many who had been sentenced for collaboration with or service in the German Army during World War II. There were, however, no Vlassovites at this camp. Except for the Western Ukrainians, who were called Zapadniki (Westerners) in camp, the various Soviet nationalities got along well together. There was, however, some discrimination against the Germans by the Soviet nationalities, particularly from former collaborators who claimed that the Germans had let them down. The Western Ukrainians were clannish and nasty to all other nationalities. There were a great number of informers among the Western Ukrainians.

7. From the beginning of 1952, the prisoners began to receive pay for their work and their rations were improved. Until August 1953, they received 100 rubles per month in cash and another 100 rubles were credited to their account. This money could be spent in the camp canteen. After August 1953, as the result of a strike (covered below) the prisoners' pay was raised to 150 rubles per month in cash and an equal amount was credited to their account.

8. The daily food ration at this camp for the prisoners was as follows:

200 grams of oat meal,
650 grams of soup,
23 grams of meat,
27 grams of sugar,
800 grams of bread,
50 grams of white rolls, and
20 to 25 grams of fat.

The above ration was know as the "northern ration" (severnyy payok) and was much larger than the rations in concentration camps farther to the south. It was also more substantial than the average daily food consumed on many kolkhozy. Persons who refused to work had their daily ration reduced to 350 grams of bread and soup.

9. Motion pictures were occasionally shown to the prisoners. The frequency with which movies were shown depended upon the prisoners' achievement of production norms. There were loudspeakers in all barracks buildings. Newspapers and books were also available to the prisoners.

10. The guard personnel wore red shoulder boards with blue piping. Some troops with dark blue shoulder boards occasionally appeared for special checks. The interior guard consisted of middle-aged guards who were friendly to the prisoners. The exterior guard personnel were much younger and unpleasant.

11. There were 5,000 prisoners at Camp No. 14. One of the prisoners was an old Trotskyite who had been a prisoner since 1932. This camp contained a power plant. All particulars on this camp such as food rations, pay, attitude of Western Ukrainians, recreational facilities, etc., are similar to those at Camp No. 2.

12. There was no sign of organized anti-Soviet activity in the prison camp. On the basis of observations made at Camp No. 2 it is clear that prisoners were afraid to discuss politics because of the existence of informers among the prisoners. There were probably groups of friends among the prisoners who trusted each other and perhaps discussed political subjects. There were two young Russian prisoners in Camp No. 2 who had been sentenced to 25 years' imprisonment for distributing anti-Soviet leaflets in Moscow. It is not known whether these men belonged to any organization and what sort of leaflets they had distributed.

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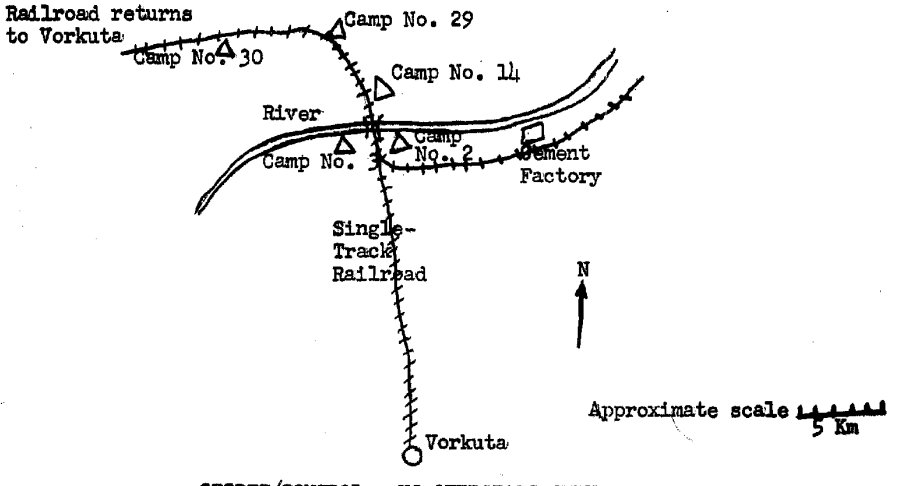
13. Stalin's death did not bring about any improvements in the prison camps, judging from observations in Camp No. 2. Actually, the guards became worse. Improvements had been introduced a year earlier. Judging from extremely limited political conversations, nothing good was expected from Malenkov by the prisoners. The post-Stalin amnesty affected prisoners with five-year terms only, but it did include political prisoners in this category. In general, prisoners who were released had to remain in the Vorkuta area, but some released prisoners with families were sent to free exile settlements in Siberia and Central Asia. The prisoners learned of the 17 June riots in East Germany through Soviet newspapers and loudspeakers in July. Some of the prisoners expected immediate war and thought that arms would be dropped to them by the Americans.

14. As a result of Beriya's arrest a general strike by the prisoners in the Vorkuta area took place, lasting from 22 July to 1 August 1953. Camps No. 2, 3, 14, 29, 30, and possibly others were involved in the strike. The strikers insisted that, since Beriya had been denounced as a traitor and a foreign agent, they were being held illegally, as they had been arrested by Beriya. Soviet citizens demanded immediate release or transfer to free exile areas. Foreigners demanded repatriation or transfer to PW camps. Major General Derevyankin as well as another high MVD official came to Camp No. 2 and probably other camps to talk to the prisoners. The result of the strike was a cutting down of the work-day to nine hours, the removal of numbers from uniforms, higher pay (see paragraph 7), and the removal of certain restrictions. In some camps there was violence on the part of the guards who tried to force the prisoners to go back to work, but this was not the case at Camp No. 2. The strike was viewed as a great success for the prisoners.

15. [redacted] 25X1

16. [redacted] Germans were released before the completion of their sentences. They were repatriated to Germany by train traveling a somewhat circuitous route. Leaving Vorkuta, the train proceeded through Inta, Ukhta (N 63-34, E 53-42), Kotlas (N 61-16, E 46-35), Voroshilovgrad (N 48-34, E 39-20), and then west to Brest-Litovsk (N 52-07, E 23-42). In the early part of the journey they traveled on a separate prison train; later, through Brest-Litovsk and Poland, their car was hitched on to regular passenger trains. 25X1

Diagram of Camp Area [redacted] 25X1



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SECRET

CENTRAL INTELLIGENCE AGENCY

INFORMATION REPORT

COUNTRY USSR

SUBJECT US Prisoners of War in USSR

25X1 25X1

DATE DISTR. 27 Apr 1954

NO. OF PAGES 3

NO. OF ENCLS.

SUPP. TO
REPORT NO.

THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES, WITHIN THE MEANING OF TITLE 18, SECTIONS 793 AND 794, OF THE U.S. CODE, AS AMENDED. ITS TRANSMISSION OR REVELATION OF ITS CONTENTS TO OR RECEIPT BY AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW. THE REPRODUCTION OF THIS REPORT IS PROHIBITED.

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THIS IS UNEVALUATED INFORMATION

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1. information regarding the presence of US prisoners (captured during the Korean War) on the territory of Asiatic USSR. Mostly they were in Komsomolsk (Amur River), Magadan (Bay of Nogaevo, Sea of Okhotsk), Chita, Irkutsk, Molotov, Cabalsk (northwest of Molotov), Kami Permiak (Siberia), Kudymkar (northwest of Molotov), Chusovaya (on the Kama River, north of Molotov. There is nothing to indicate that any of them have ever been returned.).

2. Over a year ago, the Soviet authorities established camps for prisoners (not necessarily US) taken in Korea by the Sino-North Korean forces. These camps were located at:

Komsomolsk, on the River Amur
Magadan, on the bay of Nogaievo, Sea of Okhotsk
Chita
Irkutsk

Prisoners from both the US and the various cooperating European armies were alike known as Voyennoplenniye Amerikantsi.

SEE LAST PAGE FOR SUBJECT & AREA CODES

25X1

SECRET

This report is for the use within the USA of the intelligence components of the Department or Agencies indicated above. It is not to be disseminated overseas [redacted] of the originating agency without the known Director of the Office of Collection and Dissemination, CIA. All or parts of the contents, however, may be used by the above organizations in their own publications reaching overseas distribution providing the publication bears the caveat "US OFFICIALS ONLY" and the classification is made, refers only to "CIA Source".

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000009

[redacted]

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

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

Kangdong Camp

6. In May the largest North Korean prisoner of war camp, detaining twelve hundred prisoners, was near T'ai Ling (1132/1545) mountain, six miles southeast of the Kangdong (126-05, 39-09) (BU-4837) railroad station.[1] The compound, divided with barbed wire and mud embankments into four partitions for American, English, and Turkish prisoners and prisoners of other nationalities, held 840 American, 100 English, 60 Turkish, and 200 hundred French, Dutch, and Canadian troops. Most of the United States prisoners were members of the 1 Cavalry Division and the 24 Infantry Division. General William Dean was moved from Harbin and Mukden to this camp in 1951.

7. The Kangdong camp, organized into study, management, sanitation, and finance sections, compelled the prisoners to study for three hours, to labor for four hours, and to discuss political problems for two hours.

F-3 8. On 1 May nine thousand (sic) ROK army prisoners and fifty United Nations prisoners were in caves at the Kangdong camp, extending from approximately BU-492363 to BU-494368 in a valley at Adal-ni, Kangdong-myŏn (126-05, 39-09) (BU-4837).[2] Of the ROK army prisoners 10 percent were officers, 50 percent non-commissioned officers, and 40 percent privates. Of the United Nations prisoners 10 percent were Negroes. The prisoners, who received 600 grams of cereal and salt each day, were not required to work and spent only two hours each day out of the caves. An average of two prisoners were dying daily from malnutrition and eruptive typhus. The majority of prisoners at this camp were extremely anti-Communist in thinking. Three North Korean army guards, armed with PPSh's and rifles, were at the entrance of each cave.

Camp Number 106, Mirim

F-3 9. On 1 May approximately sixteenhundred ROK army prisoners of war, including one hundred officers and five hundred non-commissioned officers, were at the North Korean prisoner of war camp number 106 at approximately YD-472214, 1.6 kilometers southwest of the Mirim railroad station (125-51, 39-01) (YD-4722). Prisoners held here, having been pressed through five ideological screenings, were believed to be potential converts to Communism. The prisoners believed that they were to be assimilated into the North Korean army. Members of political and security detachments maintained strict surveillance of the prisoners. The surveillance often was carried out by members of these bureaus who entered the camps disguised as prisoners.

F-3 10. Each prisoner received 50 won monthly, 1 kilogram of grain and 45 grams of soy bean oil, vegetables, salt, and soy bean paste daily. The prisoners were wearing North Korean army uniforms. The prisoners were constructing air raid shelters near the Mirim-ni airfield ten hours each day. Two hours of indoctrination lectures were also held daily. The prisoners had been organized into squads of ten men. Each of the camp's four battalions had three platoons and each platoon, four squads. A guard platoon armed with [redacted] was in the camp.

[redacted]

[redacted]

Suan

F-3 11. On 5 May 200 ROK army prisoners and 110 prisoners from other United Nations armies including 80 Negroes, were at the North Korean prisoner of war camp at the site of the former Suan mine (126-23, 38-47) (BT-7396), ten kilometers north of Suan (126-22, 38-42) (BT-7186). Lieutenant Colonel KIM Kyu-hwan (6855/1145/3562) commanded the camp. Although other United Nations prisoners were not required to work, the ROK army prisoners constructed shelters and trenches throughout the entire day. The prisoners received only rice balls for food. Several of the other United Nations prisoners had obtained wheat paste from villagers in exchange for watches and other personal possessions. Thereafter the villagers were prohibited from entering the camp area. No sanitary facilities were offered to the prisoners. Approximately fifteen prisoners, including both ROK and United Nations personnel, were too ill to stand.

Sariwŏn

F-3 12. In late April approximately eight hundred United Nations prisoners were in a series of underground shelters at approximately YC-436673 in a valley between two hills four kilometers northeast of the Sariwŏn railroad station (125-46, 38-30) (YC-4064). On each side of the valley at the base of the two hills were 25 shelters. One shelter in every five accomodated the camp guards. Eight hundred Chinese Communist soldiers, armed with PPSh's and rifles, guarded the area. Dummy guards were also used at night. The majority of the guards were billeted in a nearby village of fifteen homes. The guard billets were easily visible from the air. Each prisoner received pork soup and 600 grams of cereal three times daily and a package of cigarettes each day. The prisoners were required to work for one hour and attend indoctrination meetings for two hours daily.

Mukden

13. On 6 January 1952 four hundred United States prisoners, including three hundred Negroes, were being detained in two buildings at Hsiao Nan Kuan Chieh, at the southeast corner of the intersection, in Mukden. One building, used as the police headquarters in Hsiao Nan Kuan during the Japanese occupation, was a two-story concrete structure, 30 meters long and 20 meters wide. The other building, one story high and constructed of gray brick, was behind the two-story building. Both buildings had tile roofs. All prisoners held here, with the exception of three second lieutenants, were enlisted personnel. The prisoners, dressed in Chinese Communist army uniforms, with a red arm band on the left arm, were not required to work. Two hours of indoctrination were conducted daily by staff members of the Northeast Army Command. Prisoners were permitted to play basketball in the courtyard. The attempt of three white prisoners to escape caused the withdrawal of permission for white prisoners to walk alone through streets in the vicinity of the camp. Two Chinese Communist soldiers guarded groups of white prisoners when such groups left the buildings. Negroes, however, could move outside the compound area freely and individually. Rice, noodles, and one vegetable were served daily to the prisoners in groups of 10 to 15 men. One platoon of Chinese Communist soldiers guarded the compound.

1. [redacted] Comment. In late February 1952 two [redacted] prisoners, slightly inclined toward Communism, were being [redacted] of a mountain three kilometers west of Kangdong [redacted] and referenced reports.

2. [redacted] Comment. This is presumably information on the same camp as that reported in paragraphs 6-7 above.

3. [redacted] Comment. In Mar[redacted] ROK prisoners, chiefly officers, were at the Suan camp[redacted]

[redacted]

000011

App

INFORMATION REPORT INFORMATION REPORT

CENTRAL INTELLIGENCE AGENCY

This material contains information affecting the National Defense of the United States within the meaning of the Espionage Laws, Title 18, U.S.C. Secs. 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law.

S-E-C-R-E-T

25X1

COUNTRY USSR

REPORT

25X1

SUBJECT Alleged American Held in Soviet Prison

DATE DISTR. 8 December 1955

NO. OF PAGES 1

DATE OF INFO.

REQUIREMENT NO. RD

25X1

PLACE ACQUIRED

REFERENCES

DATE ACQUIRED This is UNEVALUATED Information

BY CABLE

25X1

SOURCE EVALUATIONS ARE DEFINITIVE

In 1948 in Inta prison, source met an alleged American citizen, who had Polish documents in the name of (fnu) Fawitsky or (fnu) Favelski. The latter refused to reveal his true name. He spoke German, Russian, French, and English fluently. The Soviets had a photograph of him in the uniform of an American enlisted man. Source last saw him in Lubyanka Prison in 1951.

25X1

DPMO review completed.

S-E-C-R-E-T

25X1

STATE	x	ARMY	x	NAVY	x	AIR	x	FBI		AEC					

(Note: Washington distribution indicated by "X"; Field distribution by "#".)

INFORMATION REPORT INFORMATION REPORT

000012

Approved For Release 2009/03/11 : CIA-RDP80-00810A008500590004-3

[redacted]
Central Intelligence Agency

Washington, D.C. 20505

ROGER HALL
8715 First Ave., Apt. 82
Silver Spring, MD 20910
301-585-3361

29

9 March 1988

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

SUBJECT: Alleged Sightings of American POWs in
North Korea from 1975 to 1982 [redacted]

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

1. In response to your request, [redacted] three separate reports of such sightings, which are attached:

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

Exh. 35

[redacted]

000013

2. [redacted]

[redacted]

Office of East Asian Analysis

Attachments:
As stated

[redacted]

UNCLASSIFIED U.S. Department of State Case No. F-2017-13521 Doc No. C06448660 Date: 11/30/2017

RELEASE IN PART B6

CONFIDENTIAL

PAGE 01 HELSIN 00681 01 OF 02 231559Z
ACTION EUR-01

INFO LOG-00 AID-01 AMAD-01 CIAE-00 DODE-00 CSCE-01 HA-09
H-01 INRE-00 INR-01 L-03 ADS-00 NSAE-00 NSCE-00
OMB-01 PA-01 PM-01 PRS-01 P-01 SCT-03 SNP-01
SP-01 SSO-00 SS-01 TRSE-00 T-01 USIE-00 /030W
----------068B86 231606Z /38
O 231538Z JAN 92
FM AMEMBASSY HELSINKI
TO SECSTATE WASHDC IMMEDIATE 9993
AMEMBASSY HELSINKI
AMEMBASSY MOSCOW
AMCONSUL ST PETERSBURG

C O N F I D E N T I A L SECTION 01 OF 02 HELSINKI 00681

THIS CABLE HAS BEEN PASSED TO RIGA, VILNIUS AND TALLINN

//FOLLOWING TEXT IS RIGA 009 //

E.O. 12356: DECL: OADR
TAGS: PREL, UR, LG, VN
SUBJECT: FORMER KGB EMPLOYEE CLAIMS KNOWLEDGE OF U.S. POW'S IN USSR IN JULY 1978

1. CONFIDENTIAL - ENTIRE TEXT

2. THE LATVIAN FOREIGN MINISTRY INFORMED THE U.S. CHARGE IN RIGA ON JANUARY 15 THAT [redacted] B6
WHO PRESENTED HIMSELF AS A KGB RESERVE OFFICER, CLAIMED

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 HELSIN 00681 01 OF 02 231559Z
THAT THREE AMERICANS WERE STILL BEING HELD IN MORDOVIA IN JULY, 1978. [redacted] DID NOT IDENTIFY THE AMERICANS BUT SAID HE COULD PROVIDE MORE DETAILED INFORMATION AND IS EXPECTED TO BE BACK IN TOUCH WITH THE FOREIGN MINISTRY ABOUT JANUARY 24.

3. CHARGE SILINS TOLD THE MFA REPRESENTATIVE WHO CONVEYED THIS INFORMATION, KARLIS STREIPS, THAT HE WOULD NOT BE BACK FROM CONSULTATIONS IN HELSINKI BY JAN 24 BUT URGED THE MFA TO SEEK FURTHER INFORMATION FROM [redacted] AND TO ENSURE [redacted] COULD BE CONTACTED IF B6
NEEDED.

4. TEXT OF THE DIPLOMATIC NOTE, MARKED "CONFIDENTIAL," THAT STREIPS LEFT WITH CHARGE FOLLOWS. PLEASE ADVISE EMBASSY RIGA HOW DEPARTMENT WISHES EMBASSY TO PURSUE

UNCLASSIFIED U.S. Department of State Case No. F-2017-13521 Doc No. C06448660 Date: 11/30/2017

THIS MATTER.

BEGIN TEXT

THE MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF LATVIA PRESENTS ITS COMPLIMENTS TO THE EMBASSY OF THE UNITED STATES OF AMERICA IN RIGA AND IS HONOURED TO PRESENT THE FOLLOWING MATTER;

ON 15 JANUARY 1992, THE MINISTRY OF FOREIGN AFFAIRS HAS APPROACHED BY [redacted], WHO PRESENTED HIMSELF AS A FORMER EMPLOYEE OF THE SOVIET KGB. [redacted] PRESENTED DOCUMENTATION IDENTIFYING HIM AS A KGB RESERVE OFFICER. THE DOCUMENTATION TESTIFIED TO HIS EMPLOYMENT WITH THE KGB FROM 1974 TO B6

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 HELSIN 00681 01 OF 02 231559Z

1984. [redacted] ORALLY INFORMED THE MINISTRY THAT HE DEPARTED FROM THE KGB DUE TO POOR HEALTH. HE ARRIVED IN LATVIA IN 1984. [redacted] ASKED FOR EXTREME DISCRETION WITH THE USE OF HIS NAME, BECAUSE "THE KGB HAS LONG ARMS." HE ADDED VERBALLY THAT "KALUGIN DOES NOT LIE."

[redacted] TOLD THE MINISTRY THAT HE HAD COME TO "EASE HIS CONSCIENCE" AND THAT ACCORDING TO INFORMATION IN HIS POSSESSION, THREE AMERICANS WERE STILL BEING HELD IN THE CAMPS OF MORDOVIA IN JULY OF 1978. THE ADDRESS GIVEN BY [redacted]

MORDOVIYA, ZUBOVO-POLYANSKIY RAYON, POSELOK PENLEIY, UCHREZHDENIE GSKH-385/5 (UCHASTOK INOSTRANNOIY ZONIY)

[redacted] ADDED THAT IF NECESSARY, HE CAN PROVIDE MORE DETAILED INFORMATION, ALTHOUGH HE HIMSELF DID NOT WORK IN THE SO-CALLED "FOREIGN ZONE." HOWEVER, [redacted] SAID THAT HE IS ACQUAINTED WITH THE CURATOR OF THIS ZONE. B6

THE FOREIGN MINISTRY OF THE REPUBLIC OF LATVIA SUBMITS THIS INFORMATION TO THE EMBASSY OF THE UNITED STATES OF AMERICA FOR USE AS THE EMBASSY SEES FIT. THE MINISTRY WOULD BE GRATEFUL IF COMMUNICATIONS IN RESPONSE TO THIS NOTE, IF ANY, WERE SUBMITTED CONFIDENTIALLY TO THE ATTENTION OF MR. MARTINS VIRSIS, DEPUTY MINISTER OF FOREIGN AFFAIRS.

CONFIDENTIAL

CONFIDENTIAL

UNCLASSIFIED U.S. Department of State Case No. F-2017-13521 Doc No. C06448660 Date: 11/30/2017

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CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 HELSIN 00681 02 OF 02 231559Z
ACTION EUR-01

INFO LOG-00 AID-01 AMAD-01 CIAE-00 DODE-00 CSCE-01 HA-09
H-01 INRE-00 INR-01 L-03 ADS-00 NSAE-00 NSCE-00
OMB-01 PA-01 PM-01 PRS-01 P-01 SCT-03 SNP-01
SP-01 SSO-00 SS-01 TRSE-00 T-01 USIE-00 /030W
----------068B84 231606Z /38
O 231538Z JAN 92
FM AMEMBASSY HELSINKI
TO SECSTATE WASHDC IMMEDIATE 9994
AMEMBASSY HELSINKI
AMEMBASSY MOSCOW
AMCONSUL ST PETERSBURG

C O N F I D E N T I A L SECTION 02 OF 02 HELSINKI 00681

THIS CABLE HAS BEEN PASSED TO RIGA, VILNIUS AND TALLINN

//FOLLOWING TEXT IS RIGA 009 //

E.O. 12356: DECL: OADR
TAGS: PREL, UR, LG, VN
SUBJECT: FORMER KGB EMPLOYEE CLAIMS KNOWLEDGE OF U.S.

THE FOREIGN MINISTRY OF THE REPUBLIC OF LATVIA AVAILS ITSELF OF THIS OPPORTUNITY TO RENEW TO THE EMBASSY OF THE UNITED STATES OF AMERICA IN RIGA THE ASSURANCE OF ITS HIGHEST CONSIDERATION. END TEXT.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 HELSIN 00681 02 OF 02 231559Z
SILINS

UNCLASSIFIED U.S. Department of State Case No. F-2017-13521 Doc No. C06448660 Date: 11/30/2017

Korean War POW/MIA:
Adams, John Howard U.S. Air Force Captain MIA 6/10/1952
Akin, Rolan Maurice U.S. Air Force Captain POW 9/12/1951
Allen, Billy James Army Sergeant First Class MIA 12/6/1950
Allison, James Leonard U.S. Marine Corps Corporal KIA 11/28/1950
Angell, Dwight Clark USNR Ensign POW 1/18/53
Arms, John Walter U.S. Air Force 1st Lieutenant MIA 6/5/1953
Arredondo, Isidore Castillo Army Corporal POW 1/8/1952
Ashley, Gilbert Lamour U.S. Air Force Captain POW 1/29/1953
Asla, Felix Jr. U.S. Air Force Major MIA 8/1/1952
Barnett, Carl George Jr. U.S. Air Force 1st Lieutenant MIA 9/26/1951
Beardall, Harold Martyn U.S. Airforce Captain POW 5/21/1951
Bell, Donald Edwin U.S. Air Force 1st Lieutenant MIA 1/26/1952
Bell, William John U.S. Air Force 1st Lieutenant MIA 10/7/1952
Bibb, Robert Paul Army Master Sergeant MIA 7/20/1950
Bigham, Donald Gaile U.S. Air Force Captain POW 11/9/1951
Black, Wayne Forrest U.S. Air Force Captain MIA 10/23/1951
Brennan, John Charles U.S. Air Force Airman Third Class MIA 11/14/1952
Boyd, Harold Russell Army Sergeant MIA 2/12/1951
Boyle, Clarence Edward U.S. Air Force 1st Lieutenant MIA 7/1/1951
Brown, James Benjamin U.S. Marines Corps Captain MIA 5/30/1953
Button, Leonard Wayne Army 1st Lieutenant MIA 5/13/1953
Bushroe, Sterling Joseph U.S. Air Force 1 Lieutenant MIA 9/11/1951
Carey, James Desmond U.S. Air Force1 Lieutenant MIA 3/24/1952
Cawley, Lee R. Army Corporal MIA 2/13/1951
Cherry, Clarence Martin U.S. Air Force Staff Sergeant MIA 9/9/1950
Cochran, Billy Edward U.S. Navy Navy Lieutenant Junior Grade POW 6/14/1951
Cowden, Richard Merlin U.S. Air Force 1st Lieutenant KIA 3/9/1953
Crone, William Delbert U.S. Air Force Captain MIA 6/18/1951
Crutchfield, James Henry U.S. Marines Corps Major KIA 11/4/1951
Culbertson, Gene Alan U.S. Air Force Captain MIA 2/23/1953
Davis, Ramon Rodrick U.S. Air Force Captain MIA 10/5/1950
Delacy, Arthur Donald U.S. Marine Corps 1st Lieutenant MIA 10/7/1951
Derosier, Albert Paul U.S. Air Force Captain MIA 9/12/1951
Desautels, Richard G. Army Sergeant POW 12/1/1950
Gahan, John William U.S. Air Force Airman First Class MIA 11/30/1950
Dougherty, Joseph Stephen U.S. Air Force Staff Sergeant MIA 10/23/1951
Duer, Victor Leroy U.S. Air Force Captain POW 4/30/1952
Dumas, Roger Armand Army Corporal POW 11/4/1950
Duncan, James Harold U.S. Air Force Staff Sergeant POW 9/9/1950
Escalle, Jimmy Louis U.S. Air Force 1st Lieutenant MIA 6/19/1953
Fincher, Deltis Herman U.S. Air Force Major MIA 8/22/1952
Fischer, Jack Stewart U.S. Marine Corps Private MIA 10/27/1950

Frank, William Arthur Army Private First Class MIA 12/3/1950 000018
Glasser, Gerald William Army Sergeant POW 5/18/1951
Grisham, David Howard U.S. Air Force Captain MIA 9/3/1950
Guilfoyle, Cornelius Patrick U.S. Air Force Captain MIA 4/7/1952
Gunther, Charles William U.S. Air Force Captain KIA 6/19/1953
Guthrie, Edward Sheldon U.S. Air Force 1st Lieutenant MIA 11/14/1952
Harker, Charles Abbott U.S. Air Force 1st Lieutenant MIA 5/3/1953
Haskett, William Thomas U.S. Air Force Captain MIA 4/14/1951
Hawkins, Luther Reid U.S. Air Force Captain MIA 5/24/1952
Heise, Arthur U.S. Air Force Captain MIA 1/10/1953
Helton, Thomas Luke U.S. Air Force Captain MIA 4/16/1951
Holz, Scott Anderson U.S. Air Force 1st Lieutenant MIA 4/7/1952
Henry, Robert Elmer U.S. Air Force 1st Lieutenant MIA 7/23/1952
Ishida, Hidemaro Saito U.S. Air Force Airman Second Class POW 1/29/1953
Jacobs, Harrison Chase U.S. Air Force 1st Lieutenant POW 12/27/1950
Jacobson, Paul Joseph U.S. Air Force 1st Lieutenant MIA 2/12/1953
Jensen, Morton Henry U.S. Air Force Technical Sergeant MIA 11/19/1952
Jones, James Lewis U.S. Air Force Airman First Class POW 4/7/1951
Keene, Kassel Monford U.S. Air Force Major MIA 11/19/1952
Karpowicz, Jerome U.S. Air Force Airman First Class MIA 5/17/1953
Kepford, Joseph Clarence U.S. Air Force Captain MIA 10/7/1950
Knott, Gerald Wesley U.S. Air Force 2nd Lieutenant KIA 7/20/1953
Laier, Robert Holmes U.S. Air Force Captain POW 6/19/1951
Lane, John Francis U.S. Air Force Captain MIA 5/20/1952
Larkin, Hugh Francis U.S. Air Force Captain MIA 12/5/1951
Layton, Laurence Coe U.S. Air Force 1st Lieutenant MIA 9/2/1951
Lewis, Wayne Edwin U.S. Air Force Airman First Class MIA 3/22/1952
Logan, Samuel Porter U.S. Air Force Major POW 9/9/1950
Long, Joseph Sheldon U.S. Air Force Major MIA 4/7/1952
Lovett, Charles Earnest Army Corporal MIA 7/19/1950
Mandra, Philip Vincent U.S. Marine Corps Sergeant MIA 8/7/1952
Martin, Dominique Kenneth U.S. Air Force 1st Lieutenant MIA 5/5/1952
Martin, Robert Lee U.S. Air Force 1st Lieutenant MIA 8/24/1951
Mast, Clifford Henry U.S. Air Force Staff Sergeant MIA 7/4/1952
McDonough, Charles Edward U.S. Air Force Major POW 12/4/1950
Miles, William T. Army Sergeant First Class MIA 7/8/1951
Mooradian, Ara U.S. Air Force Captain MIA 10/23/1951
Moore, Harry Cecil U.S. Air Force Captain POW 6/1/1951
Moreland, Harry Drinnen Army Captain POW 10/27/1952
Myers, Thomas Ellis U.S. Air Force Major MIA 10/2/1950
Neal, Frank Allen Army Private First Class MIA 7/28/1950
Niemann, Robert Frank U.S. Air Force 1st Lieutenant MIA 4/12/1953
Odenbaugh, Thomas Donald U.S. Marine Corps 1st Lieutenant MIA 9/9/1950

Olsen, Arthur Robert U.S. Air Force 1st Lieutenant MIA 1/29/1953
O'Meara, James Joseph U.S. Air Force Airman Second Class MIA 1/29/1953
O'Neal, Julius Elliot U.S. Air Force Lieutenant Colonel MIA 10/23/1951
Padilla, Alexander Beck U.S. Air Force Captain MIA 10/9/1950
Palmer, Alford Cleve U.S. Air Force 1st Lieutenant MIA 9/5/1952
Parham, Charles Easton U.S. Air Force Airman 1st Class MIA 11/25/1951
Pincus, Herbert U.S. Air Force 1st Lieutenant MIA 10/7/1952
Pope, James Dean U.S. Air Force Airman Second Class MIA 1/29/1953
Pratt, Charles William U.S. Air Force Captain MIA 11/8/1951
Reid, Elbert Josephus U.S. Air Force Staff Sergeant MIA 6/10/1952
Reitsma, Donald Ray U.S. Air Force 1st Lieutenant MIA 12/22/1952
Rhinehart, Charles Walter U.S. Air Force 1st Lieutenant MIA 1/29/1952
Rosenvall, Richard Blaine U.S. Air Force 1st Lieutenant MIA 10/6/1952
Rountree, Fred Brinson U.S. Air Force Captain MIA 1/14/1951
Rudolph, Allan Keith U.S. Air Force 1st Lieutenant MIA 6/19/1953
Selman, Clifford Gene U.S. Air Force 1st Lieutenant MIA 5/17/1953
Shaddick, John Philip U.S. Air Force 1st Lieutenant MIA 1/29/1953
Southerland, John Edward U.S. Air Force 1st Lieutenant MIA 6/6/1953
Sowles, Lewis W. Army Sergeant First Class MIA 11/30/1950
Spath, Charles Ray U.S. Air Force Captain POW 2/3/1952
Spence, Marvin James U.S. Air Force Major MIA 9/9/1950
Stauffer, Bill James U.S. Air Force 2nd Lieutenant MIA 1/26/1953
Stein, Richard James U.S. Marine Corps Private First Class KIA 11/28/1950
Stevenson, Frank James U.S. Air Force Airman Third Class MIA 1/29/1953
Stopa, Dewey, U.S. Air Force 1st Lieutenant KIA 1/29/1953
Strykowsky, Leonard U.S. Navy Aviation Electronics Technician 8/22/1956
Tahsequah, Meech U.S. Air Force Lieutenant Colonel MIA 12/6/1950
Tatarakis, George G. Army Sergeant MIA 2/19/1952
Thompson, Charles Russell, U.S. Air Force 1st Lieutenant MIA 11/25/1951
Torres, George Army Sergeant MIA 12/2/1950
Trantham, Archie Peyton U.S. Air Force Captain MIA 6/5/1952
Turberville, Jack Howard U.S. Air Force 1st Lieutenant MIA 11/18/1952
Van Fleet, James Alward U.S. Air Force Captain MIA 4/4/1952
Van Voorhis, Paul Edward U.S. Air Force Captain MIA 1/12/1953
Van Wees, Ronald D. Army Corporal MIA 11/30/1952
Voss, William Anthony U.S. Air Force 1st Lieutenant MIA 7/16/1953
Walters, Kenneth E. Army Private First Class MIA 12/6/1950
Wing, Elmer V. Army Corporal MIA 10/5/1952
Ziegler, Joseph Patrick U.S. Air Force 1st Lieutenant MIA 4/23/1953
Zimmerlee, John Henry U.S. Air Force Captain MIA 3/22/1952

USSR POW CAMP NAMES/LOCATIONS

Moscow
- Monino Air Force Academy
- Lubyanka Prison

Vladimirskaya
- Vladimir Central Prison

Mordovska
- Pot'ma Camp 18
- Pot'ma Camp 19
- Yavas

Kirov
- Kirov

Komi
- Inta Camp Three
- Vorkuta
- Vorkuta Camp 223/III
- Vorkuta Coal Mine Six
- Vorkuta Coal Mine Eleven
- Korkuta Pit 40
- Vorkuta *OLP* Nine

Molotov (Perm)
- Solikamsk
- Gubakha
- Kudymnar
- Chenmos

Novosibirsk
- Novosibirsk Transit Prison

Krasnoyarsk
- Kirovskiy
- Noril'sk Camp Four
- Noril'sk Camp Five
- Noril'sk Camp Five, Cement Plant Five
- Noril'sk Camp Nine
- Noril'sk Camp 54

Irkutsk
- Irkutsk Camp 19
- Vikhorevka
- Tayshet

Sakha-Yakutia
- Bulun
- Bulun Camp 217
- Bulun Camp 307
- Bulun Camp 315
- Yakutsk
- Topolinyy

Chita
- Chita

Magadan
- Arkagala
- Magadan Berlag
- Narioberug Central Hospital

Khabarovsk
- Khabarovsk Prison
- Khabarovsk Sub-camp 5M
- Svobodnyy
- Verkhniy
- Sinda

Primorskiy Kray
- Air Force Hospital 404
- Artem
- Vanino Bay
- Vladivostok

Kazakhstan
- Churba Nura

Krasnoyarsk area

Posyet

Zimka

Pankrac

Perm Krai
- Gubakha
- Kudymnar
- Chermos

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CCRAK # M- 101 dtd 24 February 1951 (Cont'd)

4. Abput 7,200 artillery men and engineers attached to the 2nd field army now stationed in the SACHON area have recently returned from the front in Korea. The North Korean puppet government has secretly left PYONGYANG since 22 December. The command of PYONGYANG was turned over to YANG DOK JI , Chief of Staff of CCF. The Russian naval vessel Stalin (an old DD) is reported to have appeared in the gulf of PO-HAI recently. It is also reported that Russia has turned over to China many submarines. Naval vessels turned over to China by Russia are the Mobelk" 1509 tons, the "Chongchubelts" 1478 tons, 3 landing craft and 2 small gun boats. It is reported that if the Korean war expands, Ishitopu (?) Chief of Staff of the Russian Far East Forces will take over the position of Supreme Chief of Staff now held by Mao Tse Tung and he (Ishitopu) will command the CCF (F).

CCRAK Comment: Command (Reference Paragraph 2). This office has received sporadic reports of PsW being moved to the USSR since the very inception of the hostilities in Korea. These reports came in great volume through the earlier months of the war, then tapered off to a standstill in early 1951, being revived by a report from January of this year. It is definitely possible that such action is being taken as evidenced by past experience with Soviet authorities. All previous reports state PsW who are moved to the USSR are technical specialists who are employed in mines, factories, etc. This is the first report that they are being usee as espionage agents that is carried by this office.

NOTE: Any portion of this report reproduced will be identified by CCRAK # M-101 (ROK ONI).

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COMBINED COMMAND FOR RECONNAISSANCE ACTIVITIES

8177TH ARMY UNIT
APO 613

CCRAFE SPECIFIC REQUEST
NUMBER 27-55 (FEAF 5-5-5-N)

17 August 1955

SUBJECT: Collection Plan American (U)

1. Background: a. Continued and numerous fragmentary intelligence reports give credence to possible detention of a large number of American POW's in China, Manchuria, USSR, and North Korea. US POW's have been reportedly observed in labor groups, under detention, being moved from one locale to another, and similar incidences. A significant report points out observations at the Manchurian border city of MANCHU-LI (LUPIN) (49 50N/117 30E) of a large number of US POW's being shipped into USSR by rail. The evaluation of these reports cannot be fully judged. The evidence as given, however, stresses the importance of a continued maximum effort in the collection of information on detained Americans.

b. In order for the US Government to negotiate for the safe release of these captives, all information possible concerning these individuals must be obtained.

c. Possibl[illegible]:

(1) Hu[illegible]s who have seen, conversed with, and/or heard of [illegible] being held against their will in Communist-bloc countries.

DECLASSIFIED
Authority NND961078

000024

UNCLASSIFIED

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3d District, Missouri

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Congress of the United States
House of Representatives
Washington, DC 20515-2502

February 12, 1997

Committees:
National Security

Subcommittees:
Military Procurement
Military Readiness

Small Business

Subcommittees:
Regulation and Paperwork, Chairman

Economic and Educational Opportunities

Subcommittee:
Employer-Employee Relations

Class Whip
Assistant Majority Whip
The Speaker's Welfare Advisory Group

The Honorable James Wold
Deputy Assistant Secretary of Defense
Defense Prisoner of War/ Missing in Action Office
2400 Defense Pentagon
Washington, DC 20301-2400

Dear General Wold:

I recently received information and declassified documents from families of Korean War POW/MIAs. It is my understanding that case files for Americans known or suspected of being captured alive during the Korean War have yet to be created. I am also aware that intelligence pertaining to American prisoners who were taken to China and the Soviet Union during the war has yet to be fully explored. I request that you provide me with the following records or DPMO products by March 15, 1997:

1) A complete list, organized according to branch of service, of all US service members listed as Missing in Action at the immediate end of the Korean War;
2) The lists of names of the more than 900 US MIAs that were published in American newspapers, including US military publications during 1953-54;
3) All documents and reports from all US Government agencies related to Americans transferred to China from Korea or held in China between 1950 and 1954;
4) All documents and reports related to American service members, intelligence operatives and contract personnel captured in Chinese territory between 1949 and 1954;
5) The list of 125 American MIAs from the Korean War that was handed to the Chinese Government by the US Government in June 1992. Please also provide all subsequent correspondence between the US and Chinese governments related to this list; and
6) In addition, I hereby request that case files be created for (a) the 389 American service members who into the 1980s were listed as unaccounted prisoners of war by the United Nations Command Military Armistice Commission (UNCMAC) and (b) all US Air Force F-86 pilots who remain unrepatriated.

Please notify me if any of the requested records or documents remain classified. As you are aware, Presidential directives during the Bush and Clinton Administrations require that U.S. documents pertaining to POW/MIAs be declassified. In addition, in the FY1996 Defense Authorization Bill, public law pertaining to the declassification POW/MIA documents was amended by Senators Smith and Kerry, specifically requiring that all Korean War era documents be declassified by January 1, 1996.

UNCLASSIFIED

As the senior Majority member of the House National Security Subcommittee on Military Personnel, I request that any classified materials be delivered for my review by my staff and me.

Thank you for your prompt assistance in providing these records and documents to my office. I hope to meet with you in the near future to discuss these matters. If you have any questions, please contact me through (b)(6). I look forward to working with you to achieve the fullest possible accounting of America's missing service personnel.

Sincerely,

James M. Talent
Member of Congress

Approved For Release 1999/09/07 : CIA-RDP65-00756R000500030016-7

25X1X6

[redacted] TERMINOLOGY

Zakonservirovannyye agentury- literally deep freeze networks, or canned or preserved nets. Deep Cover nets. [redacted] 25X1A2g

Legalnaya rezidentura- Legal residency [redacted] 25X1A2g

gruppovody- principal agents. [redacted] 25X1A2g

Trenirovochnoye respisaniye- Signal Plan [redacted] 25X1A2g for period contacts

Vyevoye Raspisaniye- Signal plan for use after W/T agent has been activated [redacted] 25X1A2g

Operativny Upolnomocheny (OPERUPOLNOMOCHENY)-Case officer [redacted] 25X1A2g

Starshy operativny upolnomocheny-Senior case officer(DR-19-495) 25X1A2g

Pomoshchnik Operupolnomochennogo-Junior(sic) case officer. [redacted] 25X1A2g

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Clerk: 71

AFFIDAVIT OF BOB SMITH

Bob Smith hereby swears and affirms:

1. From 1985 to 1990, I served as a member of the United States House of Representatives for New Hampshire's 1st Congressional District. From 1990 to 2003, I served as the United States Senator, representing New Hampshire. The Senate Select Committee on POW/MIA Affairs was a special committee convened by the United States Senate during the George H. W. Bush administration (1989 to 1993) to investigate the Vietnam War POW/MIA issue, that is, the fate of United States service personnel listed as missing in action during the Vietnam, Korean, and Cold Wars. I wrote, and introduced, the Senate Resolution establishing that Committee, to attempt to get the documents and the truth released to the public. I served as the Committee's Vice Chairman. It was in existence from August 2, 1991 to January 2, 1993.

2. The Committee's inquiry included an exploration of the fates of unrepatriated Korean War POWs. On November 10, 1992, my office released a 54-page Report:

Exhibit B

CHRONOLOGY OF POLICY AND INTELLIGENCE MATTERS CONCERNING UNACCOUNTED FOR U.S. MILITARY PERSONNEL AT THE END OF THE KOREAN CONFLICT AND DURING THE COLD WAR

Prepared by the Office of Senator Bob Smith
Vice-Chairman, Select Committee on POW/MIA Affairs
November 10, 1992

3. That Report appears below, in paragraphs 15 through 281, verbatim. The Report is accurate, and authoritative. Paragraphs 8-14 are portions of my opening remarks, verbatim, from the Select Committee's November 10, 1992 *Hearing on Cold War, Korea, WWII POWs*.

4. In the fall of 1997, Congress passed, and the President signed into law, the National Defense Authorization Act for fiscal Year 1998, which included a provision that I authored that required the Director of Central Intelligence to "provide analytical support on POW/MIA matters."

5. I personally have seen hundreds of classified documents that could and should be released as they pose no national security risk. What is really at risk are the reputations and careers of the intelligence officials who participated in and perpetrated this sorry chapter in American history.

6. During the Senate Select Committee's tenure, I fought with the bureaucrats, and Senators McCain and Kerry, to the point of exhaustion.

7. After decades of FOIA requests, emotional appeals from family members, senators and congressmen, and House and Senate Committee investigations, the intelligence agencies still keep numerous documents classified under the guise of national security. I can state without any evocation that they are still holding documents that

should be declassified. The families if these men, and the American public, deserve to know the truth of what is in those files.

Excerpts of Affiant's November 10, 1992 opening remarks, Senate Select Committee on POW/MIA Affairs *Hearing on Cold War, Korea, WWII POWs*

8. Regarding the Korean War, our investigators states, and I quote, "apparently reliable information from several former Soviet colonels now retired indicates that the Soviets did in fact participate in interrogations, and there appears to be a strong possibility that at least a handful of US POWs, possibly more, or transferred to Soviet territory during the Korean War."

9. In order to set a proper context for these hearings, I have attached to my statement for the record, and it is available, I believe, at the back of the room, what I believe is the most comprehensive compilation of US government policy and intelligence information concerning what we have known about the fate of many of our missing man from the Korean conflict and what we did about it.

10. It is a document that shows in explicit detail with a lot of research that the government and North Korea did not return a large number of American servicemen at the end of the war, and that some of the men left behind were sent to Communist China into the Soviet Union.

11. Internal documents and statements made at the time also show that our government believed that men were still alive in captivity, and until only a few months ago has kept that reality from the American people. It is covered up with a new truly pattern of denial, misleading statements, in some cases lies, and by doing so with regard to the Korean conflict it broke its commitment with the people who put on the uniform to fight for the

freedoms and protections that we and our allies enjoy today. It is not a very good chapter in American history.

12. The Soviets did, in fact, participate in interrogations, and there appears to be a strong possibility that at least a handful of us POWs, possibly more, were transferred to Soviet territory during the Korean War.

13. Today, we will hear from the departments in our own Government that were responsible for handling POW issues from the Korean war and the cold war, prior to the formation of this Committee and the establishment of the Joint Commission.

14. We will also hear today from some members of the Government and the military who were involved with the POW/MIA, or were POWs themselves, during the Eisenhower administration—people who received direct information on other American POWs still alive at the time who were transferred to camps in Northern China and Siberia.

CHRONOLOGY OF POLICY AND INTELLIGENCE MATTERS
CONCERNING UNACCOUNTED FOR U.S. MILITARY PERSONNEL
AT THE END OF THE KOREAN CONFLICT AND DURING THE COLD WAR

15. "We do have certain evidence that indicates there are additional prisoners alive who should be returned." August 6, 1953 Statement of U.S. General Mark Clark, Commander of the United Nations Command in Korea, Pentagon News Conference one week after the signing of the Korean Armistice Agreement and the exchange of lists of POWs to be repatriated.

16. "A compilation of reports indicate that during the past two years, several POWs have been transferred from POW camps in North Korea to points in Manchuria, China, and Siberia." August 19, 1953 Memorandum by the U.S. Army Combined Command for Reconnaissance Activity, Korea.

17. "There were 1,012 persons (U.S. personnel unaccounted for from the Korean Conflict) where there was evidence that they were alive in Communist hands." March 9, 1954 Closed-door testimony of Army G-2 Intelligence Officer, Colonel Trammel, before Senate subcommittee.

18. "There is no evidence to suggest that any U.S. personnel were not released from captivity in Korea." November 9, 1989 Defense Intelligence Agency Chief of the POW/MIA Office, Colonel Joseph Schlatter.

19. "There are no intelligence indicators that US personnel from the Korean conflict were not returned to US control at the end of the war." June 28, 1990 testimony before Congressional hearing on the POW/MIA issue by the Deputy Director of the Defense Intelligence Agency, Rear Admiral Donald Marriott.

1950

20. June 25. North Korea, at the direction of President Kim Il Sung crosses the 38th parallel invading South Korea, beginning the Korean Conflict.

21. June 27. The United Nations Security Council passes Resolution 83 recommending that Member States furnish assistance to the Republic of Korea (South Korea). U.S. Air Forces are immediately committed.

22. July 7. The United Nations Security Council passes Resolution 84 recommending that the military forces provided by Member States be made available to a Unified Command under the United States, and authorizing that Command to use the United Nations flag at its discretion in the course of its operation. U.S. and member nation ground forces are immediately committed under the command of U.S. General Douglas MacArthur.

23. October 2. In a telegram to Stalin in the Soviet Union, China's Communist Party Chairman Mao Zedong states, "We have decided to send part of the armed forces into Korea, under the title of Volunteer Army, to do combat with the forces of America and to assist our Korean comrades. We recognize this course of action as necessary."

24. October 13. In a telegram to China's Prime Minister Zhou Enlai, then in Moscow seeking Stalin's support, Mao states, "…we unanimously believe that having our troops enter Korea is more advantageous…If we do not send troops, allowing the enemy to press to the Yalu border and the arrogance of reactionaries at home to grow, this will be disadvantageous to all sides. Above all, it will be most disadvantageous to Manchuria; all of the South Manchurian electricity will be threatened."

25. November 24. By this date, the North Koreans are driven northward by the UN Member State forces under General MacArthur and eventually back to the Yalu River (the boundary between China and North Korea).

26. November 26. A large Communist Chinese army, under Mao's directive, invades the north in support of the North Koreans and help them drive the UN forces south

after much bitter fighting. Thousands of Americans are killed, wounded, and captured during this Communist offensive.

1951

27. January 1. By this date, the North Korean-Chinese army has forced the UN forces back to the 38th parallel, and the South Korean capital of Seoul had fallen into enemy hands.

28. March 12. French intelligence sources inform the U.S. Far East Command that "according to report valued C-3 and dated December 9, 1950, 3,000 American POWs have been moved to the Korean border with China by December, 1950. The report adds that another 1,200 "lightly wounded" American POWs had been placed at an Air Defense hospital in An Tung, Manchuria. (now known as the Three Eastern Provinces of China.)

(Source: 12 March 1951 declassified State Department Cable)

29. March 14. A counter-offensive by the UN retakes Seoul.

30. April 9. The Central Intelligence Agency reports that source (still classified 11/10/92) has reported that "Officers captured in North Korea by the Chinese Communists are now interned in a former army prison in Mukden, Manchuria. Enlisted men are confined in concentration camps in T'unghua. The daily routine includes physical exercise, political training in Marxism and Leninism, and analysis of the Korean War by Communist political directors." The date of information is early April, 1951, according to CIA. CIA notes that another report, S0-54598, had also referred to U.S. POW camps in Mukden.

(Source: S0617354, Central Intelligence Agency, partially declassified.)

31. May 8, 1951. The Central Intelligence Agency reports that, according to a source, 25 American prisoners of war from Korea arrived in Canton by rail from Hankow at 6:00 p.m. on April 1, 1951 and were being held by 50 armed police and some plain-clothes men at facilities at Tung Hua Road.

(Source: Declassifed Report No. S063715, CIA)

32. On May 8, 1951, according to a 6 September 1951 CIA report, 30 American prisoners of war depart Mukden, Manchuria for Hankow by rail. The prisoners are reported in good spirits and tidily dressed.

(Source: CIA declassified report dated 6 September 1951)

33. May 29. The Central Intelligence Agency reports that, according to a source, 45 American prisoners of war arrived in Canton at 6:00 p.m. on April 23, 1951 on two special cars of the Canton-Hankow Railroad, and were being held at facilities on Tung Hua Road. It is reported that on April 30, 1951, Chinese Communist authorities in Peiping

ordered that American POWs held at Tung Hua be taken to Kwailan. It is further reported that at 3:00 a.m. on May 2, the POWs were moved in two trucks, accompanied by four armored cars, to the Tashat'on Rail Station.

(Source: Declassified CIA Report No. S0 65066. 29 May 1951)

34. June 27. The Central Intelligence Agency reports that, according to a source, "By April 15, 1951, approximately 500 American prisoner of war from Korea had arrived in Hankow, and on April 18th, some of them were paraded through the streets of Hankow under heavy guard…In mid-April, 60 prisoners of war, most of whom were American, arrived in Canton via the Canton-Hankow railroad, and were being detained at facilities at Tung Hua road in Canton…In mid-June 1952, 52 American POWs from Korea were still incarcerated in the baptist church on Tung Hua Road, Canton.

(Source: Declassified CIA Report No. S066740 dated June 27, 1951.)

35. July. Peace negotiations commence at Kaesong.

36. August 11. The Central Intelligence Agency reports information from a subsource that, according to a North Korean staff member of the State Security Bureau in Seoul on 12 February 1951, "all American prisoners of war were sent to camps in Mukden, Tunghua, and Antung Provinces of Manchuria, where they were put to hard labor in mines and factories." (Note: February 12 is before the U.N. forces retook Seoul on March 14, 1951)

(Source: CIA Report No. S065823, declassified)

37. In another Central Intelligence Agency report, a source states that "On August 2, 52 American POWs from Korea, who had been held in the Baptist church on Tung Hua Road, Canton, left Canton by train for Peiping via Hankow under guard of a platoon of Chinese Communist soldiers."

(Source: CIA Declassified Report No. S069870)

38. August 22. The Central Intelligence Agency reports that, according to a source, some 40 U.N. POWs in Canton, including British and American officers and enlisted men, have participated in "propaganda tours and street demonstrations" in Canton in early May, 1951.

(Source: CIA Declassified Report No. S070338)

39. August 24. The Central Intelligence Agency reports that, according to a source, "78 American prisoners of war are in a camp at No. 35, Lane 1136 Yuyen Road, Shanghai. They have no freedom of movement and are not free to talk. They must attend meetings daily to study Communist doctrine. Camp officers are appointees of the Est China Bureau and the East China Military Area, and four English speaking Soviets." Ten names of

alleged U.S. servicemen, written in Chinese, are provided "from a scrap of paper picked up in the POW camp." The identities are not evaluated by CIA.

(Source: 24 August 1951 declassified CIA report no. S070512.)

40. September 6. 60 American prisoners of war are reported being held in Canton as of mid-July, according to a CIA source. (Note: According to another source (11 August 1951), 52 American POWs were moved from Canton on August 2, 1951 by rail to Peiping.)

(Source: declassified CIA report dated 6 September 1951)

41. September 27. According to a CIA source, as of late August, 1951, "Many American prisoners of war are being used in Peiping for propaganda purposes."

42. September 28. The Central Intelligence Agency reports information from a source that as of Mid-September 21 American prisoners of war are confined at Lo Chia Shan in Wuch'ang, Communist China, and that their political instruction is being carried out by a former Chinese student in America and a Soviet major.

(Source: Declassified CIA report No. S072900, dated 28 September 1951)

43. October 4. The Central Intelligence Agency reports, that according to a source, the Chinese Communists held a meeting on August 1, 1951 to celebrate Army Day. "During the meeting, 5 American prisoners of war, captured in Korea, were escorted by Communists soldiers to the rostrum. Two of them addressed the gathering."

(Source: Declassified CIA Report No. S073337, dated 4 October 1951.)

44. October 23. 170 U.N. prisoners of war are reported by a CIA source to have arrived in Canton by train from Hankow on October 3, 1951.

(Source: CIA declassified report no. S074469)

45. October 25. A CIA source reports the existence of an American and British POW camp at Shamsen, Canton, and lists some of the names, in Chinese, of U.S. 8th Army personnel. The names are not further evaluated by CIA.

(source: Declassified CIA report no. S074807 dated 25 October 1951)

46. October 27. A CIA source reports that 125 American prisoners of war were observed walking to Antung, China on the night of March 25, 1951.

(declassified CIA report)

47. October. Peace negotiations between the Communists and the United Nations Command continue at Panmunjom, Korea.

48. December. The Psychological Strategy Board under President Truman, in a Top Secret memorandum, makes the following observations concerning the question of forced repatriation of North Korean and Chinese prisoners of war, in the context of an exchange of POWs following the Korean Conflict:

> "Our treatment of Soviet and satellite expatriates has an unfortunate history, as you will recall. As a result of an agreement at Yalta, the United States in the years immediately after World War II assisted the Soviet Union in the repatriation of various categories of Soviet bloc persons--chiefly prisoners of war, escapees, and displaced persons. The result of our cooperation was that more than four million Soviet citizens were returned to the Soviet Union and that thousands were executed or punished in other ways without regard to the conditions which caused their displacement from Soviet-controlled territory."
>
> "In addition, persons escaping from the Soviet area after World War II were forcibly returned to Soviet control as a matter of U.S. policy up until well into 1948. This treatment of Soviet expatriates became well known to the populations within the Soviet area, and, as has been well documented, became the cause of widespread despair. It practically stopped the flow of defectors, and it would make it very difficult to wage effective psychological warfare against the Red Army in event of war."
>
> "Our policy was subsequently changed so that persons entering the Allied areas of Germany and Austria are no longer forcibly returned. The treatment we have given defectors has, however, not been sufficiently good or well publicized to erase the former picture."
>
> "This is the background within which the question of forcible repatriation of Chinese and North Korean prisoners of war must be examined. Repetition of our previous mistake would discourage defection by Chinese communist forces in any future conflict."
>
> "It would therefore in the long run cost us more American lives than are involved in the exchange of prisoners problem."

The writer of the memorandum concludes stating:

> "I have learned by way of hearsay that the President is informed on this question and is inclined to oppose forcible repatriation."

(Source: declassified memorandum December, 1951, Truman Presidential Library)

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49. January. Army captain Mel Gile of the Far East Command Liaison Group reports that one of his agents had found that 63 U.S. POWs were being shipped by truck and rail from Pyongyang, North Korea to Chita, in the Soviet Union. Gile states the U.S. command cancelled air strikes on the railway he reported would be carrying the POWs.

(Source: 1990 Wash. Times and USA Today Interviews with Gile)

50. January 2. U.S. Army Intelligence receives information that more than 500 U.N. prisoners were in a camp in Tung Kuan Ying, 10 miles east of Mukden, Manchuria "to be given short-term training pending transfer to the Soviet Union on order of central authorities." The same reports states that 494 U.N. POWs had been observed inside China since December, 1951.

51. January 4. A CIA source reports that in mid-November, 1951, "the U.N. prisoners of war who had arrived in Canton on October 3 were removed and sent elsewhere. Complete secrecy was maintained during the move from Shamsen, Canton to a destination unknown."

(Sources declassified CIA report No. 79124)

52. January 5. A CIA source reports that 13 American and 8 British prisoners of war were transferred by rail from Canton to Hankow. CIA also reports they have another report of U.S. POWs in the Canton area "performing hard labor on airfields."

(Source: 5 January 1952 CIA declassified report.)

53. February 6. A CIA source reports that around December 27, 1951, "the Chinese Communists moved 300 U.S. POWs…into a concentration camp near Tat'ung. The prisoners are under the instruction of Europeans" CIA reports that the report is possibly a fabrication as the information appears doubtful.

(Source: CIA declassified report dated 6 February 1952)

54. February 14. A CIA source reports that about the first week of January, the Chinese Communists were parading U.S. captives (prisoners of war) in Paoshan, Yunnan Province, for propaganda purposes. The source reports the Communists pointed the U.S soldiers to the spectators, saying "these are the people we've been fighting -- and have conquered."

(Source: CIA declassified report dated 14 February 1951)

55. February 19. The declassified "post-agenda discussion" suggested notes for a meeting of the Psychological Strategy Board under President Truman state:

> "Subject: The Strategic Significance of Involuntary POW Repatriation in Korea.
>
> "At the present time, there is no widespread active concern in the U.S. on the question of possible failure on the part of the Chinese to return all American prisoners. But articles now beginning to appear in the press raise the specter that the issue might be presented to the American public as an "exchange of Chinese lives for American lives." Should this develop, it is likely that the public outcry would obscure the basic moral issue and jeopardize the effectiveness of the U.S. policy decision."
>
> "At the present time, it appears that the Department of State and the Department of Defense are engaged in the collection and careful analysis of the facts pertaining to this problem. Preliminary indications are that perhaps 3,000 Chinese and up to 10 percent of the North Korean POWs will fall within the category of those whose return to their homelands would result in their death, or who for other reasons do not wish to be repatriated."

(Source: Declassifed notes from Truman Library 19 February 1954 – U.S. Psychological Strategy Board

56. March. Admiral R.E. Libby, U.S. negotiator in Korea, advises his communist counterparts, "You denied that you hold in Korea more than 11,500 prisoners whose names you gave us… You denied that you ever held any of our captured personnel outside Korea... we have evidence which clearly convicts on both counts. Earlier, he states "We have convincing evidence you are holding prisoners in retention camps outside Korea without reporting them to our side." Libby had further stated "a number of captured communist soldiers have told of escorting UN prisoners to camps in China." Libby states one of the captured Communist Chinese soldiers "described in detail a prisoner of war processing center in Harbin (deep in Central Manchuria to which he had helped escort captured United Nations personnel. The soldier stated he had seen "more than 1,000 UN prisoners—Americans, South Koreans and others—at the Harbin processing camp."

(Source: South China Morning Post March 9, 1952)

57. April 15. The Central Intelligence Agency reports, that according to a source, "In November, 1951 about 50 American prisoner of war were brought under guard from Shanghai to Hangchow, and were taken to Maochiafou and placed in the detention center there." The report further states that as of February 10, 1952, 15 of them were taken elsewhere, leaving only 35. Maochiafou is reported as "probably near Hangchow."

(Source: CIA report dated 15 April 1952, declassified)

58. May 2. The Central Intelligence Agency reports, that according to a source, "In April 1952, there were 35 American prisoner of war at the Maochiafou Camp. The following is a partial list of the Americans." No evaluation of the names is done by CIA.

(Source: CIA declassified report dated 2 May 1952)

59. June 13. B-29 is downed by a Soviet MIG over the Sea of Japan.

(Source: DoD, Russian Archives.)

60. July 17. The Central Intelligence Agency, in a report from a still classified source, states:

> "In May, 1952 , the War Prisoner Administrative Office in P'yongyang…under the control of an intelligence officer attached to the general headquarters of the Soviet Far Eastern Military District, controlled prisoner of war camps in Manchuria and North Korea. The office, formerly in Mukden (Manchuria), employed 30 persons, several of whom were English-speaking Soviets."
>
> "The office had developed three types of prisoner of war camps. Camps termed "peace camps" detained persons who exhibited pro-Communist leanings, and were characterized by considerate treatment of the prisoners and the staging within the camps of Communist rallies and meetings."
>
> "Reform camps, all of which are in Manchuria, detained anti-Communist prisoners possessing certain technical skills. Emphasis at these camps was on redoctrination of the prisoners."
>
> "Normal prisoner of war camps, all of which were in North Korea, detained prisoners whom the Communists will exchange. Prisoners in the peace and reform camps will not be exchanged. Officials of North Korean prisoner of war camps sent reports on individual prisoners to the War Prisoner Administrative Office. Cooperative prisoners were being transferred to peace camps."
>
> "On 6 January 1952, four hundred United States prisoners, including three hundred Negroes, were being detained…in Mukden, Manchuria…All prisoners held there, with the exception of three second lieutenants, were enlisted personnel…The prisoners, dressed in Communist Chinese Army uniforms were not required to work…two hours of indoctrination were conducted daily by staff members of the Northeast Army Command. Prisoners were permitted to play basketball in the courtyard."
>
> (Source: CIA Report No. SO 91634, dated July 17, 1952)

61. October. Truce negotiations between the Communists and the U.N. forces break down.

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62. January 2. Despite the December, 1951 report by President Truman's Psychological Strategy Board, U.S. Senator Wiley is told by the Department of Defense that "no information is available which would enable the Department of Defense to prepare a statistical and descriptive account of the ultimate fate of these individuals after their repatriation to Soviet authorities pursuant to the terms of the Yalta Agreement." The December, 1951, in discussing the question of forced repatriation for Korean War POWs, states that four million Russians at the end of World War II were forcibly sent back, and that thousands of them were subsequently executed and punished by the Russians.

(Source: Defense Department letter dated January 2, 1953)

63. January 18. A U.S. Navy patrol aircraft is shot down in the South China Sea. A U.S. Coast Guard seaplane crashes during rescue operations in the vicinity. According to the United States, the planes are not engaged in operations for the United Nations Command. The U.S. later expresses the belief that personnel from these incidents fall into Communist custody

(Source: 5 May 1954 Defense Department summary)

64. February 24. An Army Combined Command for Reconnaissance Activities Korea memorandum states:

> "The following information was received from Ministry of Foreign Affairs, Republic of Korea Government. Report originally came from Nationalist Chinese Embassy—"
>
> "According to reliable information, the Communist Chinese Forces have transferred UN POWs to Russia in violation of the Geneva Conference. These POWs will be specially trained at Moscow for espionage work. POWs transferred to Moscow are grouped as follows: British 5, Americans 10, Canadians 3, and 50 more from various countries."
>
> "Russia has established a Higher Informant Training Team at Uran, Hodasong (phonetic) in Siberia in October, 1952. 500 persons are receiving training, one third of them women. Japanese constitute the largest group and the others are Korean, Filipinos, Burmese, and American."

The date of information is given as "October - 22 December 1952."

Comments in this report by the U.S. Army Combined Command for Reconnaissance Activities, Korea state:

> "This office has received sporadic reports of POWs being moved to the USSR since the very inception of the hostilities in Korea. These reports came in

> great volume through the earlier months of the war, and then tapered off to a standstill in early 1951, being revived by a report from January of this year (1953). It is definitely possible that such action is being taken as evidenced by past experience with Soviet authorities. All previous reports state POWs who are moved to the USSR are technical specialists who are employed in mines, factories, etc. This is the first report that they are being used as espionage agents that is carried by this office."

(Source: U.S. Army Combined Command report dated 24 Feb. 53)

66. April 20-26. Peace talks are resumed and Operation Little Switch, the first prisoner exchange, takes place. The Communists release 600 United Nations "sick and wounded" prisoners. The United Nations releases 6,000 "sick and wounded" Communist prisoners.

67. May. Esquire Magazine reports that the Foreign News Service had obtained information from a "reliable" source they encountered in 1952 that American POWs were being screened by Chinese and Soviet personnel who spoke fluent English. The source reports that an initial decision to keep these POWs back or place them in POW camps on the North Korean side of the Yalu River was made during this initial screening. The source reports that very important personnel were flown to the USSR, while others were shipped by rail to the Soviet Union for further processing. The Foreign News Service reports that they have no way of confirming the story, but that the extensive detail provided brought them to the conclusion that the information was accurate.

68. July 15. The Central Intelligence Agency reports information from a source that "In late May, 1953, approximately 1,500 United Nations prisoners of war were confined in a camp at Tungchutin, Tientain, in Communist China. The majority of these prisoners of war were American Marine officers and men who were sent to this camp after recovery from wounds." CIA comments that "a POW camp once tentatively accepted in Tientain, was dropped from available listings in January, 1953 because of a lack of recent reports concerning it."

(Source: CIA declassified report dated 15 July 1953)

69. July 22. During the peace negotiations, the Communists report they are holding 12,763 prisoners to be repatriated.

70. July 27. The Armistice Agreement is signed between the Communists and the U.N. Forces at Panmunjom, Korea. A Military Armistice Commission, a temporary Neutral Nations Repatriation Commission, and a Neutral Nations Supervisory Commission are established to enforce the terms of the armistice. No formal peace treaty is ever concluded. Paragraph 13f of the Armistice Agreement provides for the voluntary repatriation of POWs and for the repatriation of remains.

71. July 29. An RB-50, with a crew of 17 members, is shot down by Russian MIG-I5 jets over the Sea of Japan. An American vessel rescues the co-pilot who had parachuted. The U.S. Government informs the Soviets that "it appears highly likely that the other crewmembers survived and that they were possibly rescued by the Soviet vessels."

72. August 5. Operation Big Switch commences with the exchange of POWs "desiring repatriation" by both sides. The United Nations Command begins the transfer of 75,823 POWsdirectly to the Communists in the demilitarized zone (DMZ). The Communists begin the transfer of 12,773 Allied POWs (3,597 U.S. POWs) in return.

73. August 6. The Commander in Chief of the United Nations Command General Mark Clark returns to Washington from Korea, after signing the Armistice on July 27th. He holds a news conference at the Pentagon, which is covered by the New York Times as follows:

> "General Clark pledged to press the Communists for further information on the additional troops he believed they held and for a possible exchange. He said that he pointed out the wide discrepancy between his information and that supplied by the Communist on prisoners during the truce negotiations. He had been advised by his superiors in the Pentagon, he said, not to delay the armistice negotiations over the discrepancy but to reserve the privilege of later protest. This will be done, the general said, first at the Military Armistice Commission, and, if there is no satisfaction there, later at the political conference that will follow. General Clark, stating that the only thing that the Communists respected was force, declared in a detailed discussion of the prisoner question:
>
> "They respect force and I know of no way except through political and diplomatic means of getting any reaction from them on this prisoner of war question other than the application of force, which is not in the cards, in my opinion," said Clark.
>
> "Conceding that Army authorities in the Far East could not prove that additional US soldiers and airmen are being held captive…, General Clark said there nevertheless remained "other information that leads us to believe that they have more."
>
> "We do have certain evidence that indicates that there are additional prisoners alive who should be returned, and I assure you, as Commander in Chief, while I am there, I will press that in the military and political conferences," Clark declared.

At the same press conference, General Clark announces his retirement effective October 31, 1953.

(Source: New York Times article dated August 7, 1953)

74. August 7. General James A. Van Fleet, Commander of the U.S. 8th Army in Korea, states: "A large percentage of the 8,000 American soldiers listed as missing in action in Korea are still alive.

75. August 7. Communist controlled radio in Peiping, China reports that United Nations POWs had now been informed that they had a right to refuse to return and that "if any prisoners of war do not wish to be repatriated directly, the United Nations would be informed of the number "as soon as possible." (Source: New York Times, 7 August 1953, Tokyo byline, same day)

76. August 10. A Combined Command for Reconnaissance Activity Korea Army Memorandum states:

> "A. A compilation of reports indicate that during the past two years, several POWs have been transferred from POW camps in North Korea to points in Manchuria, China, and Siberia. These points include Mukden, Harbin, Antung, Yench'eng, Chiamusso, Miensien, Peiping, Shanghai, Chungking, Timesin, Canton…"
>
> "B. Figures show that the total number of MIAs plus known captured less those to be US repatriated leaves a balance of over 8,000 unaccounted for."

(Source: declassified 10 August 1953 Army Memorandum)

77. August 31. The Assistant Chief of Staff, G2 received a memorandum from the Army General Staff listing 23 U.S. personnel "believed not desiring repatriation." The information is submitted "from interrogation Big Switch repatriates inclusive to 23 August 1953."

(Source: 31 August 1953 Army memorandum)

78. September 1. The Joint Intelligence Processing Board, Headquarters, U.S. Army Forces, Far East (ADV) prepares a memorandum listing 32 United States Prisoners of War who have "elected to refuse repatriation." The information is based on information provided by released American POWs. The report further states that "much of the information is based on rumor and hearsay and consequently quite difficult to evaluate."

(Source; 1 September 1953 Army Memorandum)

79. September 6. The United Nations Command and the Communists announce that repatriation (Operation Big Switch) has been completed for all individuals who had elected to be returned.

(Source: 12 /22/53 Memo to SecArmy from Ass.Sec. Army)

80. September 9. The United Nations Command presents a list to the Communists of 3,404 U.N. and South Korean personnel still unaccounted for. The list includes the names of 944 U.S. personnel, of which 610 were Army. It is later reported that General Mark W. Clark handed over the list to the Communists demanding that they be returned "or else." General Clark is reported to say that the list was compiled from statements of the communists themselves, radio broadcasts originating in Peiping, letters written from prisoners' camps, or from the observations of former U.N. prisoners of war in Red prisons.

(Source: 31 December 1953 CINCUNC message, News Article by Joseph F. McLaughlin, Boston)

81. September 12. Communist correspondent Burchett indicates that the Chinese Communists continue to retain in a non-prisoner of war status certain United States Air Force personnel, alleged to have overflown Chinese territory. Burchett indicates that their return must be sought through diplomatic negotiations.

(Source: March 5, 1954 State Department memorandum)

82. September 16. Communist broadcasts over the Government-controlled Peiping radio state that the 3,400 roster from the United Nations Command is "fake" and is designed by the United Nations Command "to obscure the fact that the Allies are forcibly detaining prisoners on our side."

(Source: New York Times, Tokyo byline, Sept. 16, 1953)

83. September 21. The Communists, in response to the September 9th UN message, state that 518 of the 3,404 had already been repatriated, and another 380 had previously been reported to the UN as dead, escaped, or already returned. No identification of these individuals is made by name or nationality, though the U.S. subsequently learns on October 3rd that 112 of the total figure were Americans. On the same day, the Communists submit a roster of 98,742 POWs for whom they demand an accounting (15,584 Chinese and 83,158 Koreans)

(Source: 12/ 22/53 Memo to SecArmy from Ass. SecArmy, 4/29/53
Army Assistant Chief of Staff memorandum)

84. September 23. The United Nations Command turns over 22,604 "non-repatriates" (ie: POWs who had refused repatriation) to the Neutral Nations Repatriation Commission.

85. September 24. The Communists deliver 359 United Nations Command "non-repatriates" (23 U.S.)

86. September 25. The U. N. Command makes a second demand for the accounting of the 3,404 UN/South Korean unaccounted for personnel stating that the first reply was completely unsatisfactory.

87. October 3. The Communists again counter the September 25, 1953 demand by referring to a list of 98,783 names of Communists who they claim are being held in United Nations custody. They also provide a further breakdown of 899 United Nations Command personnel of the 3,404 UNC total referred to on September 21, 1992. The Communists state 112 of the total were U.S. personnel who had either died, escaped, or were released at the front. (The U.S. privately notes that 70 of the 112 names had been reported as dead by U.S. returnees at Operation Big Switch.)

(Source: 31 December 1953 message from CINCUNC)

88. October 20. The Communists by letter to the Commander in Chief of the United Nations Command claim that they have accounted for the 899 UNC personnel (on October 3rd), and demand that the UN Command account for their September 21st list of 98,000 POWs.

(Source: 31 December 1953 CINCUNC Memo)

89. November 21-23. Three former members of the Republic of Korea Army, escaped through the demilitarized zone "and reported to the United Nations Command that Communists still held large numbers of prisoners of war." The United Nations Command protests in the Military Armistice Commission and demands that the Communists "hand over to the custody of the Custodian Forces of India all those prisoners that your side still retains."

90. December 1. The Neutral Nations Supervisory Commission declines to conduct an investigation into the allegations of the three Koreans who escaped on November 23, 1953 concerning large numbers of POWs still being held.

91. Communists at Peiping to seek the return of UNC personnel who may still be in Communist custody. It is noted that there are 18 USAF personnel who have been retained whose return should be sought through diplomatic negotiations.

92. Department of Defense concurrence in this proposal is requested. The letter further notes that the Defense Department had already signed off on an approach being undertaken by the British on behalf of 11 non-UNC Navy and Coast Guard personnel missing on January 18, 1953.

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93. March 9. During a classified session of a Senate Subcommittee on Investigations of the Committee on Government Operations, the Senators are told the

following by the Department of Defense concerning numbers of POW's and MIA's from the Korean War (transcript now declassified):

> Colonel Trammell: (G-2 Department of Defense): "…on the 18th of January, 1954…G-2 (Army Intelligence) considered, for all services, that there were 1,012 persons where there was evidence that they were alive, that they had been alive at one time in Communist hands. Also, on that same day of those whom the Adjutant General had listed as known captured, 120 of those were not accounted for.
>
> Senator Potter: "120 that the Adjutant General had classified—"
>
> Colonel Trammell: "Classified as known captured were not accounted for. In other words, both the Adjutant General and G-2 agreed that this certain number were known captured and yet in (Operation) Big Switch (August/Sept. 1953), 120 of the known captured were not accounted for…
>
> …of those that G-2 has listed in Section 3 as having been in Communist hands alive at one time, as of the 18th of January, 892 were not accounted for. Among those we had some evidence as late as April 1953 which we consider a positive indication that the man was alive as late as that time."
>
> Senator Potter: "As late as April 1953?"
>
> Colonel Trammell: "As late as April 1953 we had convincing evidence that the man was alive and in Communist hands. But 892, as indicated, were not accounted for in that group. The two figures I have just given you, that is, the 120 and the 892 total the 1,012 which is the figure I started with as of January 18.

94. March 10. The Department of the Army, G-2, requests the Army CIC center at Ft. Holabird, Md. to detail six CIC type investigators for a period of two weeks to comply with a Senate request "for the most recent information on Americans captured in Korea, and on whom the Communist forces in Korea have failed to render sufficient accounting…Senator Potter, as a subcommittee consisting of one member, is examining the basis on which the United States is demanding the return of, or accounting for, from the Communist Forces, Americans taken as prisoners of war and on whom sufficient accounting has not been rendered."

(Source: 10 March 1954 G2 Army Memorandum)

95. March 11. The G2, Department of the Army informs the Air Force that Senator Potter, Acting Chairman for a Special Study being conducted by the Senate Permanent Subcommittee on Investigations, has requested that he be furnished with "the number, by Services, of personnel still carried in a missing in action or captured status."

The G-2 requests the Air Force to furnish them "with a copy of any findings and determinations of death made by your office subsequent to Operation Big Switch. These findings and determinations of death will be used to adjust the rosters prepared as a result of information previously furnished pursuant to Reference Disposition Form, file G2-CDOR dated 25 August 1953."

96. On the same day, the Assistant Chief of Staff, G2, is informed that "the Senate Permanent Subcommittee on Investigations is attempting to formulate a course of action to follow to effect the recovery of American personnel believed to be alive and still in Communist custody…I have requested the U.S. Air Force to furnish a roster of all persons carried as MIA or captured at the termination of "Operation Big Switch" for incorporation in a final consolidated roster from all sources of personnel who might possibly remain in Communist custody."

97. March 15. The Army CIC center complies with the March 10, 1954 request from the Army G-2 for six additional personnel to help respond to Senator Potter's request

(Source: 15 March 1954 Army CIC memorandum)

98. In a separate memorandum, the Acting Chief of the Returnee Section, G2, Department of the Army, mentions that "Senator Potter has requested that the figures (presented to his committee on March 9, 1954), both for officially listed as captured and personnel considered by G2 to have been under Communist control, be broken down as of 18 January 1954, by military services. Returnee section possess certain rosters enumerating American personnel in the category mentioned above. All personnel named in the "G2 Believed Captured Roster" are known to have been alive in Communist custody at some time after their having been reported missing in action. Copies of these rosters were furnished CGAFFE immediately subsequent to the completion of Operation Big Switch. Currently, these rosters are in the process of being brought up to date, at which time, a final accounting will be made available to Senator Potter."

99. March 16. The Air Force Liaison Office in Hong Kong sends a report to the G2, USAF, in Washington. The report is filed by Colonel Delk Simpson, the Assistant Air Liaison officer who had arrived in Hong Kong for duty on November 3, 1953. The report reads, in pertinent part:

> "This office has interviewed refugee source who states that he observed hundreds of prisoners of war in American uniforms being sent into Siberia in late 1951 and 1952. Observations were made at Manchouli on USSR-Manchurian border. Source observed POWs on railway station platform loading into trains for movement into Siberia. In railway restaurant source closely observed three POWs who were under guard and were conversing in English. POWs wore sleeve insignia which indicated POWs were Air Force noncommissioned officers. Source states that there were a great number of Negroes among POW shipments and also states that at no time later were any POWs observed returning from Siberia. Source does not wish to be

> identified for fear of reprisals against friends in Manchuria, however is willing to cooperate in answering further questions and will be available in Hong Kong for questions for the next few days."

100. March 17. The Department of the Air Force forwards to the Department of the Army a list of 18 USAF personnel "alleged to have been captured in Manchuria, and who are being retained as political prisoners. Three of these persons, identity unknown, were reported to have died."

(Source: 17 March 1954 Memorandum)

101. The Department of the Army, G2, forwards to the Senate Permanent Sub-Committee on Investigations (Att: Senator Potter) a "breakdown by service of American Personnel Unaccounted f or in Korea as of January 18, 1954:

> A. Officially captured - 120 (98 Army, 18 Marines, 4 USAF)
> B. Personnel Considered by G-2 to have been in Communist custody - 892 (827 Army, 1 Navy, 6 Marines, 58 USAF)
> Recap for all services, Officers 85, Warrant Officers 2, Enlisted Men, 805."

(Source: 17 March 1954 Army G2 Memorandum to Senate)

102. March 19. The Deputy Secretary of Defense responds to the Secretary of the Army's February 8th memorandum on formulating plans for United Kingdom participation on securing an accounting of missing UNC personnel. In regards to releasing a public statement on U.S. efforts to gain an accounting, "the Department of Defense and the Department of State have jointly agreed, however, that no formal press release on the subject is desirable at the present time. . . lf the subject remains relatively quiescent in the public mind, it is not felt that a formal release will be necessary."

103. March 23. The American Consul General in Hong Kong, Julian F. Harrington, sends an updated cable to the Secretary of State, entitled. "American POWs reported en route to Siberia." The cable refers to the March 16, 1954 interview with the refugee and states, in pertinent part:

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

Harrington concludes stating that the refugee was leaving by ship today. The reporting officer at the Embassy further states, "Source is very careful not to exaggerate information

and is positive of identification of American POWs." The cables contain amplifying information on the substance of the report in great detail.

(Source: 23 March 1954 cable.)

104. April 12. The Department of Defense by letter concurs in the British proposal outlined in the State Department's March 5, 1954. They also forward to the Department of State a list of 18 USAF personnel retained by the Communists in a non-prisoner of war status.

(Source: 12 April 1954 DoD letter to State with attached list.)

105. April 19. Secretary of State John Foster Dulles sends a cable to the American Embassy in Moscow instructing that the Soviets be given an Aide-Memoire from the United States on U.S. POWs having been transported into the Soviet Union. Dulles tells the U. S. Embassy that the Soviets should be told "we have reliable accounts of transfers of POWs at Manchouli." Dulles also refers to a recent report from Hong Kong on POW transfers which "corroborates previous indications that UNC POWs might have been shipped to Siberia during Korean hostilities." Finally, Dulles notes that the Department of State had just accepted a British offer to make representations in Red China to gain the release of POWs.

(Source: declassified cable dated April 19, 1954)

106. April 22. In a memorandum, the Commander in Chief of the United Nations Command states, "Senior Member UNCMAC is of opinion Communist Contingent Geneva will demand an account for 98,742 alleged Communist POWs. Recommend immediate account by category and number if questions raised, with reasons for objecting to account by name; that is, fear of reprisals against families, pressures against subject individual, and so forth. Believe such an accounting will have maximum propaganda and psychological value for UNC, will be disconcerting to Communists and might jeopardize additional Communist preparing statements for Geneva use. Also recommend U.S. follow up by demanding accounting for or release of 3,405 UNC POWs . . . This office concurs in the UNCMAC recommendation.

107. April 29. In a memorandum to the Assistant Secretary of the Army from the Assistant Chief of Staff, G-1, Major General Robert Young states, "unconfirmed reports received by G-2 indicate the possibility that some American personnel may still be in the hands of the Communist Forces. However, no positive individual identification has been established and the reports are lacking confirmation." The memorandum further states that the Department of the Army, under the provisions of Public Law 490, "has placed 618 soldiers, known to have been in enemy hands and unaccounted for by the Communist Forces in the following categories--313-Finding of Death (Administratively determined), 275 - report of death, 21 – dishonorable discharge, 4 - under investigation (missing in action for less than one year), 3 - under investigation, prognosis undecided, missing in action for over one year."

108. General Young states, "Efforts by the U.S. to negotiate for the return or information relative to these personnel have been hampered by Communist forces' claims that we have not properly accounted for 98,742 POWs allegedly held by the United Nations Command." General Young concludes his memorandum stating:

> "The intelligence agencies are making an intensive effort through world-wide information systems to obtain reports on missing personnel that may still be in Communist hands. A plan has been formed by use of clandestine systems to obtain recovery of one or more such persons to establish the case beyond doubt before the world that such persons are being held."
>
> "It is the established position of the Army to obtain the return of any UNC personnel which may remain in Communist control and all feasible efforts will be taken to accomplish this result."

109. May 5. A diplomatic message is delivered to the USSR by the U.S. Embassy in Moscow per instructions by the Secretary of State. The message reads, in pertinent part,

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

(Source: declassified cable.)

110. The Defense Department participates in preparing a summary showing 944 U.S. military personnel "presumed to be in Communist custody" and for whom "the United Nations Command has not received a satisfactory accounting." The summary also lists the names of 18 USAF personnel for whom "the United States has reason to believe are being held by Communist China." Finally, the memorandum lists 11 U.S. military personnel downed on January 18, 1953 in the South China Sea, and for whom "the United States has reason to believe that they may be in Communist custody."

(Source: 5 May 1954 summary prepared in Geneva with Defense Department participation.)

111. May 11. At the UN Geneva Conference, the U.S. delegation to the conference, headed by Ambassador Johnson, holds a meeting with representatives of the International Committee of the Red Cross. Ambassador Johnson explains to the Red Cross the Korean War casualties on the U.S. side -- 23,196 killed in action, 105,871 wounded in action (of this figure, 2,495 subsequently died of wounds), 13,108 missing in action. Of the 13,108 U.S. military personnel listed as missing in action, 5,131 had returned to military control, 7,956 were missing, and 21 "refused repatriation." The May 5, 1954 is attached to the

memorandum of conversation of this meeting showing 944 United States "Prisoners of War."

112. During the meeting, the Red Cross officials ask "whether we knew why these 944 were being retained, although so many others had been repatriated through the Military Armistice Commission. We replied that this might be the result of slipshod personnel reports to the Communist Command (who perhaps were unaware of all those under their control) or a desire to retain those individuals whose technical knowledge might be valuable to the Communist war potential, or who might continue to have some propaganda value to the Communist cause."

(Source: Department of Defense Memorandum of Conversation dated May 11, 1954)

113. May 13. The Soviet Union responds to the May 5, 1954 US diplomatic message on POWs stating:

> "The assertions in the note of the United States Government that American war prisoners, participants in military action in Korea, have been transferred to the Soviet Union and are at the present time maintained under Soviet guard are without any kind of basis and are clearly invented, as there are not and have not been any such persons in the Soviet Union."

(Source: New York Times article, May 13, 1954)

114. May 17. The Department of the Army, G- 2, in a memorandum for the record, states:

> "This letter complies with the request by Senator Potter that he be provided with new statistics approximately six weeks subsequent to the hearing. The listing in paragraph 2.b., is composed of those US personnel, identified through the use of their names in broadcasts and propaganda or whose names appeared on the return address of POW mail, who are considered to have been admittedly held by the Communists. In addition the Communists have not declared these individuals as dead and no witnesses to their deaths have been uncovered. These revised statistics, when compared with the official casualty figures based on the original UNC request for accounting of 944 (618 Army) reveal only minor difference in total numbers."
>
> "General Powell of G-l has discussed the subject of the two lists, the Adjutant General Casualty Roster and the G-2 intelligence roster, with General Wieble and (Assistant Secretary of the Army Hugh Milton) Mr. Milton. In the event the G-2 statistics are publicized in an attempt to show that G-2 and the Adjutant General are not in agreement, it may place the Army in an unfavorable position temporarily from a public relations standpoint. G-2, G-l, and the Adjustant General have been working together on this matter, and it is believed that any misrepresentation of the G-2 statistics can be quickly

> refuted. It must be pointed out that the Returnee Section does not possess any information which indicates any Army individual believed to have been in Communist custody, is alive today." "It should be noted, however, that this office has on file seven reports which indicate that there still may be Americans in Communist custody."

(Source: 17 May 1954 Army Memorandum)

115. May 25. In a memorandum to Senator Potter from the Department of the Army, "currently adjusted statistics of American personnel which G2 believes to have been in Communist custody at one time" are forwarded to the Senate subcommittee. The memorandum provides the following new breakdown of the 1,012 personnel provided to the Committee on March 17, 1954 -- "Personnel accounted for by US reports of known deaths, return to military control, and dishonorable discharge (21): -- 601. Personnel accounted for by US administrative presumptive findings of death: -- 393 Alleged diplomatic prisoners: 18 (furnished by Air Force) Total: 1,012." The memo further states, "Even though a presumptive finding of death, an administrative determination, was made under the authority of the Missing Persons Act, a basis exists for believing that 393 US personnel were at one time in the hands of the opposing forces and are, therefore, maintained by this office as active cases until a more conclusive accounting can be obtained."

116. July. The U.S. Air Force initiates "Project American", a secret project of the 6004 Air Intelligence Service Squadron and the 6002 Air Intelligence Service Group at Shiroi Air Base, Japan. The purpose of the project is "carrying out extensive research with regard to USAF personnel unaccounted for after the Korean conflict." The 1957 Historical Report of the Squadron (then classified) states:

> "Through information collected from repatriated U.S. and U.N. prisoners of war, Japanese repatriates, foreign refugees, and numerous intelligence reports, a strong possibility emerged that a large number of the personnel listed as missing in action may still be alive and interned in Communist prison camps. The objective of this project is to investigate the identification of as many of these men as possible. This objective is to be accomplished by the exploitation of all possible documentary and human sources."

(Source: declassified Semi-Annual Historical Report, 6004 Air Intelligence Service Squadron. #1)

117. July 29. The Senate Permanent Subcommittee on Investigations sends a letter to Department of Defense asking for a breakdown of U. S. personnel held in Iron-Curtain countries.

118. August 17. The United Nations Command and the Communists agree at Panmunjom to an "Understanding" on the delivery and return of remains.

(Source: UNCMAC Point Paper dated 4 January 1988)

119. August 18. An Army memorandum, in anticipated response to the Senate subcommittee's July 29, 1954 request, states that the Adjutant General of the Army has submitted a list of 526 names. The memo also lists 18 Army personnel who were held in Manchuria as prisoners of the Chinese and North Korean Communists, and later repatriated. The memo states:

> "While there is reason to believe that these persons were, at one time, alive and in the hands of the Communist Forces in Korea, there is no positive evidence that any of them are alive as of this date…"
>
> "Of the reports received to date on material provided by repatriated Japanese prisoners of war, there have been nine (9) nebulous, inconclusive references to United States personnel; however, in no case was a name remembered nor any other information furnished which could be considered positive for identification purposes…"
>
> "Some information concerning American servicemen who were taken into China after having been captured in the Korean conflict has been received from intelligence sources other than the military."

120. September. The United Nations Military Armistice Commission and the Communists conclude negotiations regarding the recovery of deceased servicemen who were interred in territory under the control of the opposing forces. The Communists turn over approximately 4,023 United Nations deceased personnel, including 1,869 alleged remains of U.S. servicemen. The exchange takes place at the Demilitarized Zone. The U.S. later states that not all of the remains of U.S. servicemen actually interred in the North were turned over.

(Source: 16 January 1956 Army Memorandum, 16 November 1954 Army letter, October 1987 Defense Department Memorandum)

121. October 30. The United Nations Command and the Communists agree to terminate the August 17, 1954 "Understanding "on the return of remains, but to keep in effect Paragraph 20 of the Understanding, which provides that any remains discovered subsequent to the termination of the agreement would be returned through the Military Armistice Commission (MAC) Secretaries. North Korea interprets this to mean that "the MAC is not competent or obligated to deal with searching for remains, but that any remains discovered by chance will be returned through the MAC secretaries in accordance with Paragraph 20 of the Understanding."

(Source: 4 January 1988 UNCMAC Point Paper)

122. November 16. The next of kin of a missing servicemen is informed by the Department of the Army that the remains turned over by the Communists in September

"have been evacuated to our scientifically equipped laboratories at Camp Kokura, Kyushu, Japan, for examinations by professional anthropologists and identification specialists… this task may be quite time-consuming."

1955

123. January 12. John Noble, an American, is released from a Soviet prison camp after getting word to the United States of his existence, via a postcard to Switzerland sent by an inmate. He reports that while he was in prison at Putma, Irkatak, and Taichet, he is told by various German prisoners about American officers and enlisted men, who were captured in Korea, who were then in the Soviet prison system.

(Source: declassified State Dept. January 1955 cable)

124. Noble also reports being told by a German Yugoslav living in the Soviet Union that he had seen 8 American fliers who had been shot down over the Baltic Sea and "picked up by a Soviet Coast Guard vessel." Noble states he is told by the German Yugoslav that the plane was shot down in 1950, which correlates the information to the April 8, 1950 shootdown.

(13 January 1955 declassified Berlin communication 421)

125. January 12. The State Department reports that, according to the source, "the fliers stated that they feared being lost or hidden in USSR because the Soviet authorities had reported that they had been killed by being shot down, by the crash...they were on their way to the north or had just arrived in Vorkuta as of June 30, 1954."

(Source: State Department Berlin Communication 12 January 1955 declassified.)

126. The State Department reports information from a German POW who had been imprisoned in the Soviet Union that 9 American fliers from Korea were at Kirov, in the Soviet Union.

(Source: declassified State Dept. Berlin communication 420 12 January 1955, No.4-32)

127. May 31. Fifteen mothers of U.S. POW/MIAs return their son's medals to President Eisenhower, stating, "Our sons want your loyalty, not your medals."

128. June 8. The Chief of Special Operations, Office of the Secretary of Defense, prepared memorandum concerning the "recovery of unrepatriated prisoners of war." The memorandum concludes:

> "We have been *unable* under existing national policy considerations, to bring about an accounting by the Commies on the original 944 list. With regard to the "political prisoners" (15 USAF personnel held in Manchuria), diplomatic and political pressure must be credited with effecting partial release, but

> only in the context of an emerging Chinese Communist strategy of making a play for world public opinion to gain political objectives vis-a-vis the U.S."
>
> "Various alternate courses of action have been developed by the military. They have never been implemented because of a Presidential decision, publicly announced, that "all peaceful means" must be exhausted before any other course would be considered. Most often mentioned alternate courses have been in the general field of sea and air blockade of the China Coast or U.S. supported retaliatory measures by the Chinese nationalists against the mainland. Current Joint Chiefs of Staff recommendations (which could be characterized as "stand-by" alternatives) are on file in JCS and SecDef offices."

(Source: 17 June 1955 declassified Defense Dept. memorandum)

129. June 17. The Defense Advisory Committee on Prisoners of War meets to discuss the June 8, 1955 memorandum from the Office of Special Operations. (The results of this meeting are not known.)

(Source: 17 June 1955 declassified Defense Dept . memorandum)

130. June 28. A U.S. Special Agent for Army Intelligence 441st Counter Intelligence Corps files a report entitled "United States Nationals Held As Prisoners of War in China." The
report lists six (6) accounts of observations of POWs in various locations in China, to include An Tung, Shen Yang, a Peiping penitentiary, Hei Hua Fa rm, Ts'ao T'an Farm, and a Tai Yuan Machine Factory in Shanhsi Province.

(Source: declassifed Army Special Agent report.)

131. June. The list of 526 unaccounted for POWs from the Korean Conflict is reduced by this date to 450.

(Source: 1960 JCS Cable.)

132. July 25. An 82-page report on POWs is issued by a ten-member committee of the Secretary of Defense. The panel consists of four generals and one admiral. The report is entitled, "The Fight Continues After the Battle." The report applies a survival ratio of 62 percent to 4,735 American servicemen who have been declared "missing and presumed dead." The report concludes that the Communists should be held "strictly accountable" for (then) 470 Americans still missing."

133. July. Three of the 21 "voluntary non-repatriates" are returned to U. S. control. (Cowart, Griggs, and Bell)

134. August 1. The Department of the Air Force 6004 Air Intelligence Service Squadron, responsible for Project American begun in July, 1954, prepares a report entitled

"USAF Personnel Possibly Alive in Communist Hands." The report begins, "This report, prepared by the Escape and Evasion Section 6004th is a summary of information collected on USAF personnel "missing in action" during the "Korean hostilities." The report "lists 137 personnel who may be alive in communist prison camps." The report states that "it does not include 'possibly missing' personnel."

(Source: Declassified August 1, 1955 report, including list of names and intelligence information.)

135. August 1- 4. The remainder of the 15 USAF "political prisoners" are released. This includes, USAF serviceman Steve Kiba who reports to Air Force Intelligence, CIA, and the State Department, that he had seen other U.S. servicemen alive in captivity who had not been returned. (Kiba later reports that he "was ordered to forget what I had seen…and to never discuss this matter with anyone."

(Source: Statement by Steve Kiba, November 4, 1978)

136. August 17. President Dwight Eisenhower signs an Executive Order committing all facilities of our Government to "establish contact with, support and obtain the release of all of our prisoners of war."

(Source: 27 October 1956 declassified memorandum signed by Deputy Secretary of Defense.)

137. November 26. The United Nations Command representative to the Military Armistice Commission passes a list to the Communists of unaccounted for UNC POWs.

1956

138. January 16. The Department of the Army in a notice to the next of kin of a U.S. POW states, "Available evidence indicates that many of the casualties which are carried on the records of the Department of Defense as missing in action in South Korea were actually captured and transported to North Korea where they subsequently died; however, specific information is lacking as to the number, identity or circumstances surrounding their disappearance."

(Source: 16 January 1956 Army Board of Officers Memorandum on Sfc Lewis W. Sowles.)

139. February 25. The Communists, during a Military Armistice Commission meeting at Panmunjom, Korea, gives an accounting of some of the individuals on the UNC lists which had been passed on November 26, 1955. According to the United Nations Command, "final revisions result in a United Nations Command list of 2,233 unaccounted for POWs."

140. April 28. General Mark Clark, former Commander in Chief of the United Nations Command in Korea, states to the New York Times that three thousand United

Nations soldiers captured in Korea, including 1,000 Americans, are being held as hostages by the Communists. These prisoners will be used to bargain with us at some future time--perhaps to get a seat for Red China in the United Nations.

(Source: New York Times, April 28, 1956)

141. May 29. The Assistant to the Secretary of Defense (Special Operations) sends a memorandum to the Service Secretaries stating, "…it has become apparent that only in those instances where solid evidence of the identity and location of U.S. personnel is displayed, can the Communists be made to negotiate on a practical basis…In order to strengthen the hand of the State Department representatives at Geneva as well as our military representatives at Panmunjom, it is requested that an attempt be made by your Department to consolidate any and all information now on hand and to prepare an intelligence estimate in each of the cases representing missing personnel from your services." The consolidated estimates are requested by July 1, 1956.

(Source: 29 May 1956 Defense Department memorandum)

142. June 20. State Department reports that a crew member of the B-29 downed over the Sea of Japan on June 13, 1952 had been observed in October, 1953 in a Soviet hospital north of Magadan near the crossing of the Kolyia River between Elgen and Debin at a place called Narionburg." The crew member reportedly had stated that he had been convicted wrongfully under Item 6 of Article 58 of the Soviet Penal Code.

143. Secretary of State Dulles sends a cable to U.S. Embassies in Moscow and Tokyo concerning whether it was "desirable at this time to question the Soviet Government specifically with reference to the detention of American fliers whose presence has been reported by repatriates from Soviet prison camps." Dulles further states, "There have been reports mentioned in the communications under reference, from American, Japanese, and other sources indicating specifically the detention of American aviation personnel since 1949 and the possibility that among them are included air crew members of such lost or destroyed aircraft." Dulles recommends an Aide-Memoire be presented to the Soviets stating:

> "The United States Government has for some time received from persons of various nationalities freed from Soviet Government imprisonment during the last several years, reports that they have conversed with, seen or heard reports concerning United States military aviation personnel, belonging either to the United States Air Force or to the United States Navy Air arm, in actual detention in the Soviet Union… the reports concerning such personnel have now become so persistent and detailed, and so credible, that… it requests the Soviet Government to inform the United States Government in detail concerning each American military person who has been detained."

144. July 2. The Department of the Army responds to the May 29, 1956 memorandum and encloses "Data Sheets" on 188 U.S. Army personnel listed as "missing."

It is stated that the data sheets are maintained by the Adjutant General and that 'the information reflected therein is based on interviews of various personnel returned to military control, enemy and domestic news publications, enemy radio broadcasts, command reports, photographs, etc." (The names of 188 personnel are attached to the memorandum)

(Source: 2 July 1956 Memorandum containing listing of 188 Army names.)

145. July 16. The U.S. formally presents to the Soviets the Aide-Memoire proposed by Secretary of State Dulles on June 20th concerning the presence of American POWs in the Soviet
Union. The diplomatic note goes on to cite specific examples stating "the United States Government is informed and is compelled to believe that the Soviet Government has had and continue to have under detention the following:

> 1. One or more members of the crew of a United States Navy Privateer-type aircraft which came down in the Baltic Sea area on April 8, 1950. The United States Government has since that time received reports that various members of the crew of this U.S. aircraft were, and are, detained in Soviet detention places in the Far Eastern area of the Soviet Union.
>
> 2. One of more members of the crew of a United States Air Force B-29 which came down on June 13, 1952. An officer, believed by the United States Government to have been a member of this crew was observed in October, 1953, in a Soviet hospital north of Magadan near the crossing of the Kolyma iver between Elgen and Debin at a place called Narionburg. This officer stated that he had been wrongfully convicted under Item 6 of Article 5B of the Soviet Penal
> Code."

146. August 13. The Soviet Government, in response to the July 16th U.S. message, categorically denies holding any United States military personnel.

147. August 21. State Department dispatch from Vienna, Austria, details information from a returned Austrian prisoner of war concerning an American POW named Lt. Racek, who "had been a lieutenant of armored troops in Korea, where he was captured." The Austrian source reports that Lt. Racek was held with him in Prison #2, Irkutsk, and subsequently in Lubyanka Prison in Moscow. The U.S. Embassy in Vienna reports, "Source did appear sincere in his desire to help Racek and he was altogether positive in his information."

(Source: State Department declassified cable 21 Aug. 56)

148. October 13. W.C. Daniel, National Commander of The American Legion, sends a telegram to President Dwight Eisenhower, expressing concern about U.S. POWs.

149. October 19. President Eisenhower responds to The American Legion stating that "all American servicemen known to be held prisoner by the Communists in Korea were released by
September 6, 1953 (the last day of Operation Big Switch.)"

> "There remained 15 USAF personnel who had been illegally retained in Communist China, in violation of the Korean armistice agreement. Through invoking the good offices of the United Nations and the assistance of friendly countries, we secured the return of these men to their homes in 1955."
>
> "Still of concern to the United States government is a group of several hundred missing military personnel feared dead of whose exact fate we have reason to believe the Communists should have knowledge. We have never ceased to press the Communists, through both military and diplomatic channels, for an accounting of these men."

(Source: 19 October 1956 White House Communications Center copy of message from Eisenhower to Daniel)

150. October 27. Deputy Secretary of Defense Reuben Robertson sends a memorandum to the Service Secretaries requesting "that you initiate a program to screen exhaustively all files and records on each case in order to provide as completely as possible the identifying data about each person, a complete account of the circumstances surrounding his capture or disappearance, and any evidence which will demonstrate when and where the individual was in the hands of the Communists." Robertson requests that an initial report be prepared no later than 1 December 1956 and quarterly thereafter until further notice.

(Source: 27 October 1956 declassified memorandum.)

151. November 27. On behalf of the Department of the Army, Assistant Secretary of the Army Hugh Milton responds to the October 27, 1956 memorandum from the Deputy Secretary of Defense. Milton writes, "a program has been initiated to screen all files and records and to document all information available concerning each of the men believed to have been captured in Korea and for whom no satisfactory accounting has currently been obtained." Milton encloses three summaries concerning Corporal Richard G. Desautels, Private First Class Archie Walker, and Private Frank Worley, and states "further reports will be forwarded quarterly hereafter."

(Source: 27 November 1956 Army memorandum)

1957

152. January 22. Rear Admiral Ira Nunn at Panmunjom states to wire services, "I am sure some of these prisoners are still alive. Today's meeting (with the Communists) was

called in the hope we will obtain further information on these unaccounted for prisoners we believe are alive. Also, the meeting would give some comfort to the families."

153. May 27. The Far East and Pacific Subcommittee of the House Foreign Affairs Committee holds a hearing on American prisoners of war. The Deputy Assistant Secretary of Defense (Manpower, Personnel, and Reserve), Stephen S. Jackson, states:

> "Shortly after the official exchange of POWs had been completed in September of 1953 officials of the U. N. Command handed the Communist side a list of 3,404 names of missing U.N. Command personnel, including the names of 944 United States servicemen of whom we had reason to believe the Communists should have some knowledge…Our belief that. The Communists should have knowledge of the individuals was based upon several sources of information:"
>
> "First, interviews with repatriated personnel who stated that had seen certain named individuals who had not been repatriated, who had not otherwise been accounted for, and who had been alive and in Communist hands; secondly, Communist radio broadcasts giving the names of certain U.N. Command personnel and admitting that they were under Communist control; thirdly, propaganda pictures in our possession which had been taken by the Communists and circulated for propaganda purposes showing American military personnel on forced marches taking part in parades in Communist-held cities, undoubtedly against their will; fourthly, mail which had been written by POWs to their friends and relatives in the United States attesting to the fact that they were in a POW status; fifthly, air crews who had seen our airmen parachute from disabled aircraft and, after safe landings, surrounded enemy forces or civilians. In addition, other intelligence reporting supported our contentions."
>
> "The point I am trying to make here is that there is considerable circumstantial evidence from which to draw the conclusion that these individuals were alive and under Communist control in relatively stable situations, removed from battle, and at periods ranging from several days to many months after they had become missing in action from their own U.N. Command units."

"The efforts of the United States Government to get the Communists to fulfill their commitments (under the Korean Armistice Agreement) have been continuous, persistent, frustrating, and largely unrewarding…In addition to efforts to secure an accounting (by the Communists) through the Military Armistice Commission, the graves registration units of the U.N. Command continued their investigations, the Military Services continued the sifting of thousands of reports, interviews with returned POWs, and the interrogation of friendly sources of Korean and other nationalities, attempting to piece together all available information which would throw light on the fate of the missing."

> "Through the unilateral efforts of the United States Government, which I have just mentioned, the list of 944 had been reduced to 526 by August, 1954. This reduction came about because the efforts we had made produced conclusive evidence of death for 418 of the original list."

(Note: The Committee subsequently releases the names of 450 unaccounted for American prisoners of war, and by resolution of the House and Senate, calls on the Executive Branch to "make the return of the four hundred and fifty American prisoners of war still imprisoned by Communist forces the foremost objective of the foreign policy of the United States." H.Con.Res.140 introduced in March, 1957)

154. October 15. The American Consulate in Strasbourg, France receives information from a Polish National who had been held as a prisoner in the Russian concentration camp of Bulun, in the province of Yakutak. The source reports having been held with three American soldiers who had been captured during the Korean War.

(Source: State Department declassified cable dated 21 October 1957)

1958

155. February 28. The Director of Collection and Assistant Chief of Staff, Intelligence, Department of the Air Force, Colonel Harry J. Kieling, sends a memorandum to the Commander in Chief of Pacific Air Forces, Att: Director of Intelligence, entitled "Collection Requirements Pertaining to American Prisoners Held in Communist Countries." Kieling forwards "dossiers of 187 missing USAF personnel for your retention." Kieling requests CINCPAF to prepare, on a one-time basis, a status report on Project American and to continue to maintain and update this program consistent with USAF objectives in recovering personnel.

156. July 1-December 31. The U.S. Air Force, 6004 Air Intelligence Service Squadron in Japan formulates plan to "expand theatre collection efforts" on Project American. Discussions are held with Lt. Colonel Showalter, J-2, USFJ. The Squadron reports, "it is hoped that these plans may be implemented in the near future."

157. July 7. The United Nations Command passes the list of unaccounted for POWs to the Communist side at Panmunjom, asking for an accounting.

158. July 9. In a letter to Senator Knowland from the Office of the Secretary of Defense, it is stated: "At the present time, there are approximately 450 American military personnel on whom the Department of Defense has information which indicates that they were at one time in the hands of the Communists and for whom we have not received a satisfactory accounting."

1959

159. January 29. The United Nations Command to the Military Armistice Commission at Panmunjom inquires to the Communist side on the list of unaccounted for UNC POWs.

160. April 28. North Korean Major General Chu Chang Joon States, "We did our duty of counting your prisoners satisfactorily. The issue is all settled as far as our part is concerned."

161. April 29. President Dwight Eisenhower, at a press conference, states in response to a question on the number of POWs unaccounted for and efforts to recover them, "Now, I recall from memory that there were a great number of people that we couldn't account for, and we have had long, serious and even continuing discussions with the Chinese Communists, trying to make them disclose where our prisoners were held… We have gotten back a few and there are still some left there…but the details we would have to look up for you, and you could get them from Mr. Hagerty (White House Press Secretary James C. Hagerty.) Hagerty later states, "I think I can add…the chances are they are not alive, but there may be some. We just don't know. It is because of those who may survive that we cannot give up any hope."

(Source: Public Papers of the President, No.89 p.88)

162. October. In an interview with Pulitzer Prize Newhouse Newspaper reporter Ed Mowery, the former chief of Intelligence (G-2) of the Far East Command under General Douglas MacArthur, states, "I suggest that the assumption of presumption of death (on unaccounted for POW/MIAs) in this instance is a unilateral act by our own (Pentagon) statisticians. The Defense Department, administratively, has eliminated them from an accounting. Why not presume them alive?"

1960

163. June 24, 1960. The United Nations Command representative to the Military Armistice Commission passes the list of unaccounted for POWs to the Communist side.

164. July 28. The Joint Chiefs of Staff reduces the list of 450 unaccounted for POWs from the Korean War (earlier reduced from 944) to 391 "largely through the efforts of U.S. Graves Registration Units and the US intelligence agencies, working with little or no cooperation or assistance from the North Koreans or Chinese Communists." The JCS states that "definite evidence of death has been established (in reducing the number) through the continuing efforts of the military services to establish the facts in each individual case."

In a public release by the Department of the Defense, it is stated:

> "Although the possibility cannot be completely foreclosed that some few of them (the 391) might still be alive, there are no reliable facts to support such a conclusion."

(Source: Joint Chiefs of Staff cable dated 28 July 1960)

1961

165. A Chinese defector, Wu Shu-jen claims to have seen 70-80 Americans at a machine tools factory in Tsingtao, China (Shantung province). He claims that a factory official told him they were American POWs.

(Source: testimony before the House Committee on Internal Security.)

166. January 16. The Department of the Air Force Manual No. 200-25, in an Official Use Only document, provides data information "on each of the 187 Air Force officers and airmen still missing in action as a result of the Korean conflict. It is provided for use by intelligence personnel of the United States and its allies in acquiring additional information regarding their fate."

167. October 11. President John F. Kennedy, in response to a question about the prospect of talks with the Chinese Communists, states, "We have been meeting periodically for the past three or four years, for a period at Geneva and most recently at Warsaw, in which we talked about the exchange of prisoners, or rather the release of prisoners…"

168. December 2. The Saturday Evening Post Magazine reports that the prisoners referred to by President Kennedy on October 11th are

> [P]resumably the American servicemen who were captured by the Chinese Communists during the Korean War and for whom the Communists have never made any adequate accounting. Although the State Department takes the attitude that the majority of these men are presumed dead, while "some few of them might still be alive", it is apparent that some of them at least are still considered a matter for negotiation, and that the Chinese Communists regard them as pawns in the game of power politics. If we surrender on (the question of recognizing) Formosa, it is implied, the Communists might talk about prisoners. Of course, these men may be dead but, unless many have been shot, it is hard to believe that all of them—young men in the prime of life—have succumbed

1962

169. January 16. The United Nations Command representative to the Military Armistice Commission passes the list of unaccounted for UNC POWs to the Communist side at Panmunjom, Korea.

170. February 5. A Miami News article refers to POW information from a Russian MVD intelligence officer who defected to the West in Tokyo in 1954. The agent is reported to have stated the officials in the Soviet Embassy in Tokyo had reported to him that U.S. POWs from Korea had been taken to Russia.

(Note: The defector, Uri Rastvorov, was interviewed by Colonel Philip Corso in the mid-1950s)

171. June 4. U.S. Senator Thomas J. Dodd is informed by letter from the Department of State that they have a "classified list of United States citizens imprisoned in Communist countries." The State Department writes that "this is a matter of considerable sensitivity."

172. February 23. The United Nations Command representative to the Military Armistice Commission passes the list of unaccounted for UNC POWs to the Communist side at Panmunjom, Korea.

173. August 11. The list of unaccounted for UNC POWs is again passed to the Communist side at Panmunjom.

1965

174. June 4. The list is again referred to during a MAC meeting with the Communist side.

1966

175. October 11. The list is again referred to during a MAC meeting with the Communist side.

1967

176. Chinese defector, Wu Shu-jen, claims to have seen Americans again at a factory in Qingdao, China.

177. November 7. The list of unaccounted for UNC POWs is again referred to during a MAC meeting with the Communist side at Panmunjom, Korea.

1968

178. January 23. The U.S. Navy reconnaissance ship Pueblo is captured by the North Koreans off the North Korean East Coast with a crew of 73 persons on board. Negotiations lead to the subsequent release of the crew.

179. 1968. A North Korean defector claims to have seen two American POWs on the outskirts of P'yongyang, and is reportedly told that there were 10 American pilots at this location that had been sent to North Korea during the Vietnam Conflict. The defector is debriefed by U.S. and South Korean sources in 1980 in Seoul.

(In March, 1992, the Department of Defense refuses to honor a Select Committee request for access to the source, without compromising his identity. - Source: 9 March 1992 meeting between Chuck Wells of Defense, Staff Director Frances Zwenig, and Deputy Staff Director Dino Carluccio, subsequent March 1992 Defense Department letter to Senator Kerry/Smith)

1969

180. May 26. The United Nations Command Senior Member sends a letter to his Communist counterpart requesting information on unaccounted for UNC POWs.

1970

181. April 10. The United Nations Command Senior Member sends a letter to his Communist counterpart requesting information on unaccounted for UNC POWs.

1971

182. April 16. Another letter is sent to the Communist side by the UNC requesting an accounting.

183. May 5. The Communist side at Panmunjom responds to the 16 April UNC request stating that they had "repatriated all prisoners to the UNC side" and that the United Nations Command "must return" North Korean POWs.

1972

184. April 25. The United Nations Command sends a letter to the Communist side requesting information concerning unaccounted for UNC POWs.

185. May 26. The communist side responds stating that the UNC must return all North Korean POWs and that all UNC prisoners had been repatriated.

1973

186. February 1. At a Senate hearing by the Judiciary Committee, investigating internal security laws, a former Soviet prisoner, Avraham Shifrin, testifies that he was in a concentration slave-labor camp near Kazakhstan from 1953 to 1963. He states, "First, I must ask you to excuse my English, because I cannot speak like you. I learned my English in concentration camps and my first teachers were kidnapped American officers."

187. May 31. The United Nations Command requests an accounting of POWs from the Communists at Panmunjom.

188. June 18. The Communist side at Panmunjom provides reply similar to previous years.

1974

189. May 17. Accounting requested by UNC side.

190. May 28. The Communists provides reply similar to previous years.

1975

191. A Romanian POW since 1945, George Risiou, escapes from the Soviet Union with five others. He reports 900 American POWs still held in a secret KGB prison camp. He states that Soviet authorities had assigned Russian names to American, English, French, and other POWs there, for deniability.

(Source: John Brown, 2 December 1990 Sunday Oregonian.)

192. While speaking with a staff member of a communist embassy based in Algiers, Reverend Paul Linstrom of Illinois reports being told that nine U.S. crewmen from a plane shot down in the Sea of Japan in 1953 were seen in August, 1973 in a Soviet slave-labor camp at Gandala.

(Source: Los Angeles Times, July 8, 1990)

193. According to a 3/8/92 Associated Press account filed in Seoul, U.S. officials from Seoul and Washington meet in 1975 in Hawaii to plan a possible prisoner release through North Korea of Vietnam conflict U.S. POWs. The Associated Press cites "a reliable source who attended the talks."

194. June 19. The UNC requests an accounting at Panmunjom.

195. June 28. The Communists reply similar to that of previous years.

196. November 2. In reference to the Baltic Sea shoot down of a U.S. aircraft and subsequent reports that some of the crew were captured and held in Soviet prisons, the U.S. Government states they "have no reason to believe reports that 8 of the 10 crewmen were prisoners in Soviet camps."

(Source: International Herald Tribune article.)

1976

197. July 2. The UNC requests an accounting at Panmunjom.

198. July 12. The Communists reply similar to that of previous years.

1977

199. August 17. The UNC requests an accounting at Panmunjom.

200. August 22. The Communists reply similar to that of previous years.

1978

201. August 17. The UNC requests an accounting at Panmunjom.

202. August 24. The Communists reply similar to that of previous years.

1979

203. June 20. A cable to the Secretary of State from the U.S. Embassy in Seoul discusses the annual submission to the Communists by the United Nations Command Military Armistice Commission of the list of unaccounted for American POWs. The cable states:

> "We are aware that UNC attempted in 1971 to terminate annual submission of letters but was instructed by Defense to continue with the ritual. Although there may be lingering bureaucratic reasons for perpetuating the submission of these letters, we think it is time to stop."

204. August 20. The United Nations Command sends a letter to the Communist side at Panmunjom requesting information on unaccounted for UNC POWs.

205. August 29. The Communist side refer to their previous letters.

206. October. Romanian design engineer Serban Oprica claims to have seen in 1979 11 Caucasians working on a collective farm north of Pyongyang while in North Korea on a bus tour. He is told that they were "American prisoners, prisoners of war in North Korea."

207. Rev. Paul Lindstrom meets with a Soviet dissident who served time in Gandala prison. Lindstrom states, "He told me that at Gandala he had spoken to two American men from the downed flight (over the Sea of Japan in 1953) as recently as 1975."

(Source: Los Angeles Times, July 8, 1990)

1980

208. August 8. The UNC sends letter to Communist side requesting information concerning unaccounted for UNC POWs.

209. August 13. Communist side refers to their previous letters.

1981

210. September 3. The UNC sends letter to Communist side requesting information concerning unaccounted for UNC POWs.

1982

211. August 11. The UNC sends letter to Communist side requesting information concerning unaccounted for UNC POWs.

212. August 17. The Communist side refer to their previous letters.

213. November. In reference to the court case of Private Roger Dumas, captured during the Korean Conflict, a USG memorandum to the Office of the Secretary of the Army states, "We are in agreement that every effort to keep this matter out of the public eye should be made. It is clear from your memo that you wish no additional information be provided to the Justice Department. Your course of action seems appropriate."

214. December 21. The United Nations Command Senior Member requests the Communist side to conduct a search of the burial sites of UNC POWs at UNC POW Camp No. 5 for possible UNC remains and passes a map depicting the burial site. The Communist side ignores the request.

1983

215. July 23-26. The status of Army private Roger Dumas, captured during the Korean Conflict, is the subject of a trial at the Federal District Court in Connecticut. After three days of hearings, the judge orders the Army to grant Dumas' brother a full hearing on the matter. As a result, in 1984, the status of Roger Dumas is changed from MIA to POW for the period 4 November 1950 until 26 February 1954. The presumptive finding of death dated 26 February 1954 is affirmed by the Adjutant General of the Department of the Army.

216. August 17. The UNC Senior Member requests the Communist side for information on unaccounted for UNC POWs. The UNC also asks the Communist side for the return of UNC remains.

217. August 22. The Communist side simply refer to their previous letters.

1984

218. August 17. The UNC Senior Member requests the Communist side for information on unaccounted for UNC POWs. The UNC also asks the Communist side for the return of UNC remains.

219. August 24. The Communist side simply refer to their previous letters.

1985

220. August 28. The UNC Senior Member requests the Communist side for information on unaccounted for UNC POWs. The UNC also asks the Communist side for the return of UNC remains.

221. August 31. The Washington Post does a report on the March, 1954 Hong Kong report filed by Colonel Simpson on the refugee who claimed to have seen several hundred US POWs being transferred to Russian trains in late 1951 and 1952. The Pentagon informs the Post that "they suspect, but are not certain, that they were French troops being repatriated after the French negotiated an end to the Indochina war in May, 1954." The Pentagon fails to mention that the sightings actually took place in late 1951 before the end of the French Indochina war and the return of French POWs.

222. October 20. The North Korean Foreign Minister tells Mr. Frank Kerr of the U.S. Chosin Few veteran's organization in New York that North Korea will cooperate in returning military remains if the United States formally requests a search for and recovery of U.S. war dead. (Source 4 January 1988 UNC Point Paper)

223. October. A North Korean staff officer comments informally at Panmunjom to the UNC side that North Korea "might start looking for remains if asked to do so."

224. November 23. The United Nations Command follows up asking the North Koreans to search for and repatriate UNC remains.

1986

225. January/February. The following positions are outlined by the UNC and Communist side during discussions at Panmunjom on searching for and repatriating remains.

> *UNC position: The subject of military remains is a humanitarian issue. Remains should be returned through the Military Armistice Commission.
>
> *North Korea position: The Armistice does not cover search and exhumation. It is recommended that the U.S. and North Korea have bilateral negotiations on this issue.

(Source: 4 January, 1988 UNC Point Paper.)

226. February 11. The United Nations Command sends letters to the 16 United Nations Command Member Nations requesting all available information on the status of MIA's.

227. February 14. The UNC sends letter to Communist side stating that the Military Armistice Commission should handle the remains issue, and that the remains issue involves all UN/ROK forces, not just the U.S.

228. March 4. North Korea responds at Panmunjom stating that military remains will be returned when recovered, but the Armistice Agreement does not require search and exhumation of remains.

229. June. The Pentagon states in writing that "there is a possibility that the soldiers (referred to in Colonel Simpson's 1954 report) were captured French troops being repatriated after the Indochina War." Again, the Pentagon fails to mention that the sightings took place before the repatriation of French prisoners.

230. June. Colonel Henry Land of the Office of the Secretary of Defense is quotes as saying, in reference to Korean Conflict POW/MIAs, "the bottom line is that until the North Koreans get to a position and they want to release prisoners and the remains that are up there. They will do it when they feel it is to their advantage.

231. The Department of Defense in its POW/MIA Factbook states, "At every opportunity, the U.S. Government continues to press for the fullest possible accounting of Americans still unaccounted for as a result of the Korean War."

232. August. The United Nations Command representative to the Military Armistice Commission passes to the North Koreans information pertaining to the location of UNC remains. The materials pinpoint burial sites associated with 13 former POW camps and a POW hospital, seven former UNC cemeteries in the North, and listed 291 crash sites from which UNC airmen had not been recovered.

233. September. North Korea responds stating the information had been passed to the "appropriate agencies."

234. December 11. The United Nations Command meets with representative of the Chosin Few veterans' organization and briefs them on the United Nations Command position on remains negotiations.

235. December 18. The UNC sends following up letter to North Korean side asking if they have had any success in discovering remains.

236. December 29. North Korean side responds stating the information has been passed to "relevant organs."

1987

237. 1987. The U.S. Government receives information that a high ranking North Korean diplomat is reported to have told a visiting Westerner in North Korea that his country was holding up to 2,500 sets of remains of U.S. servicemen.

238. July 30. The United Nations Command representative to the Military Armistice Commission makes the following points to the North Korean side:

1. North Korea has an obligation to return UNC remains which North Korean officials have told US veterans that they have recovered.
2. The remarks made by North Korean staff officer (October, 1985) led the United Nations Command to believe North Korea may have already discovered UNC remains.
3. The question of remains is not only an Armistice issue but also a humanitarian issue. The MAC is the appropriate agency to deal with the remains issue.
4. The UNC is prepared to negotiate a subsequent agreement similar to the one of 1954 (17 August) to eliminate any technical problem involving the question of searching for and discovery of remains.
5. The UNC is prepared to dispatch a multinational team, accompanied by the Neutral Nations Supervisory Commission representative, to assist North Korea in locating UNC remains.
6. North Korea must return the UNC remains through the MAC.
7. North Korea states in response that the search for and recovery of remains is not an Armistice issue.

239. Following the MAC meeting, the UNC Senior Member holds a press conference and states that North Korea is using the remains issue in an attempt to force bilateral negotiations with nations that currently do not recognize North Korea.

240. October. A factsheet on "Americans Unaccounted for in the Korean War" is released by the Office of the Assistant Secretary of Defense, International Security Affairs. The factsheet begins, "The U.S. Government has ongoing efforts to achieve the fullest possible accounting of Americans missing and unaccounted for while serving their country." The factsheet concludes, "the lack of responsiveness thus far by the KPA (North Korea) on this issue will not blunt the determination of the U.S. Government to achieve the fullest possible accounting of Americans missing and unaccounted for as a result of the Korean War."

241. November 14. The United Nations Command in a letter to the North Korean side, requests that they return UNC remains which North Korean already has in its possession, and that the MAC will be the appropriate agency to handle the issue.

242. November 21. The North Korean side responds again stating that the issue of Korean War remains is "outside the purview of the Military Armistice Commission."

1988

243. January. North Korea advises the United Nations Command that they would be interested in meeting to discuss the return of UNC remains. Just before the meeting to discuss returning remains, South Korea accuses the North of complicity in the KAL November, 1987 bombing. Outraged by the adverse publicity generated by South Korea, North Korean withdraws from its proposed arrangements for the return of two sets of remains which they identify by name and serial number.

(Source: March, 1989 letter to Senate from Assistant Secretary of Defense.)

244. August 7. The Defense Intelligence Agency states, in response to a Freedom of Information request, that it "holds no records on those missing or captured during the Korean Conflict."

1989

245. October 23. The Deputy Assistant Secretary of Defense for Public Affairs informs a U.S. Senator that an 18-month inquiry and review of documents, employing researchers from the National Archives, the U.S. Army Center for Military History… had concluded that allegations that the U.S. Government abandoned POWs in World War II and Korea were "unfounded." The letter further states, "This detailed investigation failed to discover any evidence that American military personnel are being detained in the Soviet Union, China, North Korea, or any third country. This was not a preconceived conclusion, but we are not surprised. The United States has always placed a high priority on accounting for all its military personnel, living and dead."

246. November 9. The Chief of the POW/MIA Office at the Defense Intelligence Agency, Colonel Joseph A. Schlatter, responds to a letter from a next of kin of a missing servicemen from the Korean Conflict. He states:

> There is no evidence to suggest that any U.S. personnel were not released from captivity in Korea. The 389 "known to be held in North Korea" is a misleading statement that unfortunately has gained public acceptance…There is no evidence that 389 (or any other number) Americans were held in captivity and not released at the end of hostilities.

(Source: 9 November 1989 letter signed by Col. Schlatter)

247. December. The Department of Defense, in a written statement, says, "As far as we can tell, no American POWs from the Korean Conflict were taken out of North Korea and into the USSR or China, and not ever accounted for. We don't know if the Communists continued to hold any Americans after the armistice was signed, because we have never been fully satisfied with their accounting for our missing men… At present, we have no evidence that there are American POWs from that conflict being held against their will… The United States Government has never "written off" any American service members in Korea, or anywhere else."

1990

248. May 28. North Korea returns five sets of U.S. servicemen remains to a Congressional delegation led by Congressman Sonny Montgomery.

249. June 28. In testimony before the House Foreign Affairs Committee, Subcommittee on Asian and Pacific Affairs, Defense Intelligence Agency Deputy Director Rear Admiral Ronald Marryott states:

> Although stories have surfaced from time to time alleging that Americans are still being held by the North Koreans, Chinese, or the Soviets, there are no intelligence indicators that U. S. personnel from the Korean conflict were not returned to U.S. control at the end of the war.
>
> Likewise, the Soviet Union has been the central focus of U.S. and Allied intelligence activities for most of this century, and China has been watched for almost 50 years. I believe this scrutiny would likewise have revealed at least a hint of American prisoners held in either country had they been taken there. Again, no such evidence has ever surfaced.

250. July. In an interview with Major Garrett of the Washington Times, Retired General Eugene Tighe, a former Air Force intelligence agent during the Korean Conflict, states, "Let me say that intelligence reports I received left no doubt at all to me that American POWs left North Korea to go to the Soviet Union and China."

251. July 8. American Red Cross spokeswoman Donna Schneider in Seattle, Washington, states that her agency knows of 12 reported sightings of American POWs in Siberia, some as recently as the 1970s.

(Source: Los Angeles Times)

252. In response, the Defense Department states, "…the reports may at one time have been believed… (but) there is no reason to think any Americans are currently being held as a result of the Korean War anywhere in the world."

253. In the same article, former director of the Foreign News Service, Zygmunt Nagorski, Jr. states that during the 1950's his foreign reporters had an extensive "source network" of truck drivers and other working-class Soviets employed at or near prisons in Molotov, Khabarovsk, Chita, Omsk, Chermoz, and elsewhere. Nagorski claims his sources informed him that there were still up to 1,000 American POWs in Siberia from the Korean War when he last had contact with them in the late 1950's.

(Source: Los Angeles Times, July 8, 1990)

254. September 14. Former DIA Director Lt. General Daniel Graham, states on CBN, "They (the Soviets) would come with a list of specialties and find out whether such specialties existed among the U.N. prisoners in the camps in North Korea and China… and then they would ship them off."

1991

255. January 2. A report by the Congressional Research Service of the Library of Congress states:

> The end of the Korean War in 1953 was followed by a period of intensely bitter political relations between the US on the one hand, and the North Koreans and the Chinese on the other. The temper of the times thus could suggest that the two Communist enemies of the United States during the Korean War, as well as a Stalinist Soviet Union, might be inclined to hold live Americans—perhaps even more so than Vietnam in the 1970's.

256. February. At the request of the Korean War Veterans Association, Senator Bob Smith begins a series of discussions with a North Korean diplomat in New York on the subject of unaccounted for POWs and MIAs from the Korean Conflict.

257. June. Senator Smith travels to Panmunjom, Korea where he meets with Vice Foreign Minister Kang Sok-Chu at Tong il Gak in North Korea. North Korea returns the remains of 11 U.S. servicemen following the meeting.

258. September. Senator Smith holds a follow-up meeting in New York with North Korean Vice Foreign Minister Kang Sok Chu, with the concurrence and participation of the State Department in an effort to establish a process to gain information on unaccounted for POWs and MIAs. In preparation for the meeting, and in conjunction with urging from Senator Smith, the State Department proposes in writing that "a Committee be established as a humanitarian organization separate from the Military Armistice Commission and separate from the auspices of the United Nations Command to regularize the return of MIA remains and the exchange of information about Korea War POWs and MIAs."

(Source: State Department talking point paper Sept. 1991)

259. The proposal is presented to the Vice-Foreign Minister, and he is informed that the U.S. would soon be presenting it formally through its Beijing channel with North Korea. The Vice-Foreign Minister accepts the proposal "in principle."

(Source: Meeting notes Sept.91, U.N. visit)

260. December 5. 96 U.S. Senators send a letter to Russian President Boris Yeltsin urging him "to facilitate the release of GRU and MSB intelligence reports, files or

information that may ease the pain for thousands of American families who have never learned the fate of their loves ones."

1992

261. January 6. The Chairman and Vice-Chairman of the Select Committee on POW/MIA Affairs both receive correspondence from retired Colonel Philip Corso, former National Security Staff Assistant to President Dwight Eisenhower. Corso states:

> When I was a member of the National Security Council on the White House staff under President Eisenhower (1953-1957), I interrogated Yuri Alexandrovitch Rastvorov, a Russian KGB officer who defected to the U.S. from the USSR embassy in Japan in January, 1954… Rastvorov revealed that Russian diplomats coming to Japan had seen U.S. POWs in the USSR. Rastvorov personally had seen a trainload of U.S. POWs heading into Siberia after changing trains at the Manchurian-Russian border…I submitted my report…In a few days, President Eisenhower decided not to make this information public because he was concerned about adverse effects on the families of missing POWs.

262. After a check with still classified documents on file with the Eisenhower Presidential Library, it is confirmed that Corso did interrogate Rastvorov after the Korean Conflict in January/February 1955. Ratvorov remains under Central Intelligence Agency protection in the United States. He is interviewed by Select Committee staff in February, 1992.

263. February, 1992. During the trip by the Select Committee on POW/MIA Affairs to Moscow, Chairman John Kerry and Vice-Chairman Bob Smith are provided with a list of 536 names, which is described by a high-ranking Russian intelligence official as U.S. POWs from the Korean Conflict who were interrogated by the Soviets, some of whom had then been sent to Communist China.

264. A subsequent check of the names with the National Records Center in St. Louis reveals that up to 125 of the 536 names are unaccounted for U.S. servicemen from the Korean Conflict.

266. Also, during the Select Committee's trip, General Dmitri Volkogonov informs the Chairman and Vice Chairman of a specific incident "after the Korean War when an American helicopter landed in North Korea." Volkogonov states that records showed the Communists denied any knowledge of the incident, but internally, North Korea had informed the USSR that "two of the fliers were captured alive." Finally, during the trip, the Senators push for the formation of a Joint Commission on POWs.

267. May 13. North Korea releases 15 sets of U.S. servicemen remains at Panmunjom, Korea. On May 28 North Korea releases 15 more sets of U.S. servicemen remains at Panmunjom, Korea.

268. June. In response to a press question, Pentagon POW/MIA spokeswoman Captain Susan Strednansky states: "We don't have any evidence that anyone was transported from Korea to the Soviet Union."

269. June 9. The Select Committee investigator in Moscow interviews a Russian ex-prisoner who claims he was imprisoned with a Korean War American POW in the 1980's at a prison camp in the Ural Mountains. The name of the POW is reported as David Marken. Marken, according to the ex-prisoner, had told him he left for Korea in 1952, was shot down in 1953, was wounded and captured, and spent six months in a North Korean hospital. Marken told the ex-prisoner, during the time they spent together in prison, that there were approximately 50 Americans in a group in North Korea awaiting transfer to the Soviet Union, but he was transferred by military aircraft as part of a group of 5 to 10 Americans. Marken reportedly told the source he did not know where the others were. The source arrived at the Pechora camp, 500 miles north of Moscow, in September, 1982 where he met Marken and knew him until he was released in 1986. Marken was reported to be about 62 years old in 1982. The source went back to bring Marken a package of cigarettes, tea, onions, and sausage in 1989, and was told by one of the inmates that Marken was still alive.

270. June 18. Following a request by Senator Smith to the Russian Chairman of the Joint Commission on POWs, General Volkogonov, arrangements are made five days following the request for U.S. investigators to travel to the Pechora prison camp to search for Marken. The investigation is inconclusive at best. Following the trip, another former inmate of the prison confirms that Markin had been a prisoner assigned to his work detail. Finally, another source has since surfaced from the Ukraine who reports that Markin was last seen at Knyazhpogost, Russia in January, 1991. The investigation continues.

271. June 19. In response to a request from the Secretary of Defense, the Joint Staff prepares a summary of 39 Cold War personnel involving a total of 132 U.S. personnel who are still unaccounted for. The request follows statements by Russian President Yeltsin about the existence of U.S. servicemen on the soil of the former Soviet Union following World War II, the Korean Conflict, Vietnam, and during the Cold War, and his letter to the Select Committee of POW/MIA Affairs.

272. June 23. Senator Smith releases the list of up to 125 names (from February, 1991 Moscow trip and subsequent research) of U.S. servicemen who were reportedly interrogated by Soviets during the Korean Conflict and sent to China. Senator Smith request the Secretary of State to pursue the matter with the People's Republic of China.

273. June 25. Malcom Toon, head of the U.S. side of the U.S. Russia Joint Commission, states, "I think we're going to end up with absolutely zero…my gut feeling is that there's nobody alive under Russian control."

274. July. The People's Republic of China Embassy in Washington releases a statement saying, "The Chinese side settled the issue of American prisoners of the Korean

War long ago…all the POWs were treated in a humanitarian manner. None of the POWs under Chinese control was transferred to a third country or to Chinese territory."

275. August 4. A U.S. representative to the Joint Commission on POW/MIAs interviews a former Russian prisoner at Khabarovsk, Siberia who reports having observed three Americans who arrived at his camp in October 1952, and left three months later. Joint Commission investigators are following up on leads provided during this interview.

276. August 12. The Department of Defense releases a POW/MIA Fact Sheet in which it is stated, in reference to Korean War era POW/MIAS and what is being done to search of them:

> "Unfortunately, there are no detailed records available from the Korean War, making today's searches difficult. The U.S. Government is prepared to accept any remains that the North Koreans may have on a purely humanitarian basis and not tied to any political or diplomatic agenda."
>
> "Records for the Korean War era are not nearly as extensive as those for the Vietnam War, making the search for those POW/MIAs much more difficult."
>
> In regards to Cold War incidents, it is stated:
> "The are 135 individuals still unaccounted for as a result of 14 air losses during the Cold War: 10 related to the former Soviet Union, three China-related, and one Korea-related incident. The Defense Department has done a thorough review of these incidents and each will be discussed with the appropriate governments. All information held by the Department of Defense has been shared with the affected families and with the Congress."

277. August 19. Select Committee investigator in Moscow interviews Russian Colonel (retired) Gavril Ivanovich Korotkov, a Far East expert with the Scientific Research Institute, formerly part of the Soviet Ministry of Defense. Colonel Korotkov reports he served from July 1950 to mid-1954 as part of a General Staff analytical group reporting to the Commander in Chief of the Soviet Far East Military District on developments from the ongoing war in Korea. Korotkov outlines in great detail the fact that the Soviets interrogated American POWs in Korea. Korotkov states that on several occasions he had visited the Soviet Naval Base at Pos'Yet, located in the USSR/China/North Korea Tri-Border Region, which served as a transit point for the movement of American servicemen north to Khabarovsk, Siberia. Although there was an airfield nearby, he believes that the bulk of the Americans transported from Pos'Yet to Khabarovsk were transported by rail, but most likely at least some of the American POWs were moved from North Korea or China by air.

278. Although Korotkov did not know the exact number, he states that the number of American Korean War POWs processed through Khabarovsk was in the hundreds. Korotkov states that operational directives during the Korean Conflict said that Americans should be captured alive, not killed. Korotkov further states that the North Koreans were quite willing to allow the Russians direct access and eventual control over

American POWs. Finally, Korotkov states that he had personally interrogated two American POWs. He could not remember the names of any of the American POWs who were processed through Khabarovsk, except for a Lieutenant Colonel Black. (Note: Possibly Lieutenant Colonel Vance Eugene Black, recorded as captured on November 1, 1951.) Korotkov is reported by Select Committee investigator to be "highly credible and forthcoming."

279. October 27. U.S. investigators in the U.S./Russia Joint Commission interview a Russian citizen who served four and half years in prison in Zinka Camp near Knyazhpogost, Russia. He reports that in the fall of 1952 or the spring of 1953, he had an encounter with an American pilot who had been shot down in North Korea and forced to land in Soviet territory near Vladivostok. The pilot said he had a plane of three, and that his radioman had been in Zinka as well. The pilot did not know what happened to the third member. The pilot remained at Zinka for three to six months, and was then transferred to an unknown location.

280. November 9, 1992. Deputy Assistant Secretary of State for East Asian and Pacific Affairs Ken Quinn is scheduled to raise the POW/MIA issue during an on-going visit to the People's Republic of China.

281. November 10. Kim Il Sung continues his 44 year reign as the leader of North Korea. He undoubtedly knows the fate of several thousand unaccounted for American MIAs from the Korean Conflict.

Date: July 7, 2020.

I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

Bob Smith

Bob Smith

AFFIDAVIT OF KEVIN SHIPP

Kevin Michael Shipp hereby swears and affirms:

Qualifications

1. I am a former Central Intelligence Agency (CIA) officer, intelligence and counterterrorism expert. I held several high-level positions in the CIA. My assignments included protective agent for the Director of the CIA, counterintelligence investigator searching for moles inside the CIA, overseas counterterrorism operations officer, internal security investigator, chief of training for the CIA federal police force, and polygraph examiner.

2. I acted as the Program Manager for the Department of State, Anti-Terrorism Assistance Global Police training program. I received the CEO award my performance as Manager.

3. I am the recipient of two CIA Meritorious Unit Citations, three Exceptional Performance Awards, and a Medallion for high-risk overseas operations. I hold a BS degree in Biology, and a Master's level degree in Forensic Psychophysiology.

Exhibit C

4. During my tenure as an investigator in the CIA's Counterintelligence Center, Counterespionage Group (CIA/CIC/CEG), which dealt with some of the most sensitive cases in the CIA, I held classification authority. I have been trained and certified on classification and declassification guidelines.

5. I authored two books, *From the Company of Shadows*, Ascent Publishing, LLC, 2012, and *In From The Cold. CIA Secrecy and Operations,* Ascent Publishing, LLC, 2010.

Opinion

6. Based on Executive Order ("E.O.") 12356, which regulates CIA classification and declassification, documents relating to the fate of Korean War US prisoners ("POWs"), including those transferred from North Korea to Russia or China, can be declassified and released to the plaintiffs in this case.

7. Section 3.3 of E.O. 12356, *Automatic Declassification*, is designed to provide the American public the right to know what their government is doing. It is applicable in this case. This E.O. makes it mandatory to release records that are 50 years or older, stating that these documents "shall be automatically declassified" unless release "should clearly and demonstrably be expected to reveal… the identity of a confidential human source." No national security exemption exists for documents 50-years-old or older.

8. The CIA is also regulated by Section 3.3 (a) of this E.O., which applies to declassification and release of 25-year-old records with "permanent historical value." The records that plaintiffs are requesting fit into this category. Section 3.3 (a) provides that these records "shall be automatically declassified." The CIA may postpone the release if it can "clearly and demonstrably" show that disclosure would "reveal the identity of a

confidential human source," or "cause serious harm to relations between the United States and a foreign government, or to ongoing diplomatic activities of the United States."

9. Documents relating to the fate of POWs, including those transferred to Russia or China, can clearly be released, at least in part, without revealing the identity of any confidential source. Release would cause no harm to international relations or ongoing diplomatic activities.

10. Given the age of these records, there is no longer any justification for continuing to treat them as "operational records" under 50 U.S.C. § 3141.

11. The American public has compelling interest in knowing the final state of these American POWs and heroes, who gave up their freedom and possibly their lives for their country. These records have a "permanent historical value."

I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

Kevin M. Shipp

8/14/2022
Date

DEX 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROBERT MOORE, *et al.*,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

Case No. 1:20-cv-1027-RCL

MEMORANDUM ORDER

Before the Court in this Freedom of Information Act ("FOIA") case is Plaintiffs' Motion for Leave to Amend the Complaint, ECF No. 42. The defendant Central Intelligence Agency ("CIA") opposes that motion. ECF No. 44.

On July 28, 2022, the Court granted in part and denied in part each party's motion for summary judgment. *See Moore v. CIA*, No. 20-cv-1027-RCL, 2022 WL 2983419 (D.D.C. July 28, 2022); Order, ECF No. 41. Specifically, the Court ordered the CIA to supplement the record concerning the adequacy of its search and its *Glomar* response to plaintiffs' FOIA request 17, and to identify responsive documents to plaintiffs' FOIA request 1. Order at 1–2. The CIA represents that since the Court's summary judgment decision, it "has been preparing the final submissions that would dispose of the matter." Def.'s Opp'n at 8.

Approximately one month after that decision, and over two years after the filing of the complaint, plaintiffs moved to amend that complaint to (1) allege improper classification and withholdings of operational files under 50 U.S.C. § 3141, (2) narrow the FOIA request to information regarding Harry Moore, and (3) add Michael Driggs as a new plaintiff. Mot. for Leave to Amend at 1.

A plaintiff may amend a complaint as a matter of course 21 days after serving it or 21 days after service of a responsive pleading or motion under Federal Rule of Civil Procedure 12(b), (e), or (f). Fed. R. Civ. P. 15(a)(1). Thereafter, a plaintiff may amend a complaint "only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). However, the court may deny leave in cases involving "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposition party by virtue of allowance of the amendment, [or] futility of amendment." *Foman v. Davis*, 371 U.S. 178, 182 (1962). An amendment is futile if the amended complaint "would not survive a motion to dismiss." *Robinson v. Detroit News, Inc.*, 211 F. Supp. 2d 101, 114 (D.D.C. 2002).

The CIA argues that the Court should deny plaintiffs leave to amend for two reasons: (1) undue delay and (2) futility. Def.'s Opp'n at 5–10. The Court agrees with the CIA on both points.

Courts in this Circuit have found delays of as little as two years to be undue for purposes of amending a complaint. *See, e.g.*, *Atchinson v. District of Columbia*, 73 F.3d 418, 427 (D.C. Cir. 1996). A lengthy delay may be excused if supported by a good reason, but denial of leave to amend is appropriate where the plaintiff "offer[s] no explanation for its tardiness" or "had abundant opportunity over the course of [litigation] to raise the issue." *Williamsburg Wax Museum, Inc. v. Historic Figures, Inc.*, 810 F.2d 243, 247 (D.C. Cir. 1987). In addition, "[c]onsideration of whether delay is undue [] should generally take into account the actions of other parties and the possibility of any resulting prejudice." *Atchinson*, 73 F.3d at 426. In the specific context of FOIA cases, courts in this District have recognized the significant time and resources required to prepare for summary judgment in such cases and the prejudice that results from putting all that effort to waste, and have accordingly denied motions for leave to amend when summary judgment briefing was underway

on grounds of undue delay. *See, e.g.*, *Borda v. Dep't of Just.*, 306 F. Supp. 3d 306, 313–14 (D.D.C. 2018); *James Madison Proj. v. Dep't of Just.*, 208 F. Supp. 3d 265, 279–80 (D.D.C. 2016).

Here, plaintiffs admit that their desire to amend their complaint was prompted at least in part by certain aspects of the Court's initial summary judgment decision that were adverse to them, specifically the portion concerning operational files. *See Moore*, 2022 WL 2983419, at *4; Mot. for Leave to Amend ¶¶ 2–3. In other words, plaintiffs seek to win back some points they lost in the previous round of summary judgment before the CIA can file a renewed motion for summary judgment and move toward final resolution of the case. That makes this context little different than those cases where a plaintiff seeks to amend during summary judgment briefing. The Court's decision on one round of summary judgment has narrowed and focused the issues in anticipation of a second round, for which the parties have spent time preparing already.

Furthermore, more than two years passed between the filing of the initial complaint and plaintiffs' motion for leave to amend. *Cf. Atchinson*, 73 F.3d at 427. Plaintiffs do not attempt to explain that delay with respect to adding Driggs as a plaintiff or narrowing the FOIA request. As to the new allegations of improper withholdings of operational files, plaintiffs explain for the first time in their reply brief (and without citation) that they did not know the CIA would be asserting a *Glomar* response related to such files until it filed its summary judgment motion, over a year after the complaint was filed. *See* Pls.' Reply at 3–4, ECF No. 45. But even if that is true, plaintiffs do not explain why they waited until after the Court's partially adverse decision on their summary judgment submissions to invoke the "exception" under 50 U.S.C. § 3142(f) that allows courts to order disclosure of files that the CIA has categorized as operational. *See Hall v. CIA*, No. 04-cv-814, 2022 WL 2528102, at *1 (D.D.C. July 7, 2022). Allowing an amendment at this stage would further delay disposition of this already three-year-old case and prejudice the CIA, which has

already expended great effort litigating the case along the lines addressed in the first summary judgment decision and begun preparing its submissions for the next round along those same lines, while at the same time allowing plaintiffs a second bite at the apple on an issue they at least could have addressed at the time the CIA filed its first summary judgment motion. *Cf. Hoffman v. United States*, 266 F. Supp. 2d 27, 34 (D.D.C. 2003) (internal quotation marks and citation omitted) ("A plaintiff, quite simply, cannot be permitted to circumvent the effects of summary judgment by amending the complaint every time a termination of the action threatens.").

The most important proposed amendment at issue—allegations of improper withholdings of operational files—would also be futile. As plaintiffs acknowledge, "when a complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files, the complaint shall support such allegation with a sworn written submission, based upon personal knowledge or otherwise admissible evidence." 50 U.S.C. § 3141(f)(3); *see* Mot for Leave to Amend ¶¶ 1–5. Plaintiffs attempt to satisfy that requirement with an affidavit from former CIA Agent Kevin Shipp. *See* Aff. of Kevin Shipp ("Shipp Aff."), ECF No. 42-2. Nowhere does Shipp claim to have "personal knowledge" of the files plaintiffs seek. 50 U.S.C. § 3141(f)(3); *see generally* Shipp Aff. And while the affidavit could conceivably be "otherwise admissible evidence," it in no way "support[s]" the new allegations of improper withholdings. 50 U.S.C. § 3141(f)(3). That is because Shipp simply argues that the records sought are so old that they can no longer be considered operational records, an opinion that he bases entirely on a section of an Executive Order that applies to records in the possession of the National Archives, not the CIA. *See* Shipp Aff. ¶¶ 6–11; E.O. 12356 § 3.3(a). The CIA notes that problem in its opposition, and plaintiffs do not address it in their reply. *See* Def.'s Opp'n at 8–10; Pls.' Reply at 2. Simply put, because Shipp's affidavit is entirely unhelpful in demonstrating that

operational files were wrongfully withheld, the portions of the amended complaint alleging such wrongful withholdings "would not survive a motion to dismiss." *Robinson*, 211 F. Supp. 2d at 114.

Accordingly, it is hereby **ORDERED** that Plaintiffs' Motion [42] for Leave to Amend the Complaint is **DENIED**. It is further **ORDERED** that the parties' Joint Motion [43] for Enlargement of Time to Submit a Proposed Summary Judgment Briefing Schedule is **GRANTED**, *nunc pro tunc*. The parties are **ORDERED** to file a proposed schedule within ten days of the issuance of this Memorandum Order, to include a timeline for filing new motions for summary judgment on the remaining issues, along with supporting affidavits and a revised *Vaughn* index.

IT IS SO ORDERED.

Date: March 30, 2023

Royce C. Lamberth
Royce C. Lamberth
United States District Judge

DEX 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROBERT MOORE, *et al.*,	)	
	)	
Plaintiffs.	)	
	)	
v.	)	Case No. 20-1027 (RCL)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
	)	

AFFIDAVIT OF KEVIN SHIPP

Kevin Michael Shipp hereby swears and affirms:

Qualifications

1. I am a former Central Intelligence Agency (CIA) officer, intelligence and counterterrorism expert. I held several high-level positions in the CIA. My assignments included protective agent for the Director of the CIA, counterintelligence investigator searching for moles inside the CIA, overseas counterterrorism operations officer, internal security investigator, chief of training for the CIA federal police force, and polygraph examiner.

2. I acted as the Program Manager for the Department of State, Anti-Terrorism Assistance Global Police training program. I received the CEO award my performance as Manager.

3. I am the recipient of two CIA Meritorious Unit Citations, three Exceptional Performance Awards, and a Medallion for high-risk overseas operations. I hold a BS degree in Biology, and a Master's level degree in Forensic Psychophysiology.

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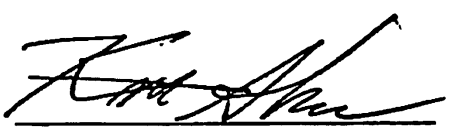
I hereby declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.



Kevin M. Shipp

8/14/2022

Date

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

MICHAEL DRIGGS, et al.,	:	Civil Case
	:	No. 1:23-cv-01124-DJN-JFA
Plaintiffs	:	
	:	
v.	:	
	:	
CENTRAL INTELLIGENCE	:	March 13, 2024
AGENCY,	:	10:30 a.m.
Defendant	:	
.....	:	.....

TRANSCRIPT OF TELEPHONE CONFERENCE
BEFORE THE HONORABLE DAVID J. NOVAK
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:
JOHN CLARKE
LAW OFFICE OF JOHN H. CLARKE
1629 K Street, NW
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DENNIS CARL BARGHAAN, JR.
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UNITED STATES ATTORNEY'S OFFICE
2100 Jamieson Avenue
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703-299-3700

OFFICIAL COURT REPORTER:
REBECCA STONESTREET, RPR, CRR
U.S. District Court, 9th Floor
401 Courthouse Square
Alexandria, Virginia 22314
(240) 426-7767

(Pages 1 - 14)

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

P R O C E E D I N G S

THE COURT: Okay. We're on the record. This is Driggs, et al. vs. Central Intelligence Agency, 23-CV-1124.

Who do I have for the plaintiff?

MR. CLARKE: Good morning, Your Honor. John Clarke on behalf of the plaintiffs.

THE COURT: Okay. And who do I have for the defense?

MR. BAARGHAN: Good morning, Your Honor. Assistant U.S. Attorneys Dennis Baarghan and Matthew Mezger on behalf of the CIA.

THE COURT: Again, a reminder that before you speak, identify yourselves so the court reporter can know who's speaking.

Before we get started, I want to ask this. Maybe, Mr. Clarke, I should direct this to you. How much of a case -- how much of an overlap is this case with the one in D.C. that Judge Lamberth was dealing with? Is this the same case?

MR. CLARKE: No, not entirely. It's largely overlapping, yes.

THE COURT: Okay. Well, I'm not doing another case when you've already got rulings on it. Why would I do that? That doesn't make any sense to me.

MR. CLARKE: Well, Your Honor, on the 22nd I will submit our position on that. But I don't believe that collateral estoppel is applicable here; moreover, we dismissed

that case so there was not a final ruling on those issues.

THE COURT: Well, according to the government, he gave you a ruling.

I'm going to tell you, you're not doing double-dipping with me. I'll look at what you have to say, but you can forget about it. So to the extent that there's an overlap, that's off the table. Okay?

Now, Mr. Baarghan, have you had a meet and confer yet with plaintiff's counsel?

MR. BAARGHAN: We have with respect to the issues that we feel are able to be addressed at this time. As Your Honor saw in our clarification paper, the production of all the documents, and thus other issues that may arise during that production, we're obviously not able to deal with yet. But those issues that we can deal with, we have met and conferred on them with Mr. Clarke.

THE COURT: Okay. So you've heard what I just said to Mr. Clarke. Like, this running through a different district to get a different answer is not going to work.

So excluding everything that was covered in the other case -- because that's what's going to happen here. All right? You'll file motions, you'll do whatever we have to do, but we're going to knock out all that stuff because we're not relitigating something that's already been done. How much stuff is left, and can you get that done in a couple of months?

MR. BAARGHAN: So the answer to that is no, and let me try to explain why.

The case in D.C. was about a former FOIA request that looked a lot like this one but is not identical. There is, as Mr. Clarke said, a great deal of overlap. But once that FOIA request was completed and that civil action dismissed and these plaintiffs submitted a new FOIA request to the CIA, the CIA had to start all over again in producing records. That is, unfortunately, the way FOIA works.

And so it needs to do the exact same process again in order to fulfill its FOIA obligation. And so as a result, there are issues that were not litigated in D.C., but could have been but for plaintiff's choice to voluntarily dismiss that litigation, that the plaintiffs now want to litigate in this court, for whatever reason.

THE COURT: That's over. Anything that Judge Lamberth ruled on that was at issue in that case is gone. They forfeited it. They should have litigated it in front of Judge Lamberth. You don't get two bites. It's gone. I want to make that abundantly clear.

So here's what I need you to do. Okay? Now knowing that the overlap information is off the table, okay, I want you to sit down with Mr. Clarke and work out a rolling production such that you get it done by Thanksgiving. That seems to me to be reasonable, particularly because, under Mr. Clarke's own

description here, there's a substantial overlap. Not the same, substantial overlap.

Any stuff that was overlapped is off the table. That's gone. It's forfeited. It's now about what is left that was not subject to overlap. But you need to agree to what that universe is first, and then come up with a schedule for a rolling production.

I never envisioned you having everything done by March. What I wanted you to do is to have this meeting and figure out what's in dispute and what's not in dispute in terms of the production. Then you can assert whatever privileges you need down the road.

But it seems to me we just whittled this down by three-quarters, probably. Am I wrong about that, Mr. Baarghan?

MR. BAARGHAN: I would like to believe that you are correct, Your Honor. The problem, I think, is that because of the way FOIA works and the fact that the CIA has to now respond to these new FOIA requests that are about the same information but aren't exactly the same, I think it would be difficult to separate what has already been produced and what hasn't been produced into separate columns.

And I know that's very difficult to articulate, and so I apologize for what must be a very frustrating answer. But I don't know whether it is as simplistic as saying, we've already produced Documents A through Z; now we need to produce

Documents 1 through 10. I'm having trouble believing that that's possible.

I can certainly talk to my client and see whether that is possible, with the understanding that you want this completed by Thanksgiving.

THE COURT: Yes. But I'm also saying, it seems to me that there are categories now of information that are no longer at issue, that were -- anything that was -- any information that was sought in the D.C. case that Judge Lamberth addressed is gone. So that seems to me to be a large swath of information that is no longer going to be party to this litigation. If they want to relitigate it, they can go back to Judge Lamberth.

But it seems to me that you can sit down with Mr. Clarke and work out what was covered, what was involved in that one and what was not, and the stuff that was involved in the D.C. case, if he wants to have further litigation about that, he can go back to Judge Lamberth and let him deal with this.

That seems to me to narrow the field here substantially.

MR. BAARGHAN: We can certainly work with that, and work with Mr. Clarke towards that goal.

THE COURT: Let's do this. I want you to have another meet and confer within 30 days. Within 60 days I want you to put together a joint proposal of what's left outside of the D.C.

case that is subject to litigation, and then I want you to propose a schedule of rolling production that gets this done by Thanksgiving.

You got that?

MR. BAARGHAN: Understood. Understood, Your Honor.

THE COURT: All right. Mr. Clarke, have you got anything else you want to say?

MR. CLARKE: Yes, Your Honor. The previous order that the Court issued said that we were to submit a joint statement of what issues -- not necessarily what records, but what issues are still on the table. And I would like to go ahead and submit that on the 22nd.

THE COURT: You can do that, but I want to tell you right now, anything that was involved in the Judge Lamberth case, you go back to him. You don't get two bites at the apple. You should have litigated it the whole way. I'm just going to tell you that right now, so don't waste my time.

What I want you to do is meet and confer to see what documents you're going to be fighting over, and then have the government -- I want you to get the information you're entitled to and I want them to come up with a schedule to produce it. But what I'm not going to do is give you a second bite at the apple.

You want to go back to Judge Lamberth, you go ahead and do that. That's fine. That's not the way litigation works.

Okay? All right. Anything else?

MR. BAARGHAN: Yes. Your Honor, my understanding of what the Court just articulated is that this meet and confer in 30 days, 60 days submit a paper that provides a proposal of rolling productions and what is left, that supersedes your previous order of by March 22nd having a joint substantive filing of what remains to be decided. Am I correct on that?

THE COURT: Yeah, that's fine. I agree. Because now -- I didn't realize -- you know, when I get something on initial pretrial conference, I just get the complaint. That's all I have. I didn't know that there had been all this litigation in D.C. on this, and Judge Lamberth had made a decision. That's a big deal for me, because I'm not going to redo what he's already done. That's not the way this works, and I'm not going to put up with that.

So I'm going to vacate that order and I want you to, again, meet and confer within 30 days to decide what was covered in the D.C. case and what wasn't. What wasn't is what is going to be left for the production. Okay?

Now, you still have -- you can assert privileges and stuff, and I'll deal with that down the road if I have to. But to me, there's now two categories of information, A and B. A is the D.C. stuff, off the table; B is the other stuff that was not requested in D.C. That we'll take a look at.

And I want you to come up with a schedule that allows

us to get done on a rolling production. I don't want this all to wait until Thanksgiving. I want you to produce it as you can turn it around such that it is fulfilled by Thanksgiving, and then we'll see where we are.

We'll set a call for December. Does December 5th work for you-all? And then you can tell me, Mr. Clarke, whether you're satisfied or not with the production that is made by the -- in what I'm calling Category B.

So does December 5th work for you?

MR. CLARKE: Yes, Your Honor, that works for me. I do have a question, though. I would like to submit a position paper on the 22nd, if that is agreeable to the Court.

THE COURT: Well, I mean, look, you can submit it. I'm not going to require it, but -- I already told you how we're going to deal with this now.

So I don't want to hear about the D.C. stuff. I'm going to tell you that right now. Do not waste my time on that. If you have something else to tell me, go ahead and tell me. I'll read it. But we're not revisiting this. You go back to Judge Lamberth if you want to deal with the D.C. stuff. Okay?

So Mr. Baarghan, are you available December 5th at 10 a.m.?

MR. BAARGHAN: I am, Your Honor.

THE COURT: So we're going to set the status call for December 5th at 10 a.m.

But before, Mr. Clarke, you file something, why don't you and Mr. Baarghan sit down and work through this, so before you file stuff needlessly, you see what you're agreeing on and what you're not agreeing on. And don't even talk about the D.C. stuff, because that's gone. Okay?

MR. CLARKE: Well, Your Honor, there is the issue of whether or not the defendant needs to search its operational records. So that's particularly what I want to point out to the Court on the 22nd.

THE COURT: Yeah. And did you meet and confer about that?

MR. CLARKE: We did, and they declined to search their operational records, the CIA did.

THE COURT: Okay. You can file something about that and I'll take a look at it.

But again, this would go to Box B, not Box A. So if you requested that in front of Judge Lamberth, that's off the table. So you can tell me whether you did it or not. Okay?

MR. CLARKE: Yes, Your Honor.

THE COURT: All right. Mr. Baarghan, anything else from you? If you want to respond to anything he files, you can do it 14 days later and I'll take a look at it.

But let 's have this meet and confer and let's see what we're really disagreeing about and what we're not disagreeing about, noting that I want nothing to do with anything that was

already addressed in D.C. If it was sought in D.C., it's off the table. Okay? You've got to go back to D.C. for that. This will be new stuff that wasn't sought in D.C. That's all that's at issue for me, in my view. Okay?

MR. CLARKE: Thank you, Your Honor.

THE COURT: All right. Have a nice day. See you guys.

MR. CLARKE: Thank you, Your Honor.

(Off the record at 10:44 a.m.)

CERTIFICATE OF OFFICIAL COURT REPORTER

I, Rebecca Stonestreet, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

___//Rebecca Stonestreet//___ __3/28/24____

SIGNATURE OF COURT REPORTER DATE

/

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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

MICHAEL DRIGGS, *et al.*,
Plaintiffs,

v. Civil No. 1:23cv1124 (DJN)

CENTRAL INTELLIGENCE AGENCY,
Defendant.

MEMORANDUM ORDER
(Denying Search of Operational Files)

This Freedom of Information Act ("FOIA") matter comes before the Court largely of its own volition. On March 22, 2024, the 13 Plaintiffs in this case filed a Memorandum of Law in support of their contention that Defendant the Central Intelligence Agency "is required to conduct a search of its operational filed under 50 U.S.C. § 3141."[1] (ECF No. 19 ("Mem.") at 6.) Plaintiffs' Memorandum included no accompanying motion and requested no relief from the Court. Nevertheless, because the parties believe the operational-files issue to be "ripe for the Court's review" (ECF No. 24 at 2), the Court addresses Plaintiffs' Memorandum now. The Court finds Plaintiffs' request improper in substance and form, so it CONSTRUES Plaintiffs' Memorandum (ECF No. 19) as a motion and DENIES it.

I. LEGAL CONTEXT

Understanding of this case's procedural history requires a review of the statutes that apply to Plaintiffs' claims — the FOIA and the CIA Information Act (the "CIAIA"). The "basic

[1] The Plaintiffs are Michael Driggs, Robert Moore, Jana Orear, Christianne O'Malley, Thomas Michael Logan, David Logan, Megan Marx, Terri Mumley, John Zimmerlee, Carol Hrdlicka, George "Luck" Patterson, Mark Sauter and The POW Investigative Project, Inc. (ECF No. 1 ("Compl.") ¶¶ 2–14.) For the sake of convenience, the Court refers to "Plaintiffs" collectively and to Defendant as "the CIA."

thrust" of the FOIA was to "pierce the veil of administrative secrecy and open agency action to the light of public scrutiny." *Dep't of Air Force v. Rose*, 425 U.S. 352, 360 (1976) (quotation omitted). To give that public policy effect, the FOIA commands as a general matter that "each agency" in the federal government, upon receiving a "request for records," "shall make the records promptly available to any person." 5 U.S.C. § 552(a)(3)(A). But because "public disclosure is not always in the public interest," the FOIA contains nine enumerated exemptions from disclosure. *Zaid v. Dep't of Justice*, 96 F.4th 697, 704 (4th Cir. 2024) (quotation omitted). The FOIA's "strong presumption in favor of disclosure places the burden on the agency to justify the withholding of any requested documents." *U.S. Dep't of State v. Ray*, 502 U.S. 164, 173 (1991).

The issue before the Court must be analyzed through the lens of the FOIA's third exemption, which states that the FOIA does not apply to documents "specifically exempted from disclosure by statute." 5 U.S.C. § 552(b)(3). Exemption 3's applicability "depends [not] on the detailed factual contents of specific documents" but rather on "the existence of a relevant statute and the inclusion of withheld material within the statute's coverage." *Morley v. CIA*, 508 F.3d 1108, 1126 (D.C. Cir. 2007) (quoting *Ass'n of Retired R.R. Workers v. U.S. R.R. Ret. Bd.*, 830 F.2d 331, 336 (D.C. Cir. 1987)). The "relevant statute" here is the CIA Information Act of 1984 (codified at 50 U.S.C. § 3141 *et seq.*), so the Court must next survey that statute.

Until the CIAIA was enacted, the FOIA applied to the CIA "in precisely the same manner that it applie[d] to other federal agencies." H.R. Rep. No. 98-726(I), at 4 (1984), *reprinted in* 1984 U.S.C.C.A.N. 3741, 3742.[2] But the CIA's operational files, which "contain[] the most

[2] It should go without saying that legislative history does not change the words of the statute and cannot bind the Court. However, because the legislative history of the CIAIA sets out

sensitive information directly concerning intelligence sources and methods," rarely contained information that could be disclosed to FOIA requesters. *Id.* at 5. Congress therefore imposed a *per se* rule that would reduce the endless administrative burden on the CIA of searching and then inevitably exempting its operational files from FOIA disclosure.

Where the CIAIA applies, it defangs FOIA's provisions almost entirely. It provides that the Director of the CIA "may exempt" that agency's "operational files" from "publication[,] disclosure, or search or review in connection therewith." 50 U.S.C. § 3141(a). The statute defines "operational files" to include:

> (1) files of the National Clandestine Service which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;
>
> (2) files of the Directorate for Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and
>
> (3) files of the Office of Personnel Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources[.]

Id. at § 3141(b). In April 2015, the Director exempted 21 different categories of operational files pursuant to subsection (a). Letter from Joseph W. Lambert to Stephen Aftergood 2–3 (Oct. 26, 2016), https://sgp.fas.org/othergov/intel/cia-opfiles-2015.pdf [https://perma.cc/M96G-PGEH].[3] The CIA has characterized six of those exempted categories as "[f]iles within the Directorate of Operations"; four as "[f]iles within the Directorate of Science and Technology"; and 11 as "[f]iles within the Office of Security." *Id.* By operation of subsection (a), the CIA "need not

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well-informed and contemporaneous commentary on the act's terms, the Court finds this legislative history enlightening and useful.

[3] Plaintiffs have not indicated which categories of exempted operational files they want the CIA to search.

even *search* [these 21 categories] for requested information." *Judicial Watch, Inc. v. CIA*, 310 F. Supp. 3d 34, 38 (D.D.C. 2018) (Ketanji Brown Jackson, J.) (emphasis in original).

The designation of certain operational files as exempt does not end the matter. To begin with, the CIAIA itself provides FOIA requesters with two useful exceptions to its strict default rule. Under 50 U.S.C. § 3141(c), three categories of operational files remain subject to the FOIA "[n]otwithstanding subsection (a)."[4] And under 50 U.S.C. § 3141(d), non-exempt files that "contain information derived or disseminated from exempted operational files" can be disclosed irrespective of the FOIA-exempt source of the information in them. In addition to these statutory exceptions, the CIAIA provides a narrow path for judicial review. If a court finds that the CIA "improperly withheld requested records because of failure to comply with any provision of [§ 3141], the court shall order the [CIA] to search and review the appropriate exempted operational file[s]" and, if appropriate, to disclose the records it improperly withheld. 50 U.S.C. § 3141(f)(6).

Subsection (f) establishes a procedural framework to govern cases challenging the CIA's compliance with § 3141. In establishing that framework, Congress created special pleading rules for two specific kinds of § 3141(f) claims. If a "complaint alleges that requested records were improperly withheld because of improper placement solely in exempted operational files," the plaintiff must "support such allegation with a sworn written submission." 50 U.S.C. § 3141(f)(3). As the House Intelligence Committee understood this provision, it would apply where a plaintiff "argues that if the records requested were properly filed where they should be

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[4] These three exceptions comprise information regarding (1) "United States citizens or [permanent residents] . . . who have requested information on themselves"; (2) "any special activity the existence of which is not exempt from disclosure"; and (3) "the specific subject matter" of certain investigations "for any impropriety . . . in the conduct of an intelligence activity." 50 U.S.C. § 3141(c).

filed, they would be outside exempted operational files and would therefore be subject to the search, review and disclosure requirements of the FOIA." H.R. Rep. No. 98-726(I) at 34. Alternatively, if a plaintiff "alleges that requested records were improperly withheld because of improper exemption of operational files," the CIA must respond by providing "sworn written submission that exempted operational files likely to contain responsive records currently perform the functions set forth in [§ 3141(b)]," which the plaintiff can then dispute with a "sworn written submission" of the plaintiff's own. 50 U.S.C. § 3141(f)(4). In this kind of challenge, a plaintiff does not dispute "the propriety of the [CIA's] decision to put the requested records into properly exempted files." *Judicial Watch*, 310 F. Supp. 3d at 41. Rather, a § 3141(f)(4) challenge asserts that "the files themselves have been improperly designated as "operational" files, and thus, inappropriately exempted from the FOIA." *Id.*

These two special pleading requirements do not exhaust the universe of possible challenges. So long as a plaintiff asserts that the CIA has "fail[ed] to comply with any provision of [§ 3141], judicial review shall be available under the terms set forth in [5 U.S.C. § 552(a)(4)(B)]." 50 U.S.C. § 3141(f). If a plaintiff demonstrates such a failure, a search of operational files can be compelled by the Court.

II. FACTUAL BACKGROUND

This FOIA suit seeks CIA records concerning Americans allegedly held as prisoners of war ("POWs") following the Korean War. Not all of the Plaintiffs are new to this cause. Four of the Plaintiffs (Robert Moore, Jana Orear, Christianne O'Malley and Mark Sauter) (together, the "Moore Plaintiffs") have been litigating FOIA cases regarding American POWs for at least seven years. *See Sauter v. Dep't of State*, No. 1:17-cv-1596, 2019 WL 3431153, at *1 (D.D.C. July 30, 2019) (case filed in 2017); *Moore v. CIA*, No. 1:20-cv-1027, 2022 WL 2983419, at *1 (D.D.C. July 28, 2022) (case filed in 2020). When the Moore Plaintiffs' most recent FOIA case

ran aground in the District of Columbia, they crossed the Potomac and tried again in the Eastern District of Virginia. That effort resulted in this civil action.

The Moore Plaintiffs sued the CIA in the District of Columbia on April 20, 2020. Complaint, *Moore* (D.D.C. Apr. 20, 2020), ECF No. 1. Over the next year and a half, the CIA slowly produced records, and the parties filed cross motions for summary judgment in December 2021 and January 2022. In July 2022, Judge Royce C. Lamberth denied the Moore Plaintiffs' motion for summary judgment and partly granted the CIA's motion for summary judgment. *Moore*, 2022 WL 2983419, at *1. In denying the Moore Plaintiffs' motion, Judge Lamberth noted that the Moore Plaintiff had "repeatedly state[d] that the CIA must search its operational files." *Id.* at *4. Judge Lamberth reminded the Moore Plaintiffs that the CIA's operational files could not be searched without a showing of noncompliance with § 3141 — a provision that the Moore Plaintiffs "[did] not raise" and a showing that they failed to make. *Id.*

Judge Lamberth issued his summary judgment opinion in *Moore* on July 28, 2022. Nearly a month later, the Moore Plaintiffs moved to amend their complaint to plead the CIA's noncompliance with § 3141. Motion for Leave to Amend Complaint, *Moore* (D.D.C. Aug. 25, 2022), ECF No. 42.[5] The CIA opposed the Moore Plaintiffs' motion, and Judge Lamberth denied it in March 2023. Judge Lamberth noted that the Moore Plaintiffs did not hide that their motion was motivated "at least in part by certain aspects of [Judge Lamberth's] initial summary judgment decision . . . , specifically the portion concerning operational files." Memorandum Order at 3, *Moore* (D.D.C. Mar. 30, 2023), ECF No. 46. Apparently, the Moore Plaintiffs "did

[5] The Moore Plaintiffs' motion also sought to bring Michael Driggs — now a Plaintiff in this case — into the *Moore* case.

not know the CIA would be asserting a *Glomar* response"[6] until the CIA moved for summary judgment — but provided no reason that they had delayed until after Judge Lamberth had ruled against them. *Id.* Judge Lamberth found this to be undue delay. In addition, Judge Lamberth found that the Moore Plaintiffs' attempt to invoke § 3141(f) was futile, because the affidavits that the Moore Plaintiffs provided proved woefully insufficient to "demonstrat[e] that operational files were wrongfully withheld" and would not survive a motion to dismiss. *Id.* at 4–5.

In response to Judge Lamberth's second adverse ruling, the Moore Plaintiffs jointly stipulated with the CIA to dismiss their case pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Joint Stipulation, *Moore* (D.D.C. Apr. 24, 2023), ECF No. 49. Less than three months later, on July 12, 2023, the Moore Plaintiffs and their proposed co-plaintiff Michael Driggs filed a new FOIA request with the CIA, now joined in their efforts by Mike Logan, David Logan, Megan Marx, Terri Mumley, John Zimmerlee, Carol Hrdlicka, George "Luck" Patterson, and the POW Investigative Project, Inc., a "nonprofit corporation" founded by Moore Plaintiff Mark Sauter. (ECF No. 1-1 ("FOIA Request") at 1; Compl. ¶ 14.) On August 16, 2023, having constructively exhausted their remedies under the FOIA, the Plaintiffs filed suit in this District.[7] (Compl. ¶¶ 18–20.)

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[6] The infamous *Glomar* response answers a FOIA request by "neither admitting nor denying the existence" of the documents in question, on the theory that the very existence of responsive documents constitutes information that falls within a FOIA exemption. *ACLU v. Dep't of Def.*, 389 F. Supp. 2d 547, 557 (S.D.N.Y. 2005). The term takes its name from a series of FOIA cases seeking information on the CIA's secret ownership of the ship *Hughes Glomar Explorer*. *See, e.g.*, *Phillippi v. CIA*, 546 F.2d 1009, 1010–12 (D.C. Cir. 1976) (describing the CIA's refusal to either confirm or deny any connection to the vessel).

[7] Venue lies in this District because the CIA's records, like its headquarters, may presumably be found in Arlington County, Virginia. 5 U.S.C. § 552(a)(4)(B). In addition, Plaintiff Michael Driggs resides in this District, making it a proper forum under the FOIA and the CIAIA. *Id.* (permitting suit "in the district in which the complainant resides"); 50 U.S.C. § 3141(g)(3).

The CIA answered Plaintiffs' Complaint on October 12, 2023. (ECF No. 8.) On January 18, 2024, this case was transferred from Senior District Judge T.S. Ellis, III to the undersigned (ECF No. 11), and the Court held an initial pretrial conference with the parties on January 30 (ECF No. 13). At a subsequent pretrial conference on March 13, the Court directed the parties to craft a schedule for "rolling production" of the CIA's records that would facilitate efficient resolution of the case (ECF No. 22 ("Hr'g Tr.") at 4:21–25) and asked the parties to determine the issues that remained in dispute (*id.* at 5:8–12). Counsel for Plaintiffs noted that the parties had reached an impasse regarding the CIA's obligation to search its operational records and asked for permission to file Plaintiff's position on that issue. (*Id.* at 10:6–9.) The Court orally granted that permission. (*Id.* at 10:14.)

On March 22, Plaintiffs filed the Memorandum now at issue. (ECF No. 19.) Although the Memorandum sought no relief from the Court, the CIA responded to the Memorandum and urged the Court to "deny Plaintiffs' request for a search of the [CIA's] operational files." (ECF No. 21 ("Opp.") at 11.) In their Reply, Plaintiffs repeated their contention that the CIA had to search its operational files. (ECF No. 23.) In addition, on May 10, the parties represented to the Court that the operational-files issue stands "ripe for the Court's review." (ECF No. 24 at 2.) The Court therefore CONSTRUES Plaintiffs' Memorandum as a motion to compel a search of the CIA's operational files pursuant to Rule 37(a)(1) and proceeds to resolve it.[8]

[8] Although Plaintiffs never filed a motion requesting action by the Court, as required by Rule 7(b)(1), the Court exercises its discretion to overlook that procedural error.

III. ANALYSIS

Plaintiffs' arguments prove wholly inadequate to justify a search of the CIA's operational files, because they misapply the governing law.[9] Plaintiffs argue that the circumstances of this case suffice to warrant a search of the CIA's operational files under the CIAIA. As discussed above, to compel the CIA to search its operational files, Plaintiffs must show that the CIA "has improperly withheld requested records because of failure to comply with [a] provision of [50 U.S.C. § 3141]." 50 U.S.C. § 3141(f)(6). Plaintiffs' Memorandum fails this elementary requirement, because the Memorandum nowhere explains how the CIA fell out of compliance with this § 3141.

To meet their burden under subsection (f)(6), Plaintiffs invoke subsection (f)(3). However, that provision merely dictates the pleading standard that governs when a plaintiff seeks to make out an improper-placement claim; in support of such a contention, a plaintiff must provide a "sworn written submission, based upon personal knowledge or otherwise admissible evidence." 50 U.S.C. § 3141(f)(3). Plaintiffs satisfy that pleading standard through affidavits attached to their complaint. But, critically and fatally, subsection (f) does not require the Court to order a search of operational files on a mere satisfaction of the pleading standard. Only § 3141(f)(6) gives the Court the power to order such a search, and to satisfy its requirements, Plaintiffs must show that the CIA has (1) withheld records (2) because of (3) noncompliance with § 3141. The Court addresses that standard below, and it quickly concludes that Plaintiffs do not meet it.

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[9] The substantial overlap between the plaintiffs, subject matter and counsel in *Moore* and this case motivated the Court to ask for the parties' "respective positions on the issue-preclusive effect of the *Moore* case on this action." (ECF No. 18 ¶ 3.) The parties discuss issue preclusion, as the Court requested. However, the Court need not address issue preclusion at this time, because the Court finds no difficulty in rejecting Plaintiffs' contentions on the merits.

Plaintiffs' only gestures at satisfying the requisite test can be found in two bare paragraphs of their Complaint. (Compl. ¶¶ 28–30.) Those paragraphs reference Plaintiffs' declarations. Neither mentions § 3141. The first declaration, executed by former United States Senator Bob Smith, states that Mr. Smith has seen "hundreds of classified documents that could and should be released." (Compl. ¶ 28.) The second declaration, executed by Kevin Shipp, a former CIA officer, states much the same thing: Mr. Shipp avers that documents "relating to the fate of POWs . . . can clearly be released" without jeopardizing national security and thus ought to be declassified. (*Id.* at ¶ 29.)

Plaintiffs' declarants focus on whether the CIA over-classifies documents. Maybe so. But whether a document should remain classified has nothing to do with whether the CIA has "improperly withheld requested records because of failure to comply with any provision of [50 U.S.C. § 3141]." 50 U.S.C. § 3141(f)(6). Indeed, because Plaintiffs filed suit before the CIA produced any records, Plaintiffs categorically *could not have* satisfied subsection (f)(6)'s requirements, because Plaintiffs could not (and, indeed, do not) show that the CIA has withheld responsive records in the first place.

Indeed, even if Plaintiffs provided evidence that the CIA had withheld any records at all, and even if it were true that the documents at issue do not warrant classification, that assertion would not say even a word about the proper subject of a § 3141(f)(3) attack — "the propriety of the agency's decision to put the requested records into properly exempted files." *Judicial Watch*, 310 F. Supp. 3d at 41. As the Court's discussion of the CIAIA shows, an improper-placement theory of noncompliance with § 3141 requires demonstration not that the documents requested should be declassified, but that the documents requested have been withheld *solely* because they were erroneously placed within one of the 21 categories that currently stand exempt from the

FOIA under § 3141(a) and (b). Plaintiffs' declarations do not come close to satisfying the statute.[10]

IV. CONCLUSION

If Plaintiffs seek an order to compel a search of the CIA's operational files, Plaintiffs must demonstrate how, if at all, the CIA has "improperly withheld requested records because of failure to comply with" the requirements of Section 3141. 50 U.S.C. § 3141(f)(6). When doing so, Plaintiffs must, at least, explain in what manner the CIA has violated the provisions of the CIAIA. Generalized accusations of overclassification do not suffice.

The Court FINDS that Plaintiffs have not carried their burden to establish demonstrate that the CIA "has improperly withheld records because of failure to comply with [the CIAIA]," and it thus lacks any power to order the CIA to "search and review the appropriate exempted operational file[s]." 50 U.S.C. § 3141(f)(6). Accordingly, although the Court exercises its discretion to CONSTRUE Plaintiffs' Memorandum (ECF No. 19) as a motion requesting relief, the Court hereby DENIES that motion.

Let the Clerk file a copy of this Memorandum Order and notify all counsel of record.

It is so ORDERED.

/s/
David J. Novak
United States District Judge

Richmond, Virginia
Date: May 21, 2024

[10] In their reply, Plaintiffs quote the CIA's opposition to their Memorandum, and they once again reprint portions of their Complaint for the Court's edification. (ECF No. 23 at 5–6.) Plaintiffs, however, do not explain why their Complaint, which focuses solely on the allegedly improper classification of responsive documents, shows that the CIA has failed to comply with the provisions of a statute that hinges nothing on whether a document has been classified or declassified.

DEX 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

MICHAEL DRIGGS, *et al.*,	)	
Plaintiffs,	)	
v.	)	Case No. 1:23-cv-1124 (DJN)
CENTRAL INTELLIGENCE AGENCY	)	
Defendant.	)	

DECLARATION OF MARY C. WILLIAMS,
LITIGATION INFORMATION REVIEW OFFICER,
INFORMATION REVIEW AND RELEASE DIVISION,
CENTRAL INTELLIGENCE AGENCY

I, Mary C. Williams, hereby declare and state:

I. INTRODUCTION

A. Purpose of this Declaration

1. Through the exercise of my official duties, I have become familiar with this civil action and the related Freedom of Information Act ("FOIA") requests under 5 U.S.C. § 552. This declaration is submitted in support of the Department of Justice's ("Government" or "Justice Department") Motion for Summary Judgment to explain and justify, to the greatest extent possible on the public record, the Central Intelligence Agency's ("CIA" or "Agency") contested actions in responding to Plaintiffs' FOIA requests. It is my understanding that

Plaintiffs are challenging the CIA's search as well as a limited set of redactions to a single document produced in response to Plaintiffs' Request 27, as set forth below.[1]

B. My Professional Background

2. I currently serve as the Litigation Information Review Officer ("LIRO") for the Information Review and Release Division at the CIA, a position I have held since November 2023. As the LIRO, I am responsible for ensuring that any determinations as to the release or withholding of documents or information under my purview are proper and do not jeopardize the national security of the United States. I am also responsible for, among other things, the classification review of CIA documents and information that is the subject of court proceedings pursuant to the FOIA.

3. I am a senior CIA official and hold original classification authority at the TOP SECRET level under written delegation of authority pursuant to section 1.3(c) of Executive Order ("E.O.") 13526, 75 Fed. Reg. 707 (Jan. 5, 2010). I am authorized to assess the current and proper classification of CIA information, up to and including TOP SECRET information, based on the classification criteria of E.O. 13526 and applicable regulations.

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[1] See Exhibit A (Plaintiffs' challenged redactions sent by the U.S. Attorney's Office for the Eastern District of Virginia to the CIA on 3 February 2025).

4. Prior to serving as the LIRO, I served as the Acting Information Review Officer ("IRO") for the Litigation Information Review Office for four months performing the same duties I currently perform as the LIRO. Preceding that, I served as the Criminal and Civil Team ("CCT") Lead in the Litigation Information Review Office for 45 months, during which I was responsible for - among other things - reviewing CIA information subject to the Classified Information Procedures Act, 18 U.S.C. App. 3. As CCT Lead, I was responsible for ensuring that any determinations to release Agency information under my purview were proper and did not jeopardize the national security. Prior to becoming CCT Lead, I served as an Associate IRO for 19 months. In that role, I was responsible for conducting second-line reviews of Agency information subject to litigation, and making classification and release determinations regarding such information when necessary. Finally, I was a Security Specialist with the Justice Department for over 15 years.

II. PLAINTIFFS' FOIA REQUESTS

5. By letter dated 12 July 2023, Plaintiffs submitted to the Agency a FOIA request to which the Agency assigned reference

number F-2023-01619. The request sought disclosure of 28 categories of information, as set out below.[2]

i. Request 1: For the period of March 16, 1954 through 1961, all records of CIA's efforts in undertaking "clandestine and covert action to locate, identify, and recover those U.S. prisoners of war still in Communist custody."

ii. Request 2: The subject of the attached, redacted, version of the January 5, 1952, CIA Information Report, is "Preparations for Exchange of United Nations Prisoners in Central and South China." It relates that, "on 18 December, 13 American and 8 British prisoners of war were transferred," that a source "gave names," that "another source referred to American prisoners in the former US consulate," that there is "another report referring to US prisoners in the Canton area," and there is "a recent report from yet another source ...." Please provide an unredacted copy of this Report, together with all intelligence material upon which it was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

iii. Request 3: The "main subject" of the attached July 15, 1952 CIA Cross Reference Sheet is "Location of Certain Soviet Transit Camps for POW from Korea, Classification Number 383.6 Korea." It reads:

- Date of Basic Communication: 15 July 52 f/w
- Date of Basic Document: 24 June 53
- Brief Summary: In December it was known that camps for POW captured by the Communists in Korea had been established, etc. 3-plc
- Classifier 488
  Routed to: C.I. File
- Typist 488
  Date of Classifying 17 Aug 59
- Cross Reference Numbers:
  040 Central Intelligence Agency

[2] These requests are largely identical to, or significantly aligned with, the requests previously submitted to the CIA and subsequently litigated in *Moore, et al., v. Central Intelligence Agency*, 1:20-cv-01027-RCL (D.D.C.). See Exhibit B, Declaration of Vanna Blaine ("Blaine Declaration"), 1:20-cv-01027-RCL (ECF No. 21-2), at 3.

Please produce the referenced:
(a) July 15 1952 "Basic Communication;"
(b) June 24, 1953 "Basic Document;"
(c) Information described as "etcetera;"
(d) POW information in, or otherwise "Routed to, C.I. File;"
(e) POW information related to or bearing the "Cross Reference Number 040;" and
(f) (e) POW information related to or bearing the "Classification Number 383.6 Korea."

iv. Request 4: All records regarding the June 1, 1951 shoot down and capture over North Korea of the American F-51 piloted by U.S. Air Force Captain Harry Cecil Moore, born February 11, 1924, in Elm Grove, West Virginia, service number AO 711850, including information that he was "now a prisoner of war," and that he was held in the Soviet Union and interrogated there.

v. Request 5: All records regarding Major Samuel Porter Logan Jr., shot down while piloting a B-29 Super Fortress over North Korea on September 9, 1950, declared missing-in-action and presumed dead by the Air Force on March 31, 1954. Major Logan served in the 92nd Bomb Wing, Spokane AFB, 325th Bomb Squadron, 92nd Bomb Group, APO 328.[3]

vi. Request 6: All records concerning Ensign Dwight Clark Angell, USNR service number 552173, born August 17, 1928, who was serving aboard a Navy P2V-5, Squadron VP-22, when it was downed on January 18, 1953.

vii. Request 7: All records concerning Aviation Machinist Mate 1st Class Lloyd Smith Jr., USN service number 6306390, born August 21, 1922. He served aboard a Navy P2V-5, Aviation Squadron VP-22, when the aircraft was downed on January 18, 1953.

viii. Request 8: All records concerning Air Force 1st Lieutenant John Henry Zimmerlee, Jr., service number AO1998932, born on December 6, 1911. Lieutenant Zimmerlee served as navigator aboard a B26C (No. 44-

[3]Although the individuals listed in Requests 5, 6, 8 and 9 were the subject of separate requests in this case, these individuals were previously submitted in a list of more than 125 names under *Moore* No. 15. The list itself was also submitted here as Request No. 20.

34417) in the Air Force 730th Bomb Squadron, when it was downed on March 21, 1952.

ix. Request 9: All records regarding Master Sergeant Robert Bibb, Army Company C, 3rd Engineer Combat Battalion, 24th Infantry Division, service number RA-19076631, born December 6, 1911, captured on July 20, 1950 in Tuejon, South Korea.

x. Request 10: All records regarding David Louis Hrdlicka, shot down and captured over Laos on May 18, 1965 while piloting an F-105, initially incarcerated in Sam Neua, Laos, at the Pathet Lao Headquarters, and held in Laos at least as late as 1989.

xi. Request 11: All records regarding James Kelly Patterson, shot down and captured over North Vietnam on May 19, 1967, while serving as navigator of the American F-51 piloted by Captain Eugene McDaniel, including Patterson's incarceration, interrogation, and transportation from North Vietnam to the Soviet Union, where he was held as late as 1991.

xii. Request 12: An unredacted version of the attached July 17, 1952, three-page CIA Information Report, the subject of which is "Prisoner-of-War Camps in North Korea and China," subtitled "War Prisoner Administrative Office and Camp Classification," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

xiii. Request 13: An unredacted copy of the attached December 31, 1953, CIA Information Report, regarding a USSR interrogation center in Korea, where, "after interrogation PWs were taken to the USSR," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

xiv. Request 14: An unredacted copy of the attached March 24, 1954, CIA Information Report relating that "some PWs listed as missing were in fact turned over to the Soviets," and "will never be released because they will have learned too much about Soviet PW handling techniques," together with the materials upon which

this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

xv. Request 15: The unredacted, and complete, version of the attached April 23, 1954, CIA Information Report, "Subject Soviet Concentration Camps in the Vorkuta Area."

xvi. Request 16: The unredacted, and complete, version of the April 27, 1954, CIA Information Report relating "information regarding the presence of US prisoners captured during the Korean War" in camps in Komsomolsk, Magadan, Chita, and Irkutsk, USSR, together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports. The first page of this three-page Report is enclosed.

xvii. Request 17: The unredacted, and complete, version of the attached December 8, 1955, CIA Information Report, "Subject Alleged American Held in Soviet Prison."

xviii. Request 18: On January 15, 1992, an individual who had been a KGB officer from 1974 to 1984 appeared at the US Embassy in Helsinki, Finland, and reported that, to "ease his conscience," he was reporting that "three Americans were still being held in the camps of Mordovia in July 1978." The source "added that, if necessary, he can provide more detailed information." For reference, a copy of the January 23, 1992 cable from Embassy Helsinki to Secretary of State is attached. Please produce any and all information related to this Report.

xix. Request 19: A complete, and unredacted version of the attached March 9, 1988, CIA Memorandum to "US Army Chief, Special Office for Prisoners of War and Missing-in-Action," referencing two 1980 sightings and one 1988 sighting of "31 Caucasians, possibly American prisoners from the Korean war, in the fall of 1979," together with all intelligence material upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

xx. Request 20: All records relating to any of the POW/MIAs named in the attached list.

xxi. Request 21: Any and all records relating that any POW/MIAs may have been held in the prisons identified in the attached list of Russian prison camps.

xxii. Request 22: By order issued on November 28, 1951, the Combined Command for Reconnaissance Activity Korea, or "CCRAK," was created. For your reference, two responsive CCRAK records are attached. See also CIA Clandestine Services History Historical Paper No. 52, "The Secret War in Korea," written in 1964, and declassified 2007, at p.78:

> By the fall of 1951, CIA Headquarters recognized there were great opportunities if more experienced CIA officers were in Korea. Accordingly, three of the most competent senior clandestine services officers in the Agency were selected: one to be full-time CIA representative and Deputy of CCRAK, another as head of CCRAK's counterintelligence section and doubling as Chief of CIA's counterespionage staff, and the third as Chief of foreign intelligence activities.

For the period beginning June of 1951, and continuing to the present time, please produce all POW records provided to, or receive from, any office of any component of the Department of Defense, including but not limited to:

(a) CCRAK.
(b) Air Force 6004 Air Intelligence Service Squadron during the tenure of "Project American."
(c) Missing in Action Office, including those provided in response to the attached February 12, 1997 letter from U.S. House of Representative James Talent seeking "intelligence pertaining to American prisoners who were taken to China and the Soviet Union during the war," as well as "(a) the 389 American service members who into the 1980s were listed as unaccounted prisoners of war by the United Nations Command Military Armistice Commission (UNCMAC) and
(d) (b) all US Air Force F-86 pilots who remain unrepatriated."

(e) (d) [SIC] Air Force Office of Special Investigations, or AFOSI.
(f) (e) Naval Criminal Investigative Service, or NCIS.
(g) (f) Army Criminal Investigation Command, or CID.
(h) (g) U.S. Army Combined Command Reconnaissance Activities Far East, or CCRAFE.

xxiii. Request 23: All POW records prepared by any officer, agent, or employee of the CIA, prepared for the Office of the President, including the President's Daily Brief, or PDB, that include information on the possibility of POWs being transferred to the Soviet Union or China.

xxiv. Request 24: Any records reflecting communications with Members of Congress, or Congressional oversight committees concerning the capture of American airmen during the Korean conflict who may have been transported to the Soviet Union or China and their presumed fate.

xxv. Request 25: All records concerning POWs and KGB defector Yuri (or Yury) Rastvorov, who informed the United States Government that American military personnel were taken to the Soviet Union during the Korean conflict. This request includes an unredacted version of the attached page with the heading, "Terminology."

xxvi. Request 26: All intelligence material (including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports) concerning statements made by former Czech general Jan Sejna and other former Czech officials concerning US POWs held, interrogated and experiment on by Czech and Soviet advisors, and thereafter transferred to China, Czechoslovakia, East Germany and the Soviet Union.

xxvii. Request 27: The withheld-in-full version of the CIA's February 2000 Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate.

xxviii. Request 28: The redacted portions of the November 1998 Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities,

and Performance Concerning the POW/MIA Issue, by Senator Bob Smith.

6. Prior to the CIA's issuance of an acknowledgement letter, Plaintiffs filed a Complaint in this Court on 24 August 2023 and named the CIA as Defendant. The Government filed an Answer to the Complaint on 12 October 2023.

7. By letters dated 1 March 2024,[4] 23 May 2024,[5] 15 July 2024,[6] 26 September 2024,[7] 26 November 2024,[8] 3 December 2024,[9] and 10 January 2025,[10] the CIA released 120 documents (totaling 1,578 pages) in whole or in part to Plaintiffs. Of those documents, I understand that Plaintiffs are challenging the search, as well as, the redactions to 23 pages of the 213-page joint Department of Defense and CIA report[11] ("Joint Report"), assigned document No. C06898860. The Agency released the Joint Report (in part) to Plaintiffs on 3 December 2024 as being responsive to Request 27.

8. The CIA successfully denied the Joint Report in full under FOIA exemptions (b)(1) and (b)(3) in response to Request 19

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[4] See Exhibit C
[5] See Exhibit D
[6] See Exhibit E
[7] See Exhibit F
[8] See Exhibit G
[9] See Exhibit H
[10] See Exhibit I
[11] Department of Defense and Central Intelligence Agency, A Joint Report, A Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by a *Critical Assessment* of the Estimate, dated 29 February 2000.

during the previous and related case of *Moore, et al. v. Central Intelligence Agency*, 1:20-cv-01027-RCL (D.D.C.).[12] *Moore* Request 19 sought, "Any records reflecting communications with Members of Congress, or Congressional oversight committees concerning the capture of American airmen during the Korean conflict who may have been transported to the Soviet Union or China and their presumed fate."[13] In the instant case, the CIA is no longer denying the document in full, instead releasing portions of it while continuing to withhold others. Plaintiffs are specifically challenging the redactions to: (1) the Table of Contents, page iv; (2) Part IV: Critical Assessment Charges: Substance, *Assessment of Comments by Russian Sources on the 735 and 1205 Documents*, pages 81-89, and (3) Annex F: Comments by Russian Sources, pages 2-14. As in *Moore*, the CIA continues to apply FOIA exemptions (b)(1) and (b)(3) to these portions of the Joint Report.

III. CIA'S SEARCH FOR RECORDS

9. The CIA conducted thorough and diligent searches of relevant systems of records, to include electronic, hard copy,

[12] See Exhibit J, *Vaughn* Index, Entry 33, 1:20-cv-01027-RCL (ECF No. 22-1) at 26. See also Memorandum Opinion, July 28, 2022, 1:20-cv-01027-RCL (ECF. No. 40) at 11 (regarding (b)(1): "The CIA has established that its materials are properly classified under Executive Order 13526), at 18 (regarding (b)(3): "the CIA's *Vaughn* Index and the Blaine Declaration provide persuasive evidence that these documents are properly withheld under Exemption 3 because they contain either intelligence methods or information about CIA personnel.")

[13] See Complaint, *Moore*, 1:20-cv-1027-RCL (ECF No. 1).

and archived Agency records. The CIA employees who performed these searches have access to pertinent records, are knowledgeable about the Agency's records systems, are qualified to search those records, and regularly search those records in the course of their professional duties.

10. The CIA's searches were reasonably calculated to find documents responsive to Plaintiffs' requests (if such records existed). Given the age and type of records Plaintiffs requested, CIA data management professionals searched all Agency records in three different records systems. Those systems encompass: (1) indices of all archived hard-copy Agency records; (2) electronic versions of all Agency records that have been reviewed and/or compiled for potential public release; and (3) multiple repositories of non-operational intelligence reporting from various sources. Where hard-copy files were identified as possibly containing relevant records, those files were hand-searched in their entirety without the use of terms or filtering mechanisms.

11. Searches were conducted based on reasonably described terms and timeframes based on the requests from Plaintiffs, as set out in more detail below.

i. Item 1: A search was conducted for the referenced material in the 15 July 1952 CIA Cross Reference Sheet identified by Plaintiffs using terms (and variations) that included: "POW/Prisoner of War" and "Communist."

ii. Item 2: A search was conducted using terms (and variations) that included: "Preparations for Exchange" and "Information Report." Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" was not reasonably described, as required by the FOIA statute. Conducting a search for this material would require the Agency to perform research, which is not required by the FOIA. This request is identical to *Moore* Request 2.

iii. Item 3: A search was conducted using terms (and variations) that included: "location of certain soviet transit," "transit," "camps," "prisoners," "POW," "USSR," "Soviet," "Korea," "CI File," "040," and "383.6".

iv. Items 4, 5, 6, 7, 8, 9, 10, 11: Searches were conducted using the names of the individuals listed, which included variations such as "Ensign Angell," "Master Sergeant Bibb," "Louis Hrdlicka," and "James Patterson."

v. Item 12: A search was conducted to locate the unredacted copy of the 17 July 1952, CIA Information Report attached to Plaintiffs' complaint. Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" was not reasonably described, as required by the FOIA statute. Conducting a search for this material would require the Agency to perform research, which is not required by the FOIA. This request is identical to *Moore* Request 7.

vi. Item 13: A search was conducted for the unredacted copy of the 31 December 1953, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" was not reasonably described, as required by the FOIA statute. Conducting a search for this material would require the Agency to perform research, which is not

required by the FOIA. This request is identical to *Moore* Request 8.

vii. Item 14: A search was conducted for the unredacted copy of the 24 March 1954, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" was not reasonably described, as required by the FOIA statute. Conducting a search for this material would require the Agency to perform research, which is not required by the FOIA. This request is identical to *Moore* Request 9.

viii. Item 15: A search was conducted for the unredacted copy of the 23 April 1954, CIA Information Report attached to Plaintiffs' complaint.

ix. Item 16: A search was conducted for the unredacted copy of the 27 April 1954, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "the materials upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" was not reasonably described, as required by the FOIA statute. Conducting a search for this material would require the Agency to perform research, which is not required by the FOIA. This request is identical to *Moore* Request 11.

x. Item 17: A search was conducted for the unredacted copy of the 8 December 1954 CIA Information Report attached to Plaintiffs' complaint.

xi. Item 18: A search was conducted using terms (and variations) that included: "Mordovia," "Soviet," "Camps," "Three," "Americans," and "Held."

xii. Item 19: A search was conducted for the unredacted copy of the 9 March 1988 CIA Memorandum to "US Army Chief, Special Office for Prisoners of War and missing in Action." CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" was not reasonably described. Conducting a

search for this material would require the Agency to perform search, which is not required by the FOIA. This request is identical to *Moore* Request 14.

xiii. Item 20: A search was conducted using the names provided by Plaintiffs, along with "Prisoner of War," "Killed in Action," "Missing in Action," "Missing Person," "Defense Prisoner of War" and their variations.

xiv. Item 21: A search was conducted using the names (with variations) provided by the Plaintiffs.

xv. Item 22: A search was conducted using the terms provided by the Plaintiffs, to include (with variations): "CCRAK/Combined Command for Reconnaissance Activity Korea," "Air Force 6004 Air Intelligence Service Squadron," "Project American," "Missing in Action Office," "United Nations Command Military Armistice Commission," "Air Force Office of Special Investigations," "Naval Criminal Investigative Service," "Army Criminal Investigation Command," "U.S. Army Combined Command Reconnaissance Activities Far East," and "Department of Defense."

xvi. Item 23: A search was conducted for POW records prepared by CIA for the Office of the President using terms that included (with variations) "POW," "PDB or President's Daily Brief," "Soviet Union or USSR," "China or PRC," and parameters were extended to 30 November 2023.

xvii. Item 24: A search was conducted using terms (with variations) that included: "MIA," "Korea/Korean," "Soviet Union/USSR/Russia," "China/Chinese/PRC" "transport/transfer/movement," "Senate," "Congress/congressional," "House of Representatives," and parameters were extended to 30 November 2023.

xviii. Item 25: A search was conducted using "Yuri or Yury Rastvorov," with variations.

xix. Item 26: A search was conducted using "Jan Sejna" and "General Sejna," with variations.

xx. Items 27-28: A search was conducted using the terms provided by the Plaintiffs, including the terms (with

variations): "Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by a Critical Assessment of the Estimate" and "A Critical Assessment of the 1998 National Intelligence Estimate on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue."

12. In total, the CIA identified 130 documents as responsive to these searches. The Agency conducted a line-by-line review of each responsive result, identifying information that could be released or that was exempt from disclosure pursuant to statute or due to classification, privacy, and/or privilege concerns. Following that review, the CIA released 35 documents in full, 85 documents in part (including the Joint Report), and withheld 10 documents (totaling 39 pages) in full.

IV. EXEMPTIONS CLAIMED

13. The CIA withheld the Joint Report in part pursuant to FOIA Exemptions (b)(1), (b)(3), and (b)(6); the Plaintiffs only challenge pages that implicate Exemptions (b)(1) and (b)(3).

A. FOIA Exemption (b)(1)

14. Exemption (b)(1) provides that the FOIA does not require the production of records that are: "(A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order." 5 U.S.C. § 552(b)(1). Here, the information withheld pursuant to Exemption (b)(1) satisfies the procedural

and the substantive requirements of E.O. 13526, which governs classification. See E.O. 13526 § 1.1(a), § 1.4(c)-(d).

15. Section 1.1(a) of E.O. 13526 provides that information may be originally classified only if all of the following conditions are met: (1) an original classification authority is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the U.S. Government; (3) the information falls within one or more of the categories of information listed in section 1.4 of Executive Order 13526; and (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in some level of damage to the national security, and the original classification authority is able to identify or describe the damage.

16. As an original classification authority, I have determined that the challenged portions of the Joint Report are currently and properly classified, and that the information is owned and controlled by the U.S. Government. Additionally, the information falls under classification categories § 1.4(c) and § 1.4(d) of E.O. 13526 because it concerns "intelligence activities (including covert action), [or] intelligence sources or methods" and "foreign relations or foreign activities of the United States." Additionally, the information's unauthorized disclosure could reasonably be expected to result in damage to

national security. Further, the responsive document contains classified information that is properly marked pursuant to § 1.6. In accordance with E.O. § 1.7(a), none of the information at issue has been classified in order to conceal violations of law, inefficiency or administrative error; prevent embarrassment to a person, organization or agency; restrain competition; or prevent or delay the release of information that does not require protection in the interests of national security.

17. The challenged portions of the Joint Report cover a range of Agency functions and operations and contain classified information related to: the priority of intelligence activities and targets; methods of collection; and classified relationships. For these reasons, the CIA has applied Exemption (b)(1) to the currently and properly classified information. Despite the passage of time, this information remains currently and properly classified because the release of this information could significantly impair the CIA's ability to carry out its core missions of gathering and analyzing foreign intelligence and counterintelligence and conducting intelligence operations, thereby damaging the national security.

18. *Intelligence Activities.* Intelligence activities refer to the CIA's targets and operations, including the means the CIA utilizes to collect intelligence. Here, redactions conceal the means, policies, and processes used to collect and analyze

certain CIA intelligence interests and activities. Although it is widely acknowledged that the CIA is responsible for conducting intelligence collection and analysis for the United States, the CIA generally does not disclose the targets of specific intelligence collection activities or the operations it conducts or supports. Such disclosure would allow intelligence targets to circumvent the CIA's collection efforts, damaging the Agency's ability to carry out its intelligence mission. The Joint Report reflects certain priorities of specific U.S. intelligence targets, the locations of CIA activities, the targets of specific CIA operations and analysis, and Agency processes for handling intelligence information. Disclosing this type of detail could reasonably be expected to damage national security because it would greatly impair effective collection of foreign intelligence.

19. *Intelligence Methods.* Intelligence methods are the means by which an intelligence agency accomplishes its objectives. Intelligence methods must be protected to prevent foreign adversaries, hostile actors, terrorist organizations, and others from learning the ways in which the CIA operates, which would allow them to take measures to hide their activities from the CIA or target Agency officers. The more information the CIA discloses about its tradecraft, the more difficult it becomes for the CIA to actually collect and analyze foreign intelligence from

around the world. Intelligence collection methods are valuable from an intelligence-gathering perspective only so long as they remain unknown and unsuspected. Once the nature of an intelligence method or the fact of its use in a certain situation is discovered, its usefulness in that situation is neutralized and the CIA's ability to apply that method in other situations is significantly degraded or terminated. Here, the redactions obfuscate specific types of intelligence methods, as well as policies and processes for utilizing those intelligence methods and the information obtained therefrom. Disclosure of these details would likely impair the CIA's ability to continue to collect and analyze intelligence and conduct operations.

20. *Classified Relationships*. The CIA also protects the nature and details of classified relationships to protect specific intelligence sources, methods, and activities used operationally, which includes the identities of individuals and foreign partners who assist the Agency. The redactions here protect the process and policies for working with foreign services, foreign individuals, and/or clandestine assets and cooperative sources who aided the CIA in its intelligence gathering mission. These details have been withheld because their disclosure would reveal intelligence priorities and the CIA's information-sharing relationships with specific foreign individuals and governments. This information constitutes

"foreign government information" and "information pertaining to the foreign relations or activities of the United States" under Executive Order 13526. Revelation of these relationships could hurt the Agency's relationship with these entities – entities that often agree to cooperate with the CIA on the understanding that the relationship will remain secret. Disclosing the details of these relationships reasonably could be expected to harm national security because it would reveal certain interests and activities of the U.S. Government and could lead to the deterioration of relationships, thereby decreasing the CIA's access to information and potentially impacting U.S. diplomatic relations.

B. FOIA Exemption (b)(3)

21. FOIA Exemption (b)(3) provides that FOIA does not apply to matters that are:

> Specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld...

5 U.S.C. § 552(b)(3).

22. Here, Section 102A(i)(1) of the National Security Act of 1947, as amended, 50 U.S.C. § 3024(i)(1) (the "National Security Act"), and the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 3507 ("the CIA Act"), apply.

23. The National Security Act provides that the Director of National Intelligence ("DNI"), "shall protect intelligence sources and methods from unauthorized disclosure." Accordingly, it is well-established that the National Security Act constitutes a federal statute that "requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue." 5 U.S.C. § 552(b)(3). Under the direction of the DNI pursuant to section 102A, and consistent with section 1.6(d) of Executive Order 12333, the CIA is required to protect CIA intelligence sources and methods from unauthorized disclosure. As addressed above, the Joint Report contains information related to intelligence sources and methods. I respectfully refer the Court to Paragraphs 17–20 for a discussion of those intelligence sources and methods.

24. Further, section 6 of the CIA Act provides that the CIA shall be exempted from the provisions of any law which requires the publication or disclosure of the "organization, functions, names, official titles, salaries, or numbers of personnel employed by CIA". The CIA Act therefore constitutes a federal statute which "establishes particular criteria for withholding or refers to particular types of matters to be withheld." 5 U.S.C. § 552(b)(3). Section 6 of the CIA Act supports the CIA's withholding of information from the Joint Report such as titles, names,

identification numbers, functions, and organizational information related to CIA employees.

25. In contrast to Exemption (b)(1), Exemption 3 does not require the CIA to identify and describe the damage to national security that reasonably could be expected to result in harm should the CIA disclose the information. Nonetheless, I refer the Court to Paragraphs 17–20 above for a description of the damage to national security reasonably likely to occur should disclosure take place. FOIA Exemptions (b)(1) and (b)(3) thus apply independently and co-extensively to the challenged portions of the Joint Report.

V. SEGREGABILITY

26. In evaluating the responsive documents, the CIA conducted a document-by-document and line-by-line review and released all reasonably segregable non-exempt information. With respect to the single document at issue here, I have determined that no additional information may be disclosed. The redactions that Plaintiffs specifically challenge pertain to information that is protected by Exemptions (b)(1) and (b)(3), as set out above.

* * *

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 23rd day of April 2025.

Mary C. Williams
Litigation Information Review Office
Information Review and Release Division
Central Intelligence Agency

EXHIBIT A

Declassified/Released on 12-3-2024 under the provisions of E.O. 13526
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number of American POWs in the 1205 document because the information "was not essential" to the Soviets. His successor, General Korabelnikov, said that he had nothing more to add to the statement made by Ladygin.

(b)(3) NatSecAct

The *Critical Assessment* claims that the GRU "has expressed its confidence in both the authenticity and the reliability of the information on the 1205 report." It does not mention, however, that the GRU sources do not support the POW-related content of the documents.

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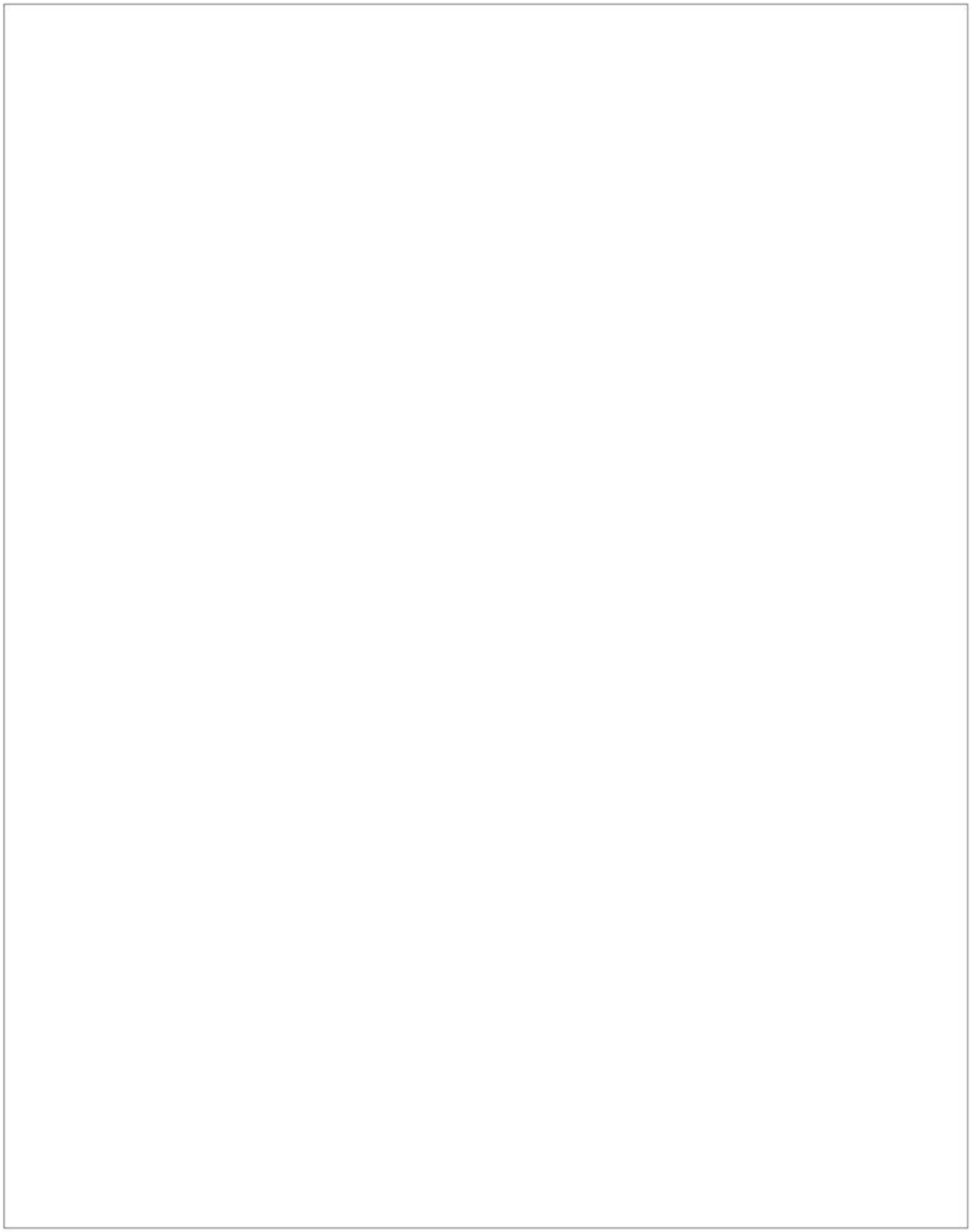

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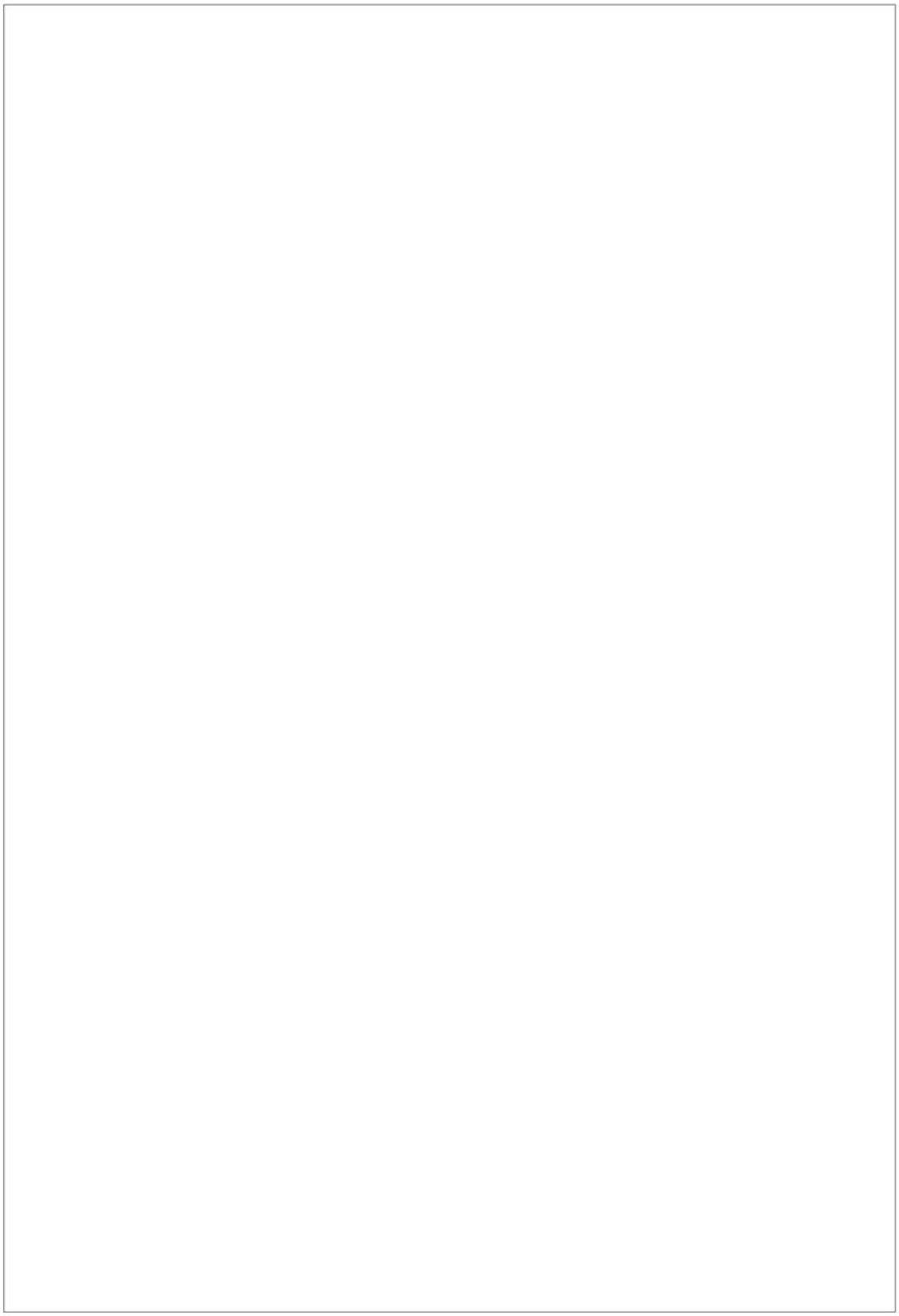

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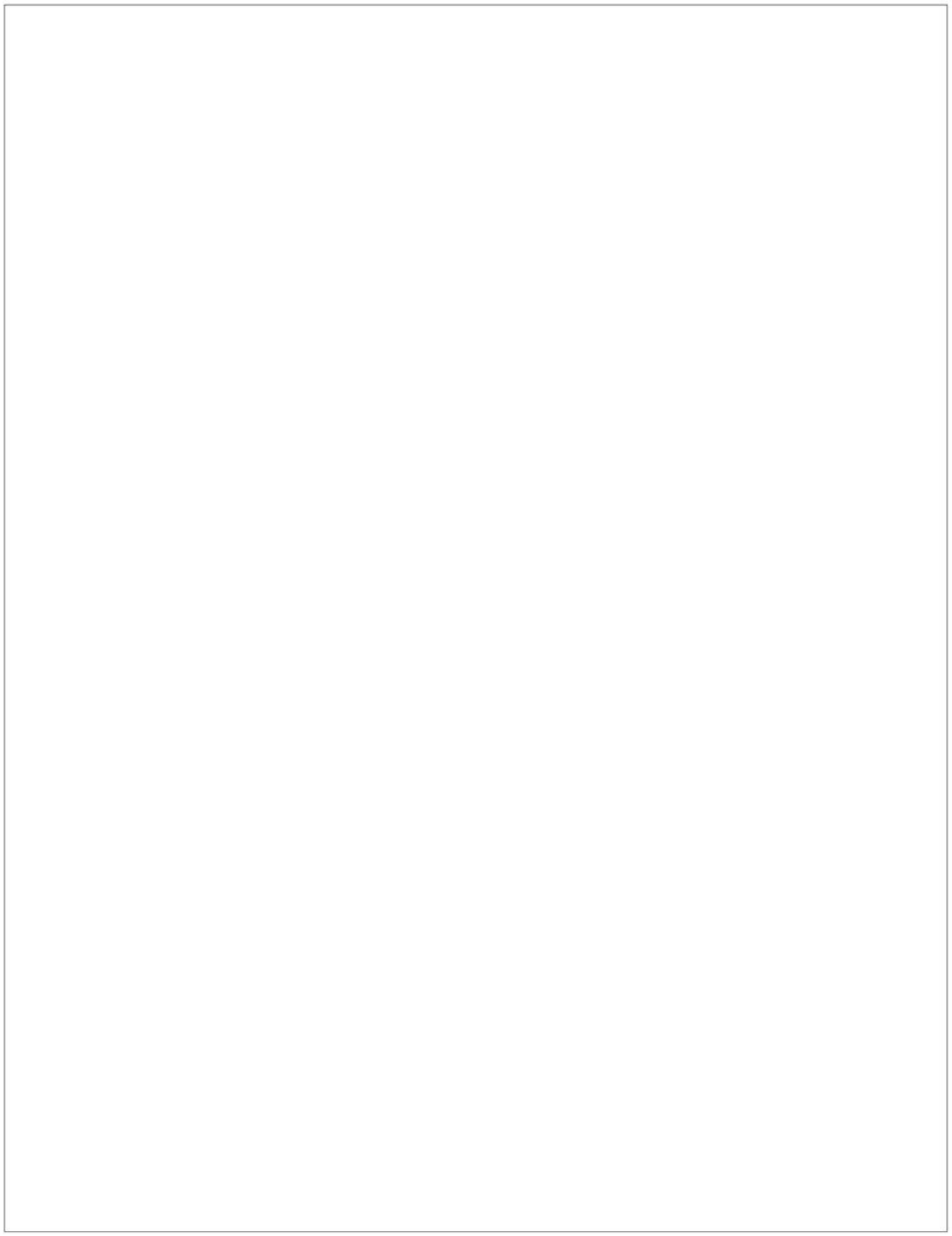

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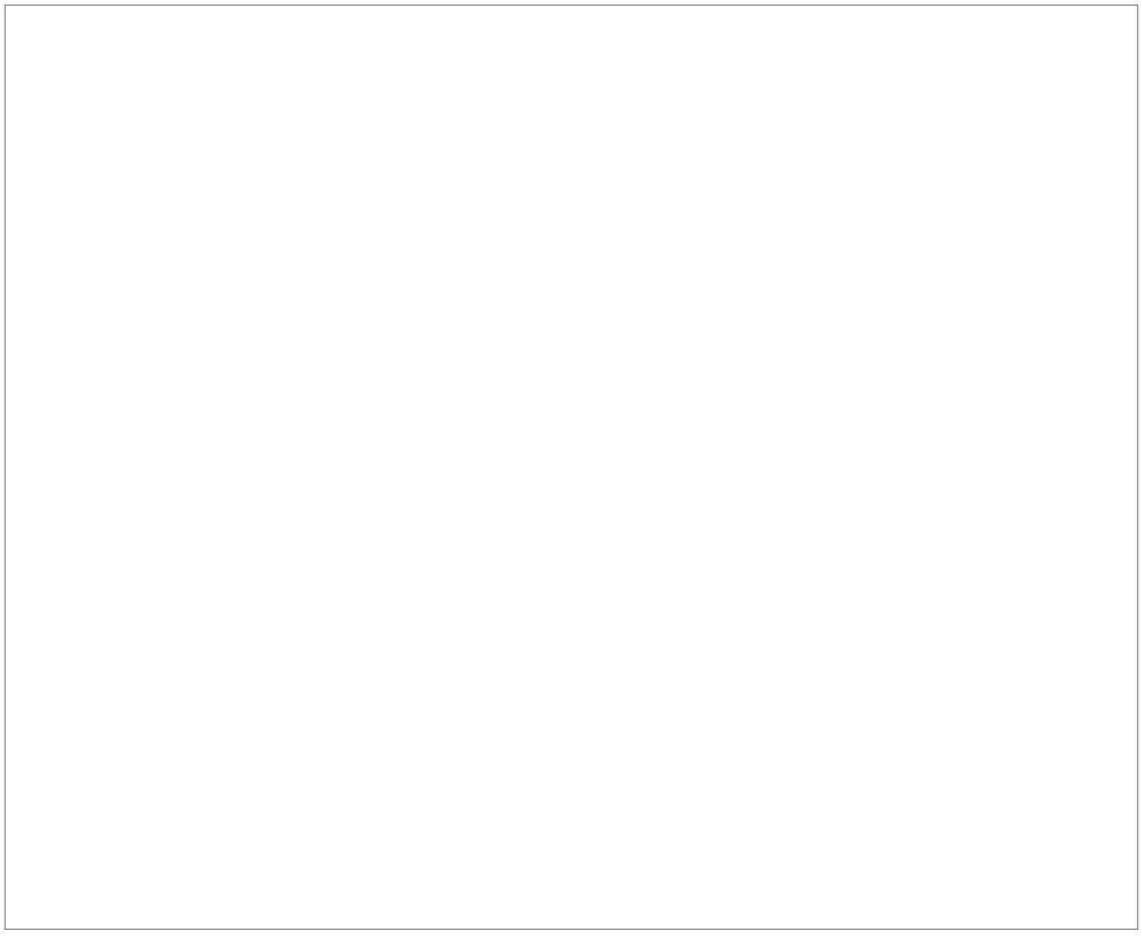

SEPARATE OR SECOND PRISON SYSTEM

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The NIE stated that, if there were additional POWs, the IC would have known of them unless Vietnam maintained a separate prison unknown to the POWs who returned in 1973. The estimate concluded that, "we have uncovered no reliable evidence that a separate prison system existed for certain POWs; nor do we have such indicators as plausible site locations."

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Concerning the issue of a separate or second prison system, the *Critical Assessment* refers to "substantial information and evaluations originated by or made available to the U.S. Intelligence Community both during and/or after the Vietnam War." The assessment asserts that, based on the 735 and 1205 documents, the large number of

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Following are excerpts of comments made by current and former Russian officials regarding the 735 or 1205 documents at various meetings or during interviews

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- Vyacheslav Dukhin served as Political Counselor at the Russian Embassy in Hanoi (1992-95). He has no first-hand knowledge of the 1205 document but became aware of it in 1993. Dukhin recalled that a former co-worker at the Embassy who served as Deputy Chief of Mission, Igor Novikov, was aware of the 1205 document when it was acquired in 1972. According to Dukhin, Novikov characterized the GRU's acquisition of the 1205 document as slipshod and not a very conscientious effort.

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Novikov did not elaborate but intimated that the GRU agent was not reliable.

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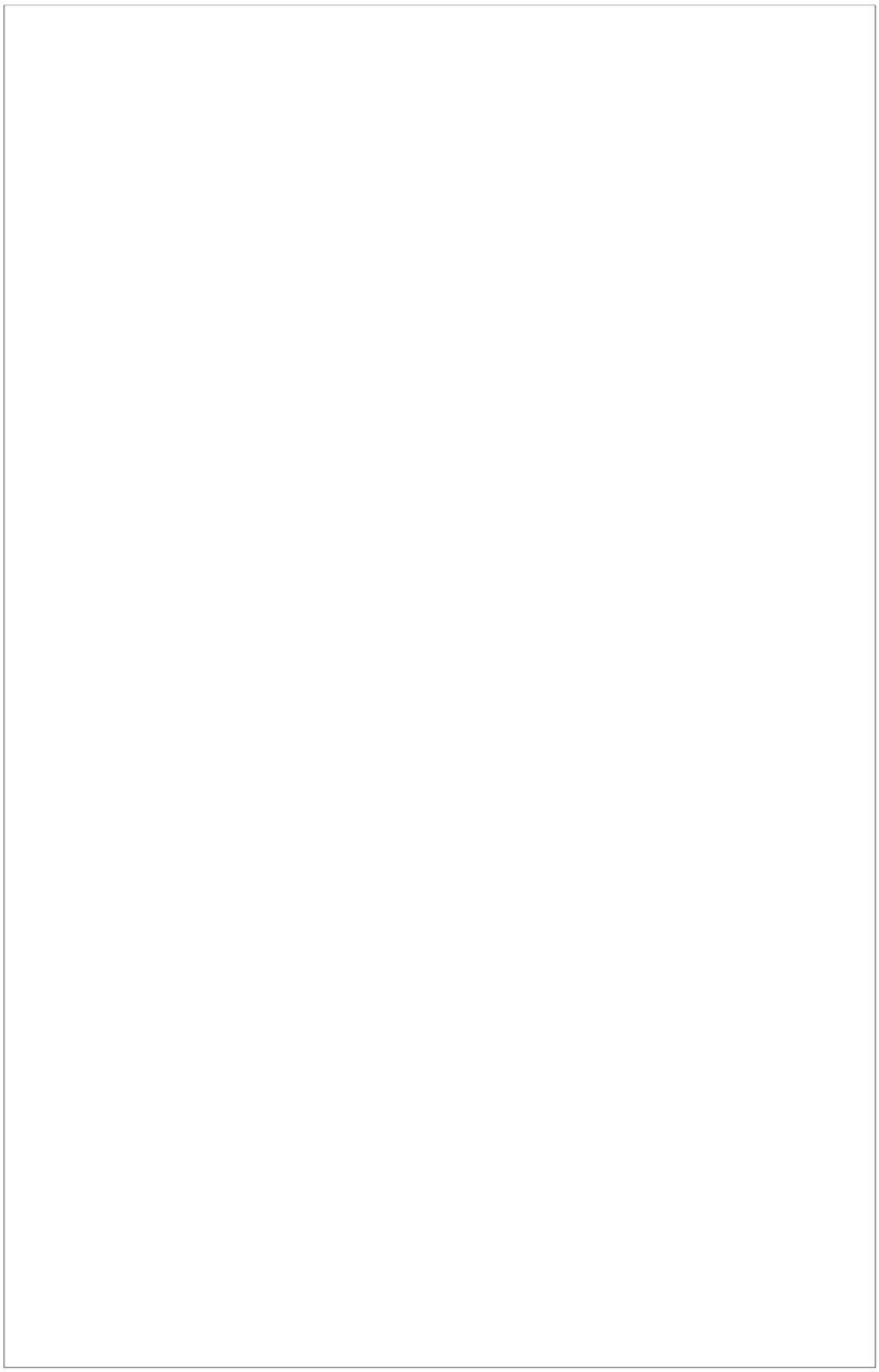

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- Yevgeniy Glazunov served as a junior diplomat/interpreter at the Soviet Embassy in Hanoi (1962-65) and as a senior advisor to the Ambassador (1974-78). Between these assignments, he worked on Vietnamese issues in the International Department of the Central Committee. (b)(1) (b)(3) NatSecAct

Although aware of the existence of the 1205 document when in the Central Committee, he never saw the document. (b)(1) (b)(3) NatSecAct

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- Konstantin Katushev served in the early 1970s as the Central Committee Secretary responsible for maintaining ties with other socialist countries such as North Vietnam.

(b)(1)
(b)(3) NatSecAct

As to the reliability of the 1205 document, Katushev says that, insofar as he signed the document and the GRU had good channels and connections to receive information, he had no reason to doubt that the document was what it purported to be, i.e., a report given by General Tran Van Quang. Katushev says that, since this was new information that had never been seen before, it was worthy of the attention of the Communist Party leadership.

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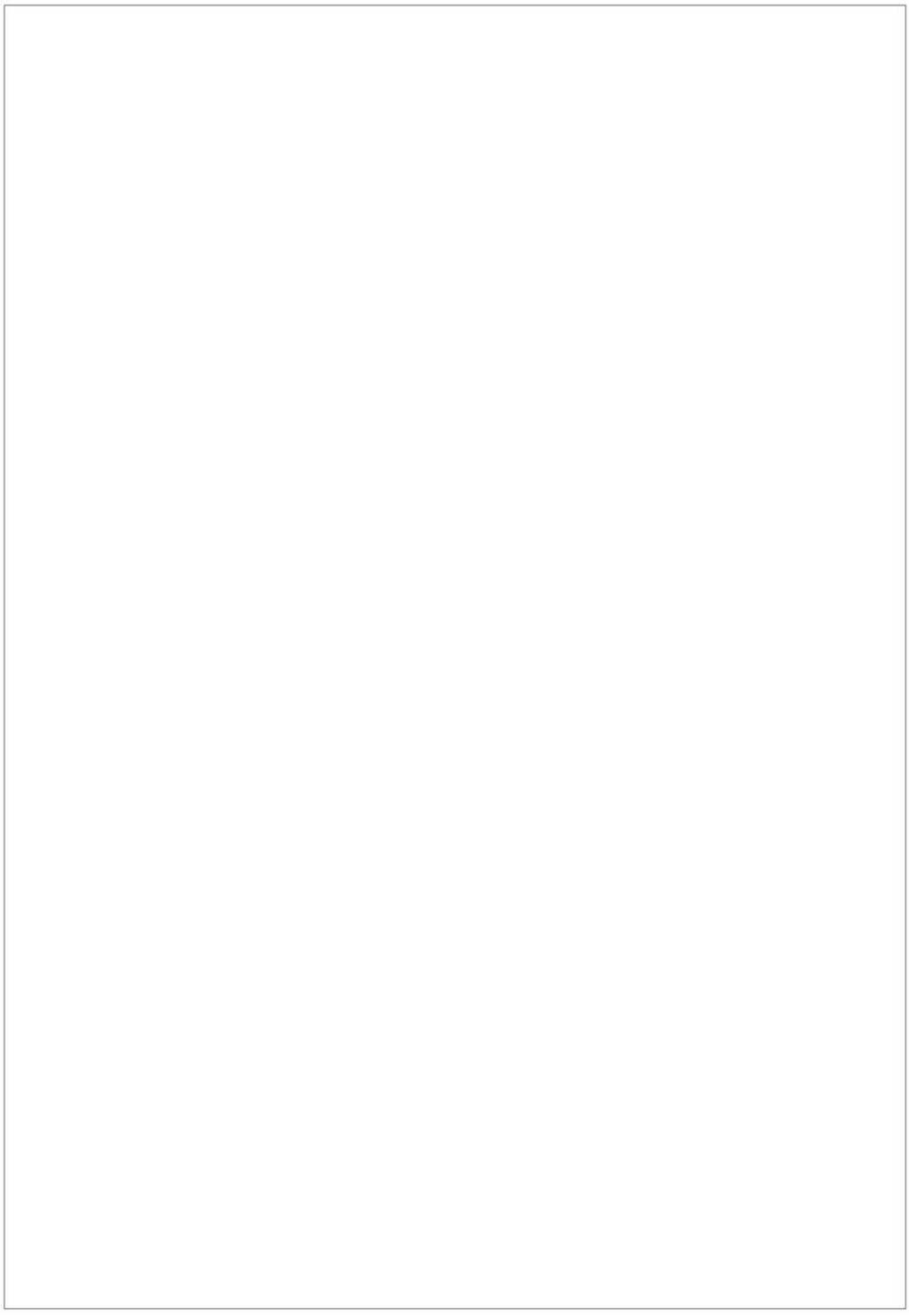

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- General Korabelnikov, Chief of the GRU, in a meeting with Senators Smith and Shelby at the Russian Ministry of Defense,

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He reminded everyone of the letter sent to Senator Smith by General Ladygin (see below), noting that all should pay close attention to that letter. He then proceeded to read it and concluded that he had nothing more to add concerning what General Ladygin wrote.

(b)(1)
(b)(3) NatSecAct

When Senator Smith asked the General if he could confirm that the translation of the 1205 document was a valid translation of a reliable document, Korabelnikov said he had already confirmed that the translation was performed in the GRU in Moscow in 1972 but that the original Vietnamese language version of the document no longer existed.

- General F. Ladygin, former Chief of the GRU, states in a letter to Senator Smith regarding an analysis made by the GRU of the 1205 document, that: the translation of the document was done by the GRU and forwarded to the Central Committee; given his position in the military-political leadership, General Tran Van Quang could have been fully competent on the subjects of the report and able to speak at Politburo meetings; the GRU cannot confirm the accuracy of the number of American POWs in the report (1205), since this information was not essential for the Soviets and not reexamined; and the original report in the

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Vietnamese language was destroyed after being translated in accordance with existing GRU regulations on handling documents.

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- Captain First Rank A. Sivets, a GRU officer,

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revealed that (a Vietnamese) is the source of the 1205 document that this source provided a number of materials to the GRU, and that two GRU assessments of this

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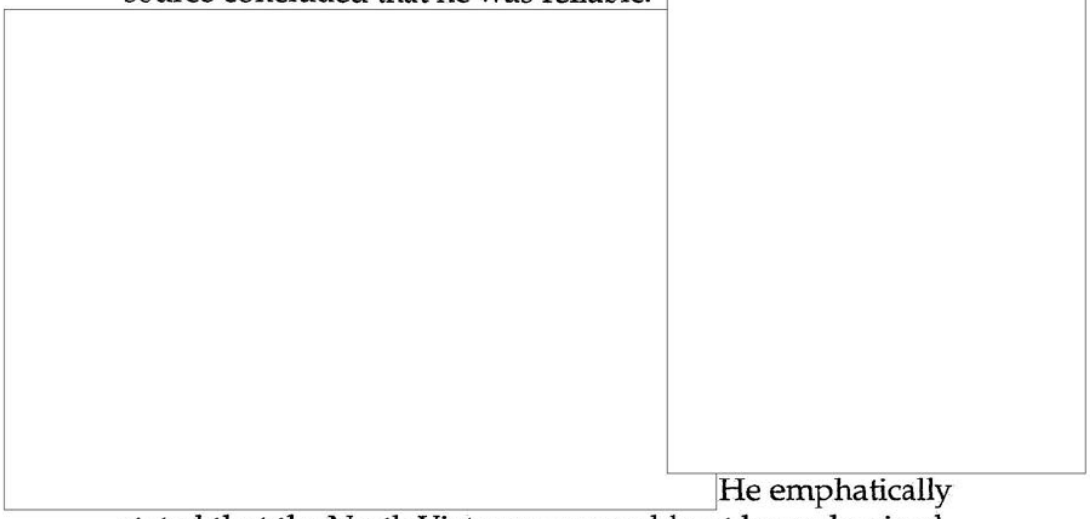
source concluded that he was reliable.



He emphatically stated that the North Vietnamese would not have deceived themselves at a closed Politburo session, noting that they might have provided inaccurate information in press releases or in their negotiations with the Americans, but they would have had no reason to do so in closed sessions of their own political leadership. Sivets acknowledged that this was his personal opinion. Sivets says the GRU performed two assessments of the source's reliability. The agent was judged to be reliable, everything about this agent was in order, and the agent was working for the GRU. The assessment determined that the information received from the agent was first-hand information and accurately reflected the internal political situation in North Vietnam. The GRU would never have sent this information to the Central Committee if there had been any doubt about the reliability of the information.

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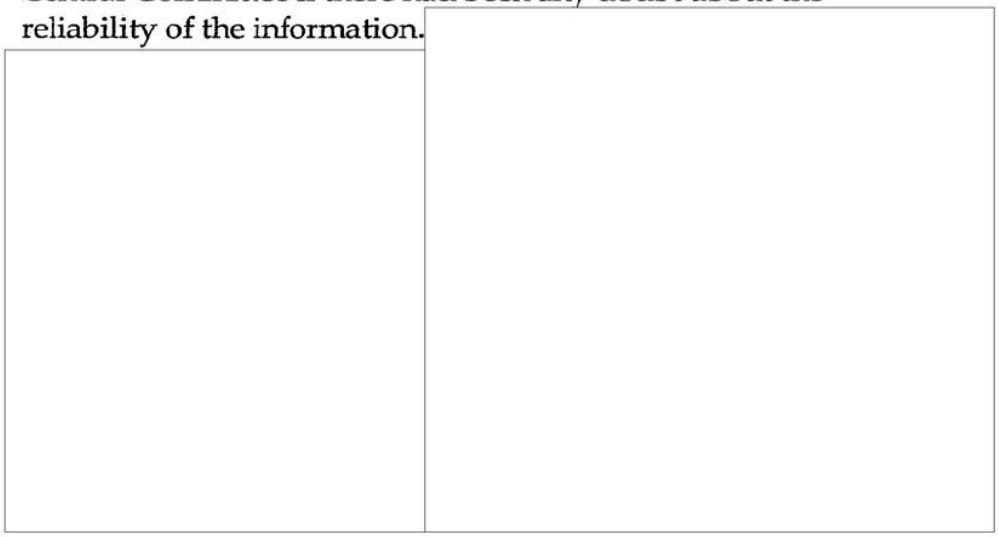

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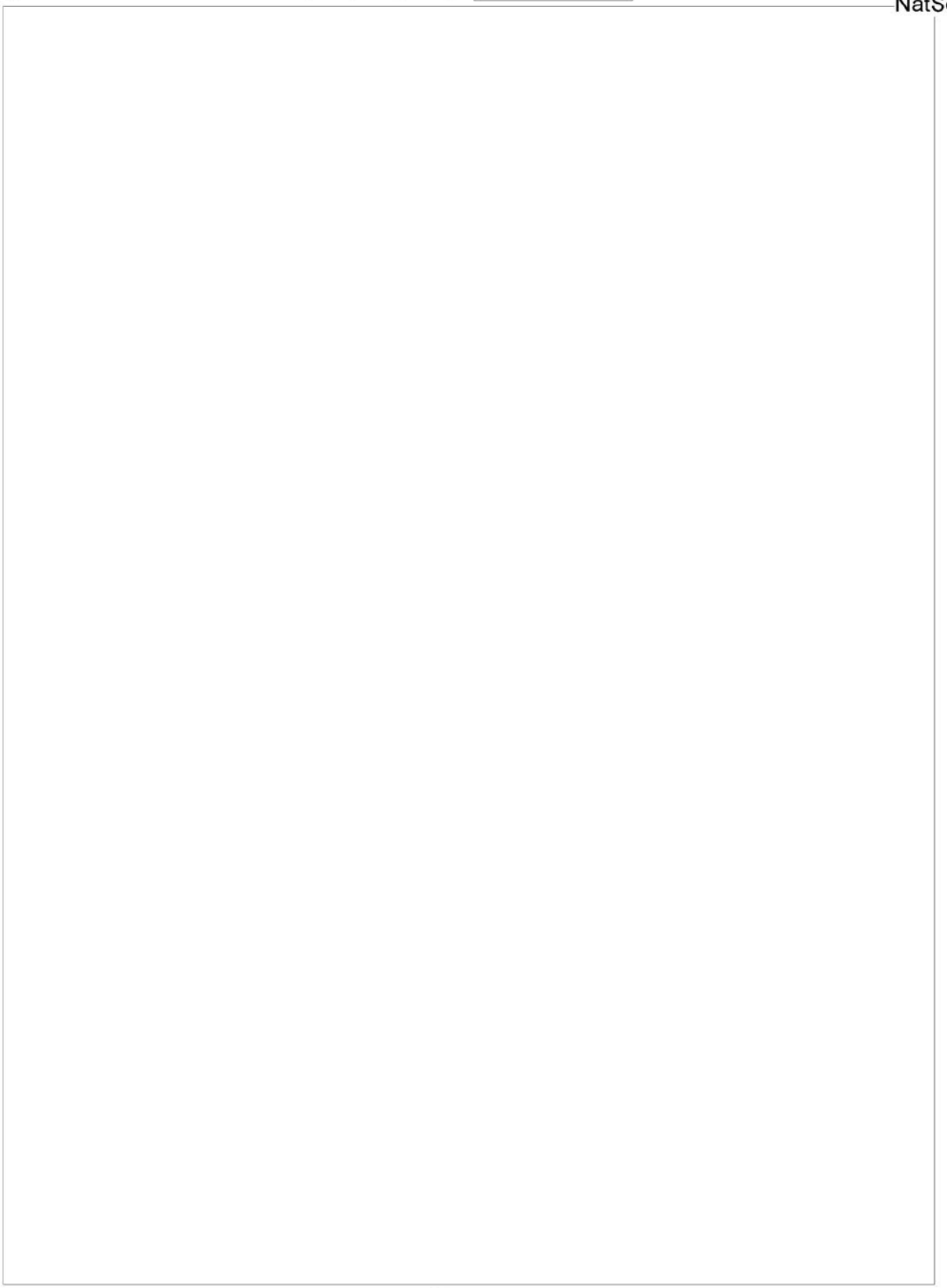

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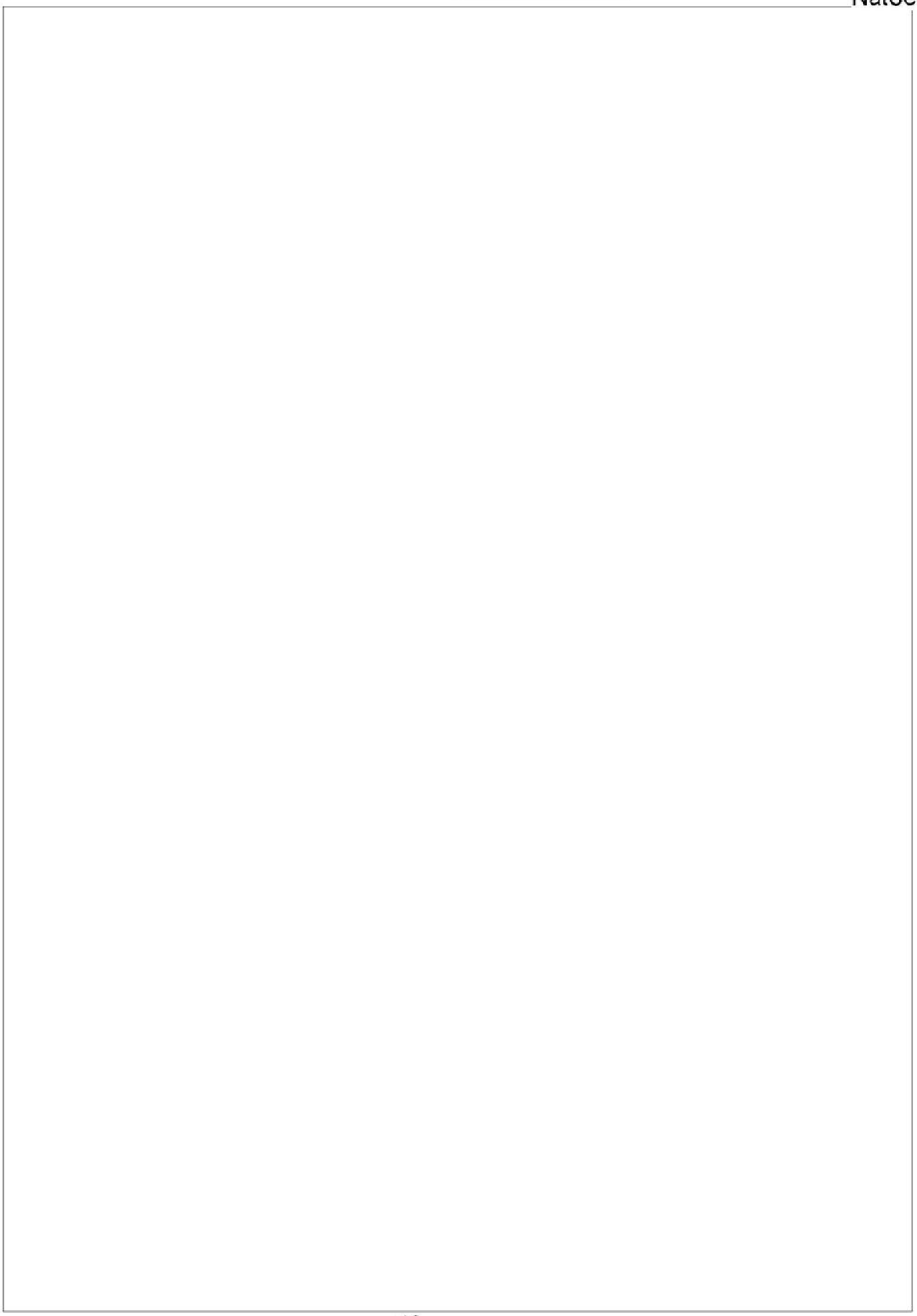

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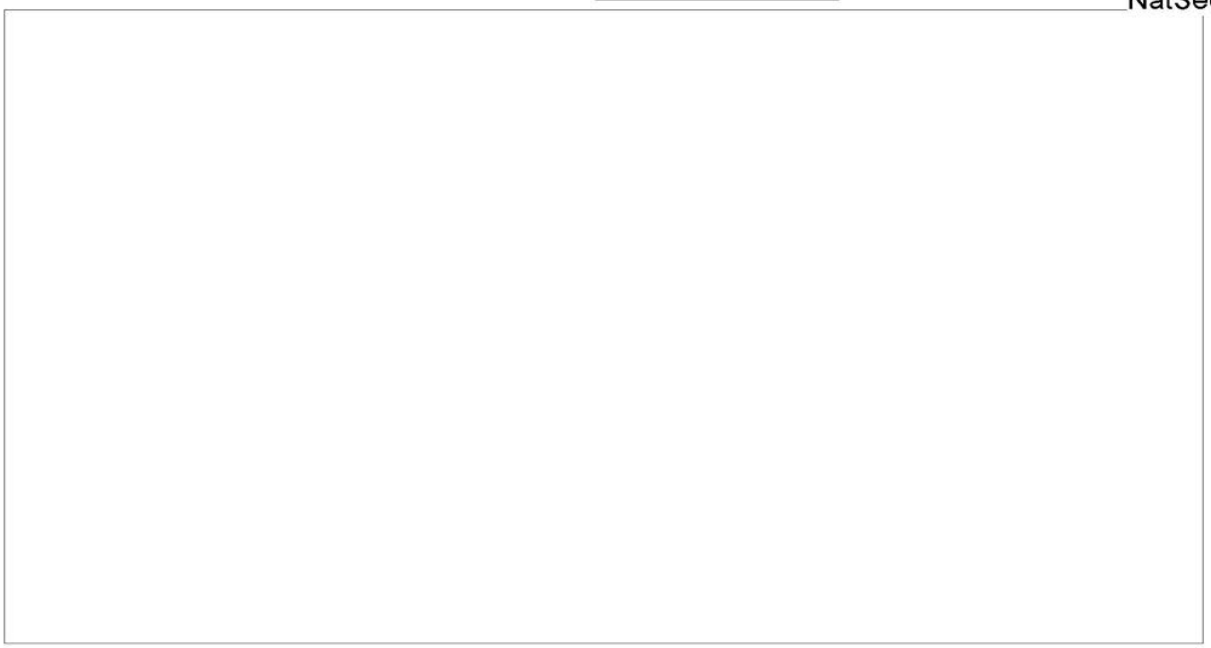

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EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Robert Moore, et al. Plaintiff, v. **CENTRAL INTELLIGENCE AGENCY,** Defendant.	Case No. 20-cv-01027-RCL

DECLARATION OF VANNA BLAINE, INFORMATION REVIEW OFFICER FOR THE LITIGATION INFORMATION REVIEW OFFICE, CENTRAL INTELLIGENCE AGENCY

I, VANNA BLAINE, hereby declare and state:

I. INTRODUCTION

1. I currently serve as the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I have held this position since February 2020.

2. Prior to becoming the IRO for LIRO, I served as the Deputy IRO for LIRO beginning in April 2019, during which time I also served as the Acting IRO in the IRO's absence. Prior to becoming the Deputy IRO for LIRO, I served as the office's Litigation Production Manager for 24

months. In that capacity, I was the senior litigation analyst responsible for managing and tracking case assignments, and litigation deadlines. In this role, I also conducted second-line reviews of Agency information subject to litigation, making classification and release determinations regarding such information when necessary. Before serving as the Production Manager, I was an Associate Information Review Officer for the Director's Area of the CIA for 11 months. In that role, I was responsible for making classification and release determinations for information originating within the Director's Area, which included, among other offices, the Office of the Director of the CIA, the Office of Congressional Affairs, the Office of Public Affairs, and the Office of General Counsel. Prior to that, I was an Associate Information Review Officer and Team Lead in LIRO for 28 months, where I performed similar review functions, routinely making classification and release determinations regarding Agency-wide information subject to pending litigation. I have held other administrative and professional positions within the CIA since 2007, and have worked in the information review and release field since 2014.

3. As the IRO for LIRO, I am currently responsible for the classification review of CIA documents and information that may be the subject of court proceedings or public requests for information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. I am a senior CIA official and hold original classification authority at the TOP SECRET level under written delegation of authority pursuant to section 1.3(c) of Executive Order No. 13,526, 75 Fed. Reg. 707 (Jan. 5, 2010) ("E.O. 13526"). This means I am authorized to assess the current, proper

classification of CIA information, up to and including TOP SECRET information, based on the classification criteria of E.O. 13526 and applicable regulations.

4. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA request. I make the following statements based upon my personal knowledge and information made available to me in my official capacity. I am submitting this declaration in support of the Motion for Summary Judgment the United States Department of Justice filed in this proceeding.

5. The purpose of this declaration is to explain and justify, to the greatest extent possible on the public record, the CIA's actions in responding to Plaintiffs' FOIA request.

II. PLAINTIFFS' FOIA REQUEST

6. By letter dated 25 November 2019, Plaintiffs submitted a FOIA request to the CIA seeking disclosure of 21 items:

i. Request 1: From the period of March 16, 1954 through 1961, all records of CIA's efforts in undertaking "clandestine and covert action to locate, identify, and recover those U.S. prisoners of war still in Communist custody."

ii. Request 2: An unredacted copy of this report (January 5, 1952, *CIA Information Reports*], together with all intelligence material upon which it was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

iii. Request 3: Please produce the [following] referenced [in July 15, 1952, *CIA Cross Reference Sheet*]:
   a) July 15, 1952 "Basic Communication;"
   b) June 24, 1953 "Basic Document;"
   c) Information described as "etcetera;"
   d) POW information in, or otherwise "Routed to, C.I. File;"
   e) POW information related to or bearing the "Cross Reference Number 040;" and

f) POW information related to or bearing the "Classification Number 383.6 Korea."

iv. Request 4: All records regarding the June 1, 1951 shoot down and capture over North Korea of the American F-51 piloted by U.S. Air Force Captain Harry Cecil Moore, born February 11, 1924, in Elm Grove, West Virginia, service number AO 711850[1].

v. Request 5: All records which the following statement from February 27, 1952 Memo from Chief Naval Personnel to Commanding General, Far East Air Force was based: "It is believed that there is a possibility that Captain Moore survived and is now a Prisoner of War."

vi. Request 6: All records regarding Captain Moore's incarceration and transportation from North Korea to the Soviet Union, his locations in the Soviet Union, and all evidence that he "may have been interrogated by Soviet officials."

vii. Request 7: An unredacted version of the July 17, 1952, three page CIA *Information Report*, the subject of which is "Prisoner-of-War Camps in North Korea and China," subtitled "War Prisoner Administrative Office and Camp Classification," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

viii. Request 8: An unredacted copy of the December 31, 1953 CIA *Information Report* regarding a USSR interrogation center in Korea, where, "after interrogation PWs were taken to the USSR," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

ix. Request 9: An unredacted copy of the March 24, 1954 CIA *Information Report* relating that "some PWs listed as missing were in fact turned over to the Soviets," and "will never be released because they will have learned too much about Soviet PW handling techniques," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

x. Request 10: The unredacted and complete version of the April 23, 1954 CIA *Information Report*, "Subject Soviet Concentration Camps in the Vorkuta Area."

[1] As explained below, this request is identical to Plaintiffs' prior request no. 1 in F-2017-02391. We addressed this request in our 28 March 2018 correspondence with Plaintiffs and, as a result, no search was conducted for Request 4 of this FOIA request.

xi. Request 11: The unredacted, and complete, version of the April 27, 1954 CIA Information Report relating "information regarding the presence of US prisoners captured during the Korea War" in camps in Komsomolsk, Magadan, Chita, and Irkutsk, USSR, together with the materials upon which the Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

xii. Request 12: The unredacted and complete version of the December 8, 1954 CIA Information Report, "Subject Alleged American Held in Soviet Prison."

xiii. Request 13: On January 15, 1992, an individual who had been a KGB officer from 1974 to 1984 appeared at the US Embassy in Helsinki, Finland, and reported that, to "ease his conscience," he was reporting that "three Americans were still being held in the camps of Mordovia in July 1978." The source "added that if necessary, he can provide more detailed information." Produce any and all information related to this Report.

xiv. Request 14: A complete and unredacted version of the March 9, 1988 CIA Memorandum to "US Army Chief, Special Office for Prisoners of War and Missing in Action," referencing two 1980 sightings and one 1988 sighting of "31 Caucasians, possibly American prisoners from the Korean war, in the fall of 1979," together with all intelligence material upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

xv. Request 15: All records relating to any of the POW/MIAs named in an attached list.

xvi. Request 16: Any and all records relating that any POW/MIAs may have been held in the prisons identified in an attached list of Russian prison camps.

xvii. Request 17: For the period beginning June of 1951, and continuing to the present time, please produce all POW records provided to, or received from, any office of any component of the Department of Defense, including but not limited to:

a) CCRAK
b) Air Force 6004 Air Intelligence Service Squadron during the tenure of "Project American"
c) Missing in Action Office, including those provided in response to the February 12, 1997 letter from U.S. House of Representatives James Talent seeking "intelligence pertaining to American prisoners who were taken to China and the Soviet Union during the

war," as well as "(a) the 389 American service members who into the 1980s were listed as unaccounted prisoners of war by the United Nations Command Military Armistice Commission (UNCMAC) and (b) all US Air Force F-86 pilots who remain unrepatriated."

d) Air Force Office of Special Investigations, or AFOSI
e) Naval Criminal Investigative Service, or NCIS
f) Army Criminal Investigation Command, or CID
g) U.S. Army Combined Command Reconnaissance Activities Far East, or CCRAFE

xviii. Request 18: All POW records prepared by any officer, agent, or employee of the CIA, prepared for the Office of the President, including the President's Daily Brief, or PDB, that include information on the possibility of POWs being transferred to the Soviet Union or China.

xix. Request 19: Any records reflecting communications with Members of Congress, or Congressional oversight committees concerning the capture of American airmen during the Korean conflict who may have been transported to the Soviet Union or China and their presumed fate.

xx. Request 20: All records concerning POWS and KGB defector Yuri (or Yury) Rastvorov, who informed the United States Government that American military personnel were taken to the Soviet Union during the Korean conflict. Request included an unredacted version of an attached page with the heading "Terminology."

xxi. Request 21: All intelligence material (including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports) concerning statements made by former Czech General Jan Sejna and other former Czech officials concerning US POWs held, interrogated and experimented on by Czech and Soviet advisors, and thereafter transferred to China, Czechoslovakia, East Germany, and the Soviet Union.

7. By letter dated 10 December 2019, the CIA acknowledged receipt of Plaintiffs' FOIA request and assigned it reference number F-2020-00473. A true and correct copy of this letter is attached as Exhibit A.

8. On 20 April 2020, Plaintiffs filed a complaint in this Court naming the CIA as Defendant. The CIA filed its Answer to the complaint on 03 June 2020.

9. By letter dated 07 October 2020, CIA provided an interim response to Plaintiffs whereby it identified six documents responsive to Plaintiffs' request that could be released in segregable form. A true and correct copy of this letter is attached as Exhibit B.

10. By letter dated 22 October 2020, CIA provided a second interim response to Plaintiffs whereby it identified two documents responsive to Plaintiffs' request that could be released in segregable form. A true and correct copy of this letter is attached as Exhibit C.

11. By letter dated 08 January 2021, CIA provided a third interim response to Plaintiffs whereby it identified an additional three documents responsive to Plaintiffs' request, one of which could be released in full, another in segregable form, and the last document withheld in full. A true and correct copy of this letter is attached as Exhibit D.

12. By letter dated 30 April 2021, CIA provided a fourth interim response to Plaintiffs whereby it identified an additional eight documents responsive to Plaintiffs' request. Three documents were released in full, four in segregable form, and one document was withheld in full. A true and correct copy of this letter is attached as Exhibit E.

13. By letter dated 25 June 2021, CIA provided a fifth interim response to Plaintiffs whereby it identified an additional five documents responsive to Plaintiffs' request. One document was released in full, two in segregable form, and two were withheld in full. A true and correct copy of this letter is attached as Exhibit F.

14. By letter dated 16 September 2021, CIA provided a sixth interim response to Plaintiffs whereby it identified an additional thirteen documents responsive to Plaintiffs' request that could be released in segregable form. A true and correct copy of this letter is attached as Exhibit G.

15. By letter dated 13 October 2021, CIA issued its final response to Plaintiffs, wherein it noted that a thorough search for records responsive to the request yielded two additional documents responsive to Plaintiffs' request. One document was released in full, the other in segregable form. A true and correct copy of this letter is attached as Exhibit H.

16. By letter dated 16 November 2021, CIA issued a supplemental final response to Plaintiffs after determining additional information was releasable. Upon further review, CIA determined it would no longer rely on a (b)(5) FOIA exemption in one of the documents previously released (C00465476). CIA re-issued this document to Plaintiffs along with the supplemental final response letter. A true and correct copy of this letter is attached as Exhibit I.

17. In total, CIA produced twenty-nine documents in part, six documents in full, and withheld four documents in full. Redactions and withholdings were both made pursuant to FOIA exemptions (b)(1), (b)(3), and (b)(6).[2]

[2] The CIA is no longer relying on exemption (b)(5) for portions of C00465476 and C06010920. As discussed above, CIA determined there was additional releasable information related to C00465476 and re-issued the document to Plaintiffs. As noted in CIA's *Vaughn* Index, redactions in C06010920 previously supported by (b)(5) exemptions remain supported by other exemptions, thus CIA determined no additional information was releasable.

18. With respect to any records that might reveal a classified or unacknowledged connection to the Agency, the CIA issued a "Glomar" response,[3] indicating that the CIA could neither confirm nor deny the existence or nonexistence of such records, as the mere fact of their existence or nonexistence of records was properly classified and protected from disclosure under FOIA Exemptions (b)(1) and (b)(3). In its final production letter dated 13 October 2021, CIA confirmed that it could neither confirm nor deny the existence or nonexistence of records responsive to items 1, 5-6, 13, 16-17, and 21 of Plaintiffs' request. A true and correct copy of this letter is attached as Exhibit H.

III. CIA'S SEARCH FOR RECORDS

19. The CIA's search included an exhaustive electronic and hard copy search of Agency records, including archived records. The CIA employees who performed the necessary searches have access to the pertinent records, are qualified to search those records, and regularly search those records in the course of their professional duties.

20. The CIA conducted thorough and diligent searches of relevant systems of records that were reasonably calculated to find documents responsive to Plaintiffs' request (if such records existed). Given the age and type of records Plaintiff requested, CIA information management professionals searched all Agency records in three different records

[3] This term is derived from the case Phillippi v. CIA, 546 F.2d 1009 (D.C. Cir. 1976), which upheld CIA's use of a "neither confirm nor deny" response to a FOIA request for records concerning CIA's reported contacts with the media regarding Howard Hughes's ship, the "Hughes Glomar Explorer."

systems. Those systems encompass: (1) indices of all archived hard-copy Agency records; (2) electronic versions of all Agency records that have been reviewed and/or compiled for potential public release; and (3) multiple repositories of non-operational intelligence reporting from various sources. Where hard-copy files were identified as possibly containing relevant records, CIA information management professionals hand-searched those records in their entirety without the use of terms or other filtering mechanisms.

21. As discussed below, with regard to any records responsive to Plaintiffs' FOIA request that might reveal a classified or unacknowledged connection to the CIA, the Agency invoked the Glomar response, refusing to confirm or deny the existence or nonexistence of such records because the existence or nonexistence of such records is itself a currently and properly classified fact that could reveal clandestine CIA intelligence activities, sources, and methods.

A. CIA's Search for Records Responsive to Items 2, 3, 4, 7, 8-10, 11-12, 14-15, and 18-20

22. The CIA conducted the search for records pursuant to the processes explained above. Below, the search terms, date range, and number of responsive records located is detailed by item.

23. **For Item 2:** A search was conducted for the unredacted copy of the January 5, 1952 CIA Information Report attached to the Plaintiffs' complaint. CIA determined that Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" is not reasonably described, as required by the

FOIA statute, and, as such, did not conduct any further search related to this request. One record was located.

24. **For Item 3:** A search was conducted for the referenced material in the July 15, 1952 CIA Cross Reference Sheet identified by the Plaintiffs. CIA searched for part (a) "Basic Communication" and part (b) "Basic Document" referenced in the document attached to the request. CIA did not conduct a search related to parts (c)-(f) of the request, as CIA believes the scope of the requested items for those parts was not reasonably defined. Two records were located related to parts (a) and (b).

25. **For Item 4:** No search was conducted related to this request under collateral estoppel as this request is identical to a previous FOIA request submitted by Plaintiffs, assigned reference number F-2017-02391. We addressed this request in our March 28, 2018 correspondence with plaintiffs and thus did not re-address it in this FOIA request.

26. **For Item 7:** A search was conducted to locate the unredacted copy of the July 17, 1952, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" is not reasonably described, as required by the FOIA statute, and, as such, did not conduct any further search related to this request. One record was located.

27. **For Item 8:** A search was conducted for the unredacted copy of the December 31, 1953, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "all

intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" is not reasonably described, as required by the FOIA statute, and, as such, did not conduct any further search related to this request. One record was located.

28. **For Item 9:** A search was conducted for the unredacted copy of the March 24, 1954, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" is not reasonably described, as required by the FOIA statute, and, as such, did not conduct any further search related to this request. One record was located.

29. **For Item 10:** A search was conducted for the unredacted copy of the April 23, 1954, CIA Information Report attached to Plaintiffs' complaint. One record was located.

30. **For Item 11:** A search was conducted for the unredacted copy of the April 27, 1954, CIA Information Report attached to Plaintiffs' complaint. CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" is not reasonably described, as required by the FOIA statute, and, as such, did not conduct any further search related to this request. One record was located.

31. **For Item 12:** A search was conducted for the unredacted copy of the December 8, 1954 CIA Information Report attached to Plaintiffs' complaint. One record was located.

32. **For Item 14:** A search was conducted for the unredacted copy of the March 9, 1988 CIA Memorandum to "US Army Chief, Special Office for Prisoners of War and missing in Action." CIA believes Plaintiffs' additional request for "all intelligence material upon which [the report] was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports" is not reasonably described, as required by the FOIA statute, and, as such, did not conduct any further search related to this request. One record was located.

33. **For Item 15:** A search was conducted using the names provided by Plaintiffs, along with "Prisoner of War," "Killed in Action," "Missing in Action," "Missing Person," "Defense Prisoner of War" and their variations. Eight records were located.

34. **For Item 18:** A search was conducted for POW records prepared by CIA for the Office of the President using key terms, including "Prisoner of War," "Missing in Action," "transfer," "Soviet Union," "Russia," "China," "Korea" and their variations. Search parameters were extended to March 17, 2021. Three records were located.

35. **For Item 19:** A search was conducted using the terms "American Airmen/pilots," "capture/prisoner/missing/POW," "Korea," "Soviet Union," "Russia," "China," "transport," "movement," "Congress," "memorandum" and their variations. The date range searched included June 1, 1950 to August 25, 2021. Fifteen records were located.

36. **For Item 20:** A search was conducted using "Yuri Rastvorov," "Yury Rastvorov" and their variations with no date restrictions. Four records were located.

37. In total, the CIA identified 39 documents responsive to these searches. The Agency conducted a line-by-line review of each document and identified information that could be released and information that is exempt from disclosure because of classification, privacy, or privilege concerns. Following that review, the CIA determined it would release six of the documents in full, 29 of the documents in part, and withheld four documents in full.

IV. EXEMPTIONS CLAIMED

38. As explained below, the CIA withheld in part certain records responsive to Plaintiffs' FOIA request pursuant to FOIA Exemptions (b)(1), (b)(3), and (b)(6).[4]

39. The CIA also can neither confirm nor deny the existence or nonexistence of records responsive to items 1, 5-6, 13, 16-17, and 21 of Plaintiffs' request. Official confirmation of whether such records do, or do not, exist would reveal a classified and statutorily-protected fact within the meaning of FOIA Exemptions (b)(1), and (b)(3). This response is commonly referred to as the Glomar response.

A. FOIA Exemption (b)(1)

40. Exemption (b)(1) provides that the FOIA does not require the production of records that are: "(A) specifically authorized under

[4] As previously discussed, CIA is no longer relying on FOIA exemption (b)(5) for any document related to this request.

criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order." 5 U.S.C. § 552(b)(1). Here, the information withheld pursuant to Exemption 1 satisfies the procedural and the substantive requirements of Executive Order 13526, which governs classification. *See* E.O. 13526 § 1.1(a), § 1.4(c)-(d).

41. Section 1.1(a) of Executive Order 13526 provides that information may be originally classified only if all of the following conditions are met: (1) an original classification authority is classifying the information; (2) the information is owned by, produced by or for, or is under the control of the U.S. Government; (3) the information falls within one or more of the categories of information listed in section 1.4 of Executive Order 13526; and (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in some level of damage to the national security, and the original classification authority is able to identify or describe the damage.

i. FOIA Exemption (b)(1) as Applied to Records Released in Part

42. As an original classification authority, I have determined that portions of the records responsive to Plaintiffs' request are currently and properly classified. Additionally, the U.S. Government owns and controls this information. Here, the information falls under classification categories § 1.4(c) and § 1.4(d) of the Executive Order because it concerns "intelligence activities (including covert action), [or] intelligence sources or methods" and "foreign relations or foreign

activities of the United States." Additionally, the information's unauthorized disclosure could reasonably be expected to result in damage to national security. Further, the responsive documents that contain classified information are properly marked in accordance with § 1.6 of the Executive Order.

43. I also note that, in accordance with § 1.7(a) of the Order, none of the information at issue has been classified in order to conceal violations of law, inefficiency or administrative error; prevent embarrassment to a person, organization or agency; restrain competition; or prevent or delay the release of information that does not require protection in the interests of national security.

44. The records Plaintiffs requested cover a range of Agency functions and operations, and contain classified information related to: the priority of intelligence activities and targets; methods of collection; and classified relationships. For these reasons, the CIA has applied Exemption (b)(1) to currently and properly classified information. Despite the passage of time, this information remains currently and properly classified because the release of this information could significantly impair the CIA's ability to carry out its core missions of gathering and analyzing foreign intelligence and counter intelligence and conducting intelligence operations, thereby damaging the national security.

45. *Intelligence Activities.* Intelligence activities refer to the CIA's targets and operations, including the means the CIA utilizes to collect intelligence. Here, disclosure of information contained in the CIA documents would reveal the means, policies, and approval processes

used to collect certain CIA intelligence interests and activities. Although it is widely acknowledged that the CIA is responsible for conducting intelligence collection and analysis for the United States, the CIA generally does not disclose the targets of specific intelligence collection activities or the operations it conducts or supports because such disclosure would allow intelligence targets to circumvent the CIA's collection efforts, damaging the Agency's ability to carry out its intelligence mission. Here, the documents at issue contain information that would reveal the priority of specific U.S. intelligence targets, the locations of CIA activities, and the targets of specific CIA operations. Disclosing this type of detail could reasonably be expected to damage national security because it would greatly impair effective collection of foreign intelligence.

46. *Intelligence Methods.* Intelligence methods are the means by which an intelligence agency accomplishes its objectives. Intelligence methods must be protected to prevent foreign adversaries, terrorist organizations, and others from learning the ways in which the CIA operates, which would allow them to take measures to hide their activities from the CIA or target Agency officers. The more information the CIA discloses about its operational tradecraft, the more difficult it becomes for the CIA to actually collect foreign intelligence around the world. Clandestine information collection methods are valuable from an intelligence-gathering perspective only so long as they remain unknown and unsuspected. Once the nature of an intelligence method or the fact of its use in a certain situation is discovered, its usefulness in that situation is neutralized and the CIA's ability to apply that method in

other situations is significantly degraded. Here, the documents contain specific types of intelligence methods, as well as policies and processes for utilizing those intelligence methods. Disclosure of these details would likely impair the CIA's ability to continue to collect intelligence and conduct operations.

47. *Classified Relationships.* The CIA also protects the nature and details of classified relationships because this information would disclose specific intelligence sources, methods, and activities in operational use, including the identities of individuals and foreign partners who do business with the Agency. Here, certain documents at issue discuss the process and policies for working with foreign services, foreign individuals, and clandestine assets to aid the CIA in its intelligence operations. These details have been withheld because their disclosure would reveal intelligence priorities, and the CIA's information-sharing relationships with specific foreign individuals and governments. This information constitutes "foreign government information" and "information pertaining to the foreign relations or activities of the United States" under Executive Order 13526. Revelation of these relationships could hurt the Agency's relationship with these entities – entities that often agree to cooperate with the CIA on the understanding that the relationship will remain secret. Disclosing the details of these relationships could reasonably be expected to harm national security because it would reveal certain interests and activities of the U.S. Government, and could lead to the deterioration of relationships, thereby decreasing the CIA's access to information.

ii. **FOIA Exemption (b)(1) as Applied to the CIA's Glomar Response**

48. Consistent with sections 1.1(a) and 3.6(a) of Executive Order 13526,[5] I have determined the fact of the existence or nonexistence of classified records responsive to items 1, 5-6, 13, 16-17, and 21 of Plaintiffs' FOIA request are currently and properly classified. The existence or nonexistence of these records pertains to "intelligence activities (including covert action), [or] intelligence sources or methods" and "foreign relations or foreign activities of the United States, including confidential sources" within the meaning of sections 1.4(c) and 1.4(d) of the Executive Order.

49. Further, section 3.6(a) of Executive Order 13526 specifically states "[a]n agency may refuse to confirm or deny the existence or nonexistence of requested records whenever the fact of their existence or nonexistence is itself classified under this order or its predecessors." Executive Order 13526 therefore explicitly authorizes precisely the type of response the CIA provided to Plaintiff.

50. Here, the mere confirmation of whether certain responsive records do, or do not, exist would, in and of itself, reveal a classified fact: whether or not the CIA has an intelligence interest in or clandestine connection to a particular individual, group, subject-matter, or activity.

51. To be credible and effective, the CIA must use the Glomar response consistently, including instances in which the CIA does not

[5] Section 1.1(a) sets forth procedural standards for classification, which have been satisfied in this case. Section 3.6(a) provides that, "[a]n agency may refuse to confirm or deny the existence or nonexistence of requested records whenever the fact of their existence or nonexistence is itself classified under this order or its predecessors."

possess records responsive to a particular request. If the CIA were to invoke a Glomar response only when it actually possessed responsive records that revealed intelligence interests, connections or activities as described above, the Glomar response would be interpreted over time as an admission that responsive records exist. This practice would reveal the very information that the CIA must protect in the interest of national security.

52. Terrorist organizations, foreign intelligence services, and other hostile groups search continually for information regarding the activities of the CIA and are able to gather information from a myriad of sources, analyze this information, and devise ways to defeat CIA activities from seemingly disparate pieces of information. Even where the subject of an intelligence interest or a group the CIA has engaged with in connection with intelligence operations is no longer of interest or engaged in operations, the CIA's adversaries continue to seek such information, as it may reveal to these adversaries the focus of the CIA's intelligence activities.

53. After careful review, I have determined that if the CIA were to confirm or deny the existence or nonexistence of records responsive to items 1, 5-6, 13, 16-17, or 21 of Plaintiffs' FOIA request, such confirmation or denial would reveal sensitive information about the CIA's intelligence interests, personnel, capabilities, authorities, and resources that Executive Order 13526 protects from disclosure. Adversaries of the U.S. government could use such information to better predict CIA intelligence sources and methods.

54. In sum, merely confirming or denying that the CIA does or does not possess records regarding the requested items would serve to reveal classified intelligence information. In either case, such an admission would implicate intelligence sources and methods in a manner that could reasonably be expected to cause damage to U.S. national security because it would reveal facts about the CIA's clandestine intelligence activities to Plaintiffs and the public. Thus, this information is currently and properly classified, and consequently exempt from disclosure under FOIA exemption (b)(1).

B. FOIA Exemption (b)(3)

55. FOIA Exemption (b)(3) provides that FOIA does not apply to matters that are:

> Specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld. . .

5 U.S.C. § 552(b)(3).

56. Here, Section 102A(i)(1) of the National Security Act of 1947, as amended, 50 U.S.C. § 3024(i)(1) (the "National Security Act"), and the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 3507, apply.

57. The National Security Act provides that the Director of National Intelligence ("DNI"), "shall protect intelligence sources and methods from unauthorized disclosure." Accordingly, it is well-established that the National Security Act constitutes a federal statute which "requires that the matters be withheld from the public in such a

manner as to leave no discretion on the issue." 5 U.S.C. §552(b)(3). Under the direction of the DNI pursuant to section 102A, and consistent with section 1.6(d) of Executive Order 12333, the CIA is required to protect CIA intelligence sources and methods from unauthorized disclosure. As addressed above, some of the records responsive to Plaintiffs' request contain classified information related to the priority of intelligence activities and targets, and methods of collection. Additionally, acknowledging the existence or nonexistence of records reflecting a classified connection to the CIA would reveal information that concerns intelligence sources and methods. The National Security Act is designed to protect both instances.

58. Further, section 6 of the CIA Act provides that the CIA shall be exempted from the provisions of any law which requires the publication or disclosure of the "organization, functions, names, official titles, salaries, or numbers of personnel employed by CIA". The CIA Act therefore constitutes a federal statute which "establishes particular criteria for withholding or refers to particular types of matters to be withheld." 5 U.S.C. § 552(b)(3). As this declaration has explained, section 6 of the CIA Act supports the CIA's final response here in two instances: where the CIA released records in part, withholding information such as titles, names, identification numbers, functions, and organizational information related to CIA employees; and where the CIA issued a Glomar response, refusing to acknowledge the existence or nonexistence of the requested records that would require the CIA to disclose information about its functions.

59. In contrast to Exemption (b)(1), Exemption 3 does not require the CIA to identify and describe the damage to national security that reasonably could be expected to result in harm should the CIA disclose the information. Nonetheless, I refer the Court to the paragraphs above for a description of the damage to national security should the Court require the CIA to disclose this information. Disclosure of this information would also reveal sensitive security requirements, potentially putting Agency officers at risk, and increasing the likelihood of exposure of sensitive information.

60. FOIA Exemptions (b)(1) and (b)(3) thus apply independently and co-extensively to the aspect of Plaintiffs' request that would show a classified or unacknowledged association with the Agency.

C. FOIA Exemption (b)(6)

61. Exemption 6 protects from disclosure "personnel and medical files and similar files when the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). Courts have broadly construed the term "similar files" to cover any personally identifying information. In applying Exemption 6, an agency is required to balance the relevant privacy interests of the individuals against the public interest in disclosure. In order to withhold information pursuant to Exemption 6, an agency must determine that the disclosure "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). The public interest in the FOIA

context is defined as information that would "shed[ ] light on the performance of [an Agency's] statutory duties."[6]

62. Here, nineteen of the documents at issue contain personally identifiable information, including names, signatures, and other identifying information, in which the individuals maintain a cognizable privacy interest.[7] The release of the redacted names and other identifying information is reasonably likely to subject those individuals or those associated with them to increased harassment or threats based on their association with the CIA. This is true of both individuals employed by the CIA, as well as individuals associated with it. By contrast, there is no countervailing public interest in disclosure. Revealing the identities of these specific individuals, or information that would allow them to be identified, will not shed light on the conduct of the Agency's activities or operations beyond what is already being disclosed to the public through the release in part of these records. I note that in instances where the documents refer to high ranking officials, such that the disclosure of that individual's connection to the information at issue is potentially relevant to an understanding of the Government's actions, those names remain unredacted.

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[6] Department of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 773 (1989).

[7] Documents containing personally identifiable information withheld under Exemption 6 include: C00046678, C00437028, C00465476, C00495799, C06002273, C06002566, C06010742, C06010860, C06010917, C06010920, C06444587, C06471810, C06471815, C06471817, C06891138, C06898446, C06914415, C06914416, C03100305.

63. As a result, disclosure of the redacted names or identifying information of certain individuals would constitute a clearly unwarranted invasion of personal privacy.

64. Therefore, I have determined that Exemption 6 applies to the names and identifying information of CIA employees and the names of non-agency personnel appearing in these records. Accordingly, the CIA has applied Exemption 6 to protect the privacy interest of these individuals.

V. Segregability

65. In evaluating the responsive documents, the CIA conducted a document-by-document and line-by-line review and released all reasonably segregable non-exempt information. In four instances where no segregable, non-exempt portions of the document could be released without potentially compromising classified information or other information protected under the FOIA, the documents were withheld from Plaintiffs in full. In this case, the withheld information challenged by Plaintiffs is protected by Exemptions (b)(1), (b)(3), and (b)(6) because it is classified information concerning intelligence sources, methods and activities, and also contains personally identifiable information related to CIA personnel.

* * *

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 08 day of December 2021.

/Vanna Blaine/

Vanna Blaine
Information Review Officer
Litigation Information Review Office
Central Intelligence Agency

EXHIBIT C

UNCLASSIFIED

Central Intelligence Agency

Washington, D.C. 20505

1 March 2024

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is in response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding:

Request 1
For the period of March 16, 1954, through 1961, all records of CIA's efforts in undertaking "clandestine and covert action to locate, identify, and recover those U.S. prisoners of war still in Communist custody."

Request 2
The subject of the attached, redacted, version of the January 5, 1952, *CIA Information Report,* is "Preparations for Exchange of United Nations Prisoners in Central and South China." It relates that, "on 18 December, 13 American and 8 British prisoners of war were transferred," that a source "gave names," that "another source referred to American prisoners in the former US consulate," that there is "another report referring to US prisoners in the Canton area," and there is "a recent report from yet another source ...." Please provide an unredacted copy of this Report, together with all intelligence material upon which it was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 3
The "main subject" of the attached July 15, 1952 CIA *Cross Reference Sheet* is "Location of Certain Soviet Transit Camps for POW from Korea, Classification Number 383.6 Korea." It reads:

Date of Basic Communication: 15 July 52 f/w
Date of Basic Document: 24 June 53
Brief Summary:
In December it was known that camps for POW captured by the Communists in Korea had been established, etc. 3-plc

Classifier 488 **Routed to: C.I. File**
Typist 488 **Date of Classifying 17 Aug 59**

Cross Reference Numbers:
040 Central Intelligence Agency

Please produce the referenced:

(a) **July 15 1952 "Basic Communication;"**
(b) **June 24, 1953 "Basic Document;"**
(c) **Information described as "etcetera;"**
(d) **POW information in, or otherwise "Routed to, C.I. File;"**
(e) **POW information related to or bearing the "Cross Reference Number 040;" and**

(e) POW information related to or bearing the "Classification Number 383.6 Korea."

Request 4
All records regarding the June 1, 1951 shoot down and capture over North Korea of the American F-51 piloted by U.S. Air Force Captain Harry Cecil Moore, born February 11, 1924, in Elm Grove, West Virginia, service number AO 711850, including information that he was "now a prisoner of war," and that he was held in the Soviet Union and interrogated there.

Request 5
All records Major Samuel Porter Logan Jr., shot down while piloting a B-29 Super Fortress over North Korea on September 9, 1950, declared missing-in action and presumed dead by the Air Force on March 31, 1954. Major Logan served in the 92nd Bomb Wing, Spokane AFB, 325th Bomb Squadron, 92nd Bomb Group, APO 328.

Request 6
All records concerning Ensign Dwight Clark Angell, USNR service number 552173, born August 17, 1928, who was serving aboard a Navy P2V-5, Squadron VP-22, when it was downed on January 18, 1953.

Request 7
All records concerning Aviation Machinist Mate 1st Class Lloyd Smith Jr., USN service number 6306390, born August 21, 1922. He served aboard a Navy P2V-5, Aviation Squadron VP-22, when the aircraft was downed on January 18, 1953.

Request 8
All records concerning Air Force 1st Lieutenant John Henry Zimmerlee, Jr., service number AOl998932, born on December 6, 1911. Lieutenant Zimmerlee served as navigator aboard a B26C (No. 44-34417) in the Air Force 730th Bomb Squadron, when it was downed on March 21, 1952.

Request 9
All records regarding Master Sergeant Robert Bibb, Army Company C, 3rd Engineer

Combat Battalion, 24th Infantry Division, service number RA- 19076631, born December 6, 1911, captured on July 20, 1950 in Tuejon, South Korea.

Request 10
All records regarding David Louis Hrdlicka, shot down and captured over Laos on May 18, 1965 while piloting an F-105, initially incarcerated in Sam Neua, Laos, at the Pathet Lao Headquarters, and held in Laos at least as late as 1989.

Request 11
All records regarding James Kelly Patterson, shot down and captured over North Vietnam on May 19, 1967, while serving as navigator of the American F-51 piloted by Captain Eugene McDaniel, including Patterson's incarceration, interrogation, and transportation from North Vietnam to the Soviet Union, where he was held as late as 1991.

Request 12
An unredacted version of the attached July 17, 1952, three-page *CIA Information Report,* the subject of which is "Prisoner-of-War Camps in North Korea and China," subtitled "War Prisoner Administrative Office and Camp Classification," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 13
An unredacted copy of the attached December 31, 1953, *CIA Information Report,* regarding a USSR interrogation center in Korea, where, "after interrogation PWs were taken to the USSR," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 14
An unredacted copy of the attached March 24, 1954, *CIA Information Report* relating that "some PWs listed as missing were in fact turned over to the Soviets," and "will never be released because they will have learned too much about Soviet PW handling techniques," together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.

Request 15
The unredacted, and complete, version of the attached April 23, 1954, *CIA Information Report,* "Subject Soviet Concentration Camps in the Vorkuta Area."

Request 16
The unredacted, and complete, version of the April 27, 1954, *CIA Information Report* relating "information regarding the presence of US prisoners captured during the Korean War" in camps in Komsomolsk, Magadan, Chita, and Irkutsk, USSR, together with the materials upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports. The first page of this three-page Report is enclosed.

Request 17
The unredacted, and complete, version of the attached December 8, 1955, *CIA Information Report,* "Subject Alleged American Held in Soviet Prison."

Request 18
On January 15, 1992, an individual who had been a KGB officer from 1974 to 1984 appeared at the US Embassy in Helsinki, Finland, and reported that, to "ease his conscience," he was reporting that "three Americans were still being held in the camps of Mordovia in July 1978." The source "added that if necessary, he can provide more detailed information." For reference, a copy of the January 23, 1992 cable from Embassy Helsinki to Secretary of State is attached. Please produce any and all information related to this Report.

Request 19
***A* complete, and unredacted version of the attached March 9, 1988, *CIA Memorandum* to "US Army Chief, Special Office for Prisoners of War and Missing-in-Action," referencing two 1980 sightings and one 1988 sighting of "31 Caucasians, possibly American prisoners from the Korean war, in the fall of 1979," together with all intelligence material upon which this Report was based, including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports.**

Request 20
All records relating to any of the POW/MIAs named in the attached list.

Request 21
Any and all records relating that any POW/MIAs may have been held in the prisons identified in the attached list of Russian prison camps.

Request 22
By order issued on November 28, 1951, the *Combined Command for Reconnaissance Activity Korea,* or "CCRAK," was created. For your reference, two responsive CCRAK records are attached. *See also* CIA *Clandestine Services History* Historical Paper No. 52, "The Secret War in Korea," written in 1964, and declassified 2007, at p. 78:

By the fall of 1951, CIA Headquarters recognized there were great opportunities if more experienced CIA officers were in Korea. Accordingly, three of the most competent senior clandestine services officers in the Agency were selected: one to be full-time CIA representative and Deputy of CCRAK, another as head of CCRAK's counterintelligence section and doubling as Chief of CIA's counterespionage staff, and the third as Chief of foreign intelligence activities.

For the period beginning June of 1951, and continuing to the present time, please produce all POW records provided to, or receive from, any office of any component of the Department of Defense, including but not limited to:

(a) **CCRAK.**
(b) ***Air Force 6004 Air Intelligence Service Squadron* during the tenure of**

"Project American."

(c) *Missing in Action Office,* including those provided in response to the attached February 12, 1997 letter from U.S. House of Representative James Talent seeking "intelligence pertaining to American prisoners who were taken to China and the Soviet Union during the war," as well as "(a) the 389 American service members who into the 1980s were listed as unaccounted prisoners of war by the United Nations Command Military Armistice Commission (UNCMAC) and

(b) all US Air Force F-86 pilots who remain unrepatriated."

(d) *Air Force Office of Special Investigations,* or AFOSI.

(e) *Naval Criminal Investigative Service,* or NCIS.

(f) *Army Criminal Investigation Command,* or CID.

(g) U.S. Army *Combined Command Reconnaissance Activities Far East,* or CCRAFE.

Request 23

All POW records prepared by any officer, agent, or employee of the CIA, prepared for the Office of the President, including the *President's Daily Brief,* or PDB, that include information on the possibility of POWs being transferred to the Soviet Union or China.

Request 24

Any records reflecting communications with Members of Congress, or Congressional oversight committees concerning the capture of American airmen during the Korean conflict who may have been transported to the Soviet Union or China and their presumed fate.

Request 25

All records concerning POWs and KGB defector Yuri (or Yury) Rastvorov, who informed the United States Government that American military personnel were taken to the Soviet Union during the Korean conflict. This request includes an unredacted version of the attached page with the heading, "Terminology."

Request 26

All intelligence material (including reports, analysis, correspondence, signals intelligence, imagery, and live sighting reports) concerning statements made by former Czech general Jan Sejna and other former Czech officials concerning US POWs held, interrogated and experiment on by Czech and Soviet advisors, and thereafter transferred to China, Czechoslovakia, East Germany and the Soviet Union.

Request 27

The withheld-in-full version of the CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate.*

Request 28

The redacted portions of the November 1998 *Critical Assessment of the 1998 National*

Intelligence Estimate [NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue, **by Senator Bob Smith.**

We have completed a review of ninety-seven (97) documents, which can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3) and (b)(6). We have identified additional material that must be withheld in its entirety based on FOIA exemptions (b)(1), (b)(3) and (b)(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents. Additionally, we have identified responsive material this is being coordinated with other agencies.

A final response will be provided to you on a later date.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT D

Central Intelligence Agency

Washington, D.C. 20505

23 May 2024

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is an interim response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of an additional three (3) documents for release. One (1) document can be released in full and two (2) can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3) and (b)(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents. We have also reissued one (1) document from our response dated 1 March 2024, "Preparations for Exchange of United Nations Prisoners in Central and South China," for which we have identified additional releasable material.

All remaining responsive material is currently being coordinated with other agencies. Additional responses will be provided as agreed.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT E

Central Intelligence Agency

Washington, D.C. 20505

15 July 2024

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is an interim response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of one (1) additional document for release. The one (1) document, comprising 41 pages, can be released in segregable form with redactions made on the basis of FOIA exemption (b)(6).

All remaining responsive material is currently being coordinated with other agencies.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT F

Central Intelligence Agency

Washington, D.C. 20505

26 September 2024

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is an interim response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of two (2) additional documents for release. The two (2) documents, comprising 21 pages, can be released in segregable form with redactions made on the basis of FOIA exemptions b(1), (b)(3), b(5), and b(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents, and/or Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents.

All remaining responsive material is currently being coordinated with other agencies.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT G

Central Intelligence Agency

Washington, D.C. 20505

26 November 2024

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is an interim response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of seven (7) additional documents for release. The seven (7) documents, comprising 107 pages, can be released in segregable form with redactions made on the basis of FOIA exemptions b(1), (b)(3), and b(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 10 U.S.C. § 424, as amended, noted as exemption "(b)(3) 10 USC 424" on the enclosed documents; and/or Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C. § 3605, as amended, noted as exemption "(b)(3) 50 USC 3605" on the enclosed documents.

All remaining responsive material is currently being coordinated with other agencies.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT H

Central Intelligence Agency

Washington, D.C. 20505

3 December 2024

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is an interim response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of four (4) additional documents for release. The four (4) documents, comprising 244 pages, can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3), (b)(5), and (b)(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents; and/or Section 102A(i)(l) of the National Security Act of 1947, 10 U.S.C. § 424, as amended, noted as exemption "(b)(3) 10 USC 424" on the enclosed documents.

All remaining responsive material is currently being coordinated with other agencies.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT I

Central Intelligence Agency

Washington, D.C. 20505

10 January 2025

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is the Agency's final response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of six (6) additional documents for release. The six (6) documents, comprising 176 pages, can be released in segregable form with redactions made on the basis of FOIA exemptions (b)(1), (b)(3), and (b)(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 10 U.S.C. § 424, as amended, noted as exemption "(b)(3) 10 USC 424" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 10 U.S.C. § 130c, as amended, noted as exemption "(b)(3) 10 USC 130c" on the enclosed documents; Section 102A(i)(l) of the National Security Act of 1947, 18 U.S.C. § 798, as amended, noted as exemption "(b)(3) 18 USC 798" on the enclosed documents; and/or Section 102A(i)(l) of the National Security Act of 1947, 50 U.S.C. § 3605, as amended, noted as exemption "(b)(3) 50 USC 3605" on the enclosed documents.

Sincerely,

Stephen Glenn
Information and Privacy Coordinator

Enclosure (CD)

EXHIBIT J

Moore, et al v. CIA, No. 1:20-cv-01027
Central Intelligence Agency *Vaughn* Index

Entry	CADRE No.	Description	Date of Doc.	No. of Pages	Exemptions Cited	Disposition
		expected to result in damage to national security.				
33	C06898860	This document consists of the classified version of the joint Department of Defense and CIA report on POW/MIA issues (unclassified version released in full as C00500205). Exemptions (b)(1) and (b)(3) (National Security Act) applies to certain material that is classified under 1.4(c) of E.O. 13526 and reflects intelligence activities or intelligence sources and methods (intelligence activities). This document is withheld in full because CIA determined that the ability to see where the classified, redacted sections were located in the report is sensitive information. This document is classified as SECRET, and as such, disclosure of this information could be reasonably expected to	02/29/2000	213	(b)(1) (b)(3) Nat'l Sec Act	DIF

AFFIDAVIT OF BOB SMITH

Bob Smith hereby swears and affirms:

1. From 1985 to 1990, I served as a member of the United States House of Representatives for New Hampshire's 1st Congressional District. From 1990 to 2003, I served as the United States Senator, representing New Hampshire. The Senate Select Committee on POW/MIA Affairs was a special committee convened by the United States Senate during the George H. W. Bush administration (1989 to 1993) to investigate the Vietnam War POW/MIA issue, that is, the fate of United States service personnel listed as missing in action during the Vietnam War. I wrote, and introduced, the Senate Resolution establishing that Committee, to attempt to get the documents and the truth released to the public. I served as the Committee's Vice Chairman. It was in existence from August 2, 1991 to January 2, 1993.

2. On January 17, 1973, the Paris Peace Accords were signed by the United States, South Vietnam, Viet Cong and North Vietnam. They were touted as "An Agreement Ending the War and Restoring Peace in Vietnam." The agreement did not, however, end the war and restore the peace for the hundreds of POWs and MIAs who were not returned

from the war, for their families, who have waited for decades for answers, nor for the tens of thousands of South Vietnamese who were murdered or imprisoned in "re-education camps" in the North. "All of our American POWs are on the way home" said Richard Nixon shortly after the signing.

3. Soon thereafter, 527 men returned alive from the war to a well-deserved heroes' welcome. What President Nixon did not tell the American people and the families of the missing was that the American government had numerous classified documents and human intelligence that men were, in fact, still alive in Southeast Asia. We had men on our lists, that we knew had been captured alive, yet, they never appeared on the homecoming lists and were never returned. We simply accepted the "word" of the North Vietnamese that the lists were complete.

4. President Nixon had sent the North Vietnamese a secret letter promising them approximately $3.5 billion in war reparations. The Vietnamese retained "collateral" for that money. The money never came because Congress did not approve it, when congressmen became aware of the torture of many of the returning prisoners.

5. Two former Secretaries of Defense testified under oath before the Select Committee, that men were left behind. Schlesinger, when asked directly if we left men, said, "I can come to no other conclusion." Secretary Laird went into even more detail saying that the Pentagon had "solid information, such as letters or direct contacts, with about 20 airmen who survived in Laos after their planes were shot down."

6. On one of my frequent visits to Southeast Asia as a U.S. senator and congressman, I had occasion to speak to one of the North Vietnamese officials who was present at the negotiations in Paris. He told me point blank that "the American side handed

over their list and we handed over ours and there was little discussion," and that "the POW issue was not aggressively pursued at all."

7. The live-sighting reports of former Marine Bobby Garwood, who remained behind in Vietnam until 1979, are well documented. Bobby told me with tears in his eyes how he had seen Americans climb out of a box car in the late 70's in Yen Bai, Vietnam. I took Garwood back on a trip to Vietnam in the 90's when I was in the Senate and he showed me where he had seen American POWs on an island in Tach Ba Lake, in Vietnam as well.

8. The investigators on the Senate Select Committee found literally thousands of live-sighting reports over the years from the end of the war into the 1990s. There was also ample evidence of pilot-identifier codes on the ground and seen from the air. I personally have seen hundreds of classified documents that could and should be released as they pose no national security risk. What is really at risk are the reputations and careers of the intelligence officials who participated in and perpetrated this sorry chapter in American history.

9. During the Senate Select Committee's tenure, I fought with the bureaucrats, and Senators McCain and Kerry, to the point of exhaustion. It was a very sad chapter in American history.

10. One of the most intriguing documents on the issue is the one called the "1205 Document," or the "1205." This document was retrieved from the old Soviet archives by an independent researcher from Australia by the name of Stephen Morris. He was not a so-called "POW activist" and was not looking for information on American POWs from Vietnam. While doing unrelated research, he found a document stamped "Extremely

Secret" from the old Soviet General Staff Intelligence (GRU). The contents of this document depicted a speech given to the Politburo of the Vietnamese Communist Party in September of 1972 by General Tran Van Quang, the Deputy Chief of the General Staff of the Vietnam People's Army (VPA). In his remarks Quang told the Politburo members that North Vietnam was holding 1205 prisoners of war. This, of course, is critical since only a few months later the Vietnamese released less than half of that number, 527.

11. In the spring of 1997, in relation to Senate confirmation of a U.S. Ambassador to Vietnam, the Assistant to the President for National Security Affairs, Samuel R. Berger, directed the U.S. Intelligence Community (IC) to undertake a special National Intelligence Estimate (NIE) on the Vietnam War POW/MIA issue and to provide the ICs updated assessment of the so-called "1205" document from the Russian archives. Mr. Berger further directed the IC to consult with the Senate Select Committee on Intelligence (SSCl) on the terms of reference for the NlE. Mr. Berger's directives followed personal discussions with both myself and the Senate Majority Leader, Senator Trent Lott. Subsequent to Mr. Berger's pledge to have the IC conduct a special NIE, I met personally with the Director of Central Intelligence, George Tenet, and the Director of the Defense Intelligence Agency, Lt Gen. Patrick Hughes, to underscore the importance I attached to the need for this NIE to be thorough and objective.

12. In the fall of 1997, Congress passed, and the President signed into law, the National Defense Authorization Act for fiscal Year 1998, which included a provision that I authored that required the Director of Central Intelligence to "provide analytical support on POW/MIA matters." The legislative history of this provision made clear that it was

related to both the preparation of the forthcoming NIE, which would be relied on by departments and agencies involved with POW/MIA matters.

13. The POW/MIA issue addressed in the NIE centered on two key questions, as stated in the NIE's Scope Note: (1) Since 1987, to what extent has the leadership of Vietnam demonstrated a commitment to cooperating with the United States to achieve the fullest possible accounting of missing in action personnel, and (2) What is the Intelligence Community's assessment of the so-called "1205" and "735" documents from the Russian archives?

14. The IC released its NIE in early 1998. It judged the "1205" to be unreliable. The NIE was extremely inaccurate, misleading, speculative and unsupported. It ignored that virtually all other detailed statements in the 1205 were known to be true. Yet the IC singled out only the statements about the 1,205 POWs as being false. In November of 1998, I demanded that the NIE be retracted, in a detailed, 160-page Critical Assessment ("Report").

15. This Report was sent to the Members of the National Foreign Intelligence Board and the Military Intelligence Board, along with a request that those boards meet to consider and approve the retraction of the NIE. The Report was also sent to relevant Congressional leaders, along with requests that oversight hearings concerning this NIE be conducted at the earliest possible date. Additionally, the Report was sent to officials who may rely on the NIE, such as U.S. policy-makers with responsibility for U.S. relations with the Government of the Socialist Republic of Vietnam, and to U.S. military officials with responsibility for POW/MIA accounting efforts in Southeast Asia.

16. The CIA released this Report to the plaintiffs in this case, in redacted form, in 2016. Accuracy in Media has posted this record on its website, here http://www.aim.org/pdf/Hall-CIA/CIA-Production-2016-209-pages.pdf. The Report's cover-page reads:

> A Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue, Prepared and Submitted by the Office of U.S. Senator Bob Smith,
> November, 1998.
>
> > Sen. Smith is the U.S. Chairman of the Vietnam War Working Group of the U.S.-Russia joint Commission on POWs and MIAs. He is also a senior Member of the Senate Committee on Armed Services and the former Co-Chairman of the Senate Select Committee on POW/MIA Affairs (1991-1993).

17. I spoke to a high ranking former member of the KGB who told me point blank that the document is real, because the Soviets actually had the Vietnamese Politburo bugged and the words were a verbatim transcript. He told me that he would never state this publicly, for obvious reasons. The English translation of the 1205 Document is in the Annex to the Report.

18. The 1205 accurately recounts that the Socialist Republic of Vietnam held 1,205 men, just months before it released Vietnamese released only 527 of them.

19. The American government wrote off all pending POW/MIA cases at war's end to close the books on this ugly foreign policy disaster. After decades of FOIA requests, emotional appeals from family members, senators and congressmen, and House and Senate Committee investigations, the intelligence agencies still keep numerous documents classified under the guise of national security.

20. I can state without any equivocation that they are still holding documents that should be declassified. The families of these men, and the American public, deserve to know the truth about what is in those files.

Date: August 13, 2016.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Bob Smith

Bob Smith

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

MICHAEL DRIGGS, *et al.*	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:23-cv-1124 (DJN)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
	)	

AFFIDAVIT OF JOHN H. CLARKE

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Exhibits Bates

Exhibit A: *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue* (hereinafter "*Critical Assessment*"). 1
Attachments
1205 Document—Report of the Deputy Chief of the General Staff of the VNA [Vietnamese Peoples Army] General-Lieutenant Tran Van Quang at the Politburo Meeting of the PTV September 15 1972. 161
735 Document—Armed Forces General Staff of the U.S.S.R. Central Intelligence Administration of the U.S.S.R. Report by Hoang Anya, Central Committee Secretary, Vietnamese Workers Party At 20th Plenary Session of the Central Committee, VWP End of December 1970, Early January 1971. 186

Exhibit B: Challenged Redactions to *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*. 210

Exhibit C: Challenged Redactions to *A Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the charges Levied by A Critical Assessment of the Estimate* ("*Review of the Charges II*"). 226

Exhibit D: CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*, released June 25, 2021 ("*Review of the Charges I*"). 254

Exhibit E: CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*, released December 3, 2024 ("*Review of the Charges II*"). . . . 433

John H. Clarke herby declares and states:

I. BACKGROUND

A. 1205/735 Documents

1. 1205 Document

1. In December of 1992, Harvard University's Dr. Stephen Morris discovered in the Soviet archives the transcript of the Soviet's surreptitiously taped debriefing by a top Vietnamese Army General to Vietnam's Politburo. The General reported that the total number of communist-

held American POWs in Southeast Asia was 1,205. The debriefing was just months before Operation Homecoming. In 1973 591 POWs were returned, at over six hundred less than the Vietnamese had claimed. The transcript includes the following:

> The total number of American POWs captured to date on the fronts of Indochina i.e. in North Vietnam, South Vietnam, Laos, and Cambodia, comprises 1205 people… 624 aviators captures in North Vietnam, 143 aviators captured in South Vietnam, 47 diversionists and other American servicemen captured in North Vietnam, and 391 American servicemen of other categories, which includes 283 captured in South Vietnam, 65 in Cambodia, and 43 in Laos…
>
> * * *
>
> For now, we have officially published a list of only 368 POWs. The rest are not acknowledged. The U.S. Government is aware of this, but they do not know the exact number of POWs, or they perhaps only assume an approximate number based on their losses. Therefore in accordance with the instructions from the Politburo, we are keeping the number of POWs secret…

Report of the Deputy Chief of the General Staff of the Vietnamese Peoples Army at September 1972 Politburo Meeting. Ex. A at Bates 161.

2. 735 Document

2. At the end of December 1970 or in early January 1971, Hoang Anh, the Secretary of the Central Committee of the Vietnamese Workers Party, gave a wartime report on various subjects including American POWs. Anh stated in his speech before the 20th Plenary Session of the Committee that 735 American pilot POWs were being held by the North Vietnamese government—now known as the "735 document." In 1971, Russia's intelligence directorate, the GRU, obtained Anh's speech and translated it into Russian. In 1993 the Russians provided it to the U.S.

3. In his speech, Anh asserted that, unless U.S. troops withdrew, the Vietnamese Politburo would diplomatically admit to, and return, just 368 of the 735 American POWs that it held. That transcript includes:

> When we published the names of 368 American pilots who were shot down and taken captive in the territory of the D.R.V., the opportunists began saying that this was a concession to the Americans. This is not so. This was no concession, but rather a blow to Nixon in the political sense. By this means we achieved a lot.
>
> * * *
>
> Now I wish to devote some time to yet another issue: the captured American pilots. The overall American pilots imprisoned in the D.R.V. is 735. As I already stated, we published the names of 368 pilots. This is our diplomatic move. If the Americans agree to withdraw their troops from South Vietnam, as a start we will return these 368 men to them. And if the Americans do withdraw their troops, we will turn over the remaining ones to them. The matter of imprisoned American pilots, in view of what was said earlier, is of very great significance for us.

U.S.S.R. Central Intelligence Administration Report by Central Committee Secretary, Vietnamese Workers Party at 20th Plenary Session of the Central Committee, December 1970/January 1971. Exhibit A at Bates 193, 197-198.

B. 1998 National Intelligence Estimate

4. In 1998, the DoD and the CIA issued their 33-page *National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*.

C. Senator Bob Smith's Critical Assessment of the NIE

5. In November of 1998 Senator Bob Smith, Chairman of the Vietnam War Working Group of the U.S.-Russia Joint Commission on POWs and MIAs and Co-Chairman of the Senate Select Committee on POW/MIA Affairs (1991-1993), issued his 160-page *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue* (hereinafter *Critical Assessment*). It supports the reliability of the 735/1205 and critiques the NIE. Ex A. Bates 1.

D. CIA Response to Critical Assessment

6. In February of 2000 the DoD and CIA responded with their Joint Report, *A Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the charges Levied by A Critical Assessment of the Estimate* (hereinafter *Response to the Charges*).

7. In June of 2021, in the case *Moore v. CIA*, CA 20-1027 (D.D.C.), the CIA released the *Response to the Charges*, unredacted.

8. The CIA's *Vaughn* index in that case disclosed that it was withholding in full a classified version of its *Response to the Charges*.

II. SUMMARY OF SENATOR SMITH'S CRITIQUE

9. Paragraphs 10 through 38 below summarizes much of Senator Smith's 160-page assessment. The opinions in that summary are those of the Senator, not of the undersigned. This affidavit relates only facts that are in the record. The referenced excerpts of the *Critical Assessment*, and of the NIE, appear in the lengthy endnotes.

10. The greater portion of Senator Smith's 160-page *Critical Assessment* appears under its heading, *Detailed Assessment of NIE Statements*. It quotes 40 passages from the NIE, and presents evidence in opposition to each passage.

11. The *Critical Assessment* posits that "the NIE fails to offer the reader any convincing analysis of the numbers in the 1205 report to demonstrate their accuracy or inaccuracy" (*id*. at 34), and that "it is apparent that neither the 1994 IC/DoD Assessment of the 1205/735 documents nor the current NIE demonstrates the inaccuracy of the numbers cited in these documents. Both assessments *assert* the documents' inaccuracies, but neither *demonstrates* it." *Id*. at 40 (emphasis in original).

A. Numbers misrepresented, omitted evidence, misrepresents context

12. The NIE simply asserts, with no evidence, that the 1205/735 are “inconsistent with reliable US Government statistics and far outnumber the actual total of open cases.”[1] This is demonstrably false. The NIE’s conclusions belie both American and Vietnamese contemporary beliefs regarding POW numbers. In 1970, the DoD stated that there were 1,541

"missing and captured personnel"—a much higher number than the 735 POWs. There were over 1,950 Americans who were either possibly captured or known captured in Southeast Asia.[2] The NIE statement underrepresents the number of POWs believe captured, stating that the number 1205 was over 669 more than believed to be held captive.[3]

13. The NIE deliberately omits losses in Laos or Cambodia in concluding that "[o]nly 48 are… cases involving American personnel who were known to be alive, not gravely wounded, and in proximity to the enemy at the time of their loss."[4]

14. The 735 Document relates that, in December of 1970, the overall number of American pilots imprisoned in the D.R.V. was 735, but that the Vietnamese admitted to only 368. The historical timeline confirms the claims made by the 735 Document, not those recited by the NIE.[5]

15. The NIE declares that "the portions of the report [1205] dealing with the POW issue are inaccurate" and that the "content of the (1205) report casts even more doubt on its accuracy."[6] The *Assessment* responds 101-102:

> This statement represents one of the most glaring examples of distortion by omission in the entire NIE… [It] fails to point out other relevant information concerning the accuracy of much of the content of the 1205 report, to include information previously acknowledged as accurate or plausible by elements of the Intelligence Community. Why? As such, the NIE seriously misleads its reader …

16. The CIA admits that its judgment is not based on intelligence,[7] but rather on assessments officials who are not members of the intelligence community.[8]

17. The NIE discounted the Soviets' information as being of "unknown reliability or has been discredited for various reasons."[9]

B. Vietnamese cooperation falsely represented

18. The NIE concludes that Vietnamese cooperation has increased[10] while omitting any discussion of performance from 1987 to the early 1990s.[11] It opines that Hanoi cooperates on the issue to foster normalization,[12] but does not judge whether Vietnam believes that cooperation is actually a prerequisite to normalization,[13] and ignores that a previous NIE indicates that the Vietnamese withhold considerable information regarding hundreds of POWs.[14] The NIE's conclusion that Vietnam's cooperation significantly improved[15]is contradict by evidence that the regime has not provided prison records or other pertinent POW/MIA information since the early 1990s.[16]

19. The NIE rates Vietnamese cooperation as "excellent,"[17] based only upon a non-intelligence source, and despite evidence that the regime has manipulated witnesses and evidence.[18] It concludes that the issue "no longer has the political sensitivity it once had" [19] to Vietnamese leaders, facilitating more cooperation.[20] The opposite is true.[21] The NIE fails to evaluate the credibility of Vietnamese claims that full cooperation would impinge on its sovereignty.[22]

20. The NIE posits that Hanoi's non-disclosure is based on its belief that disclosure would embarrass it as showing that POWs were mistreated, but does not observe that Vietnam's decision to hold back American POWs would embarrass it more.[23] So too regarding records of POWs being transferred to Russia.[24]

C. Questioned authenticity illogical and unsupported

21. The NIE concludes that many of the details of the documents, including dates and other facts, are implausible or inconsistent with reliable evidence,[25] notwithstanding the DoD's 1993 conclusion that the 1205 document is most likely authentic given that information

unrelated to POW/MIA was plausible.[26] DoD assessed in 1994 that the 735 document is a genuine GRU document.[27] In fact, "every piece of relevant data" gathered since the 1994 assessment indicates that these documents are legitimate GRU records.[28]

D. Challenge to the date of the record speculative

22. The NIE seeks to impugn the reliability of the 1205 by suggesting, incorrectly, that the date of the document is different from the Politburo meeting.[29]

E. Challenge to the length of the record speculative

23. The NIE opines that the length of the 1205 undermines its authenticity.[30] Such a claim is unsupportable.[31]

F. Challenge to existence of a Vietnamese version unsound

24. While Russian sources indicate that the Vietnamese language version of the 1205 document was first translated into Russian by the GRU, and then destroyed, the NIE states that "Russian recollections are hazy on whether the '1205' document was allegedly written in Vietnamese."[32]

25. The GRU cover-pages to each of these two documents, clearly state "translated from Vietnamese into Russian."

G. Attempt to impugn source omits contrary evidence

26. In lieu of citing the multiple scholarly and Russian sources indicating that Soviet intelligence had infiltrated the highest levels of the Vietnamese government, the NIE cites a second-hand, unreliable source who related that "the GRU agent who acquired the document was not reliable."[33]

H. Omitted evidence of transfers to the USSR

27. The NIE acknowledges the existence of reports of transfers to the USSR that are "unexplained," admits Hanoi "*has not been completely forthcoming*" on the issue,[34] but then concludes that "we lack good evidence that POWs were transferred to the USSR."[35]

28. The NIE reports that two Russian officials had stated "that US POWs were not transferred out of Vietnam," omitting that one testified only that he was unaware of any such transfers, and the other had later written that he "cannot dismiss the possibility that several individual American servicemen were taken to the Soviet Union from Vietnam or Korea."

29. The NIE asserts that the 1205/735 documents "are inconsistent with reliable US Government statistics"[36] ignoring that, between 1993 and 1998, credible Russian officials affirmed the accuracy of the numbers, including statements provided by Senator Smith to the NIE in early 1998.

I. Misrepresented and omitted evidence of second prison system

30. The NIE denies the existence of a separate, or second, prison system.[37]

31. A *Defense Intelligence Agency estimate*, a *Central Intelligence Agency study*, a *Central Intelligence Agency memorandum,* and various intelligence reports confirm the existence of a separate prison system.[38]

J. Evidence of Russian corroboration misrepresented and omitted

32. The NIE asserts that the 1205/735 documents "are inconsistent with reliable US Government statistics,"[39] ignoring that, between 1993 and 1998, credible Russian officials have affirmed the accuracy of the numbers, including statements provided by Senator Smith to the NIE in early 1998.

33. Contrary to the NIE's assertion that "none of the Russians claimed that the figure of 1,205 POWs was accurate," [40] Senator Smith provided the NIE principal drafter with a number of Russian sources who had commented both on the authenticity and number of POWs referenced in the 1205 and 735 documents. As the *Critical Assessment* shows, the U.S. government has redacted the names of these sources as classified, even though they could shed further light on the accuracy of the documents and NIE's claims.

34. The NIE posits that "[n]one of the new information helps to confirm the accuracy of the 1205 report,"[41] ignoring that the GRU was confident enough in the facts outlined in the 1205 document that it forwarded the information to the Soviet Central Committee.[42]

35. While "[c]redible Russian officials have, between 1993 and 1998, made statements affirming the numbers cited in the 1205/735 documents as plausible and accurate, the NIE claims that the 1204/735 numbers are 'inconsistent with reliable US Government statistics.'"[43]

36. Neither General Volkogonov nor K.F. Katushev's cited testimony substantiate the NIE assertion that these individuals have provided "credible reports that US POWs were not transferred out of Vietnam."[44]

37. The NIE acknowledges that "[a] few reports of transfers of US POWs to Russia and other countries are unexplained, and the books remain open." *Id.* at 6.

38. The NIE ignores Soviet accounts. "[I]nformation in another Soviet-era report previously disclosed to the IC… by the Soviet Ambassador in Hanoi state[s] that 'it is not necessary to inform the Americans on the exact number of prisoners. A half of them could be handed over and the others could be released later in exchange for repair of damage inflicted by the U.S. bombardment of the DRV.'" *Critical Assessment* at 33-34.

I hereby declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge information and belief. Executed this 21st day of May, 2025.

/ s/ John H Clarke
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[1] NOTE: Page numbers, or Bates numbers, denote where the NIE statement appears in the *Critical Assessment.*
NIE Statement at 8: In particular, the numbers of POWs allegedly held by Hanoi at the times mentioned are inconsistent with reliable US Government statistics and far outnumber the actual total of open cases. (p.8)

[2] *Critical Assessment* at 61-62: Following the return of 591 American POWs during Operation Homecoming in February and March, 1973, there remained 1,363 Americans listed as missing in action. This figure did *not* include over 1,100 additional Americans who had been declared killed in action/body not recovered by their wartime commanders as of 1973. In May, 1973, DoD decided to maintain an official position, and so testified to Congress, that "we do not know whether those 1,300 MIAs now unaccounted for are alive or dead." Moreover, in late 1972/early 1973 (prior to Operation Homecoming), there were over 1,950 Americans who were either possibly captured or known captured in Southeast Asia (1,363+591 returned). The figure 1,950 is obviously much larger than the 536 number of US POWs ever believed to have been captured during this time frame as asserted by the NIE.

[3] *NIE Statement* at 61: "The 1,205 figure was 669 more than the highest number the US Government ever believed might be held captive... " (p.26)

[4] *Id.* at 51: As of March, 1998, 1,565 Americans were listed as unaccounted for in Vietnam (emphasis added) ... Of the 1,565, there were 825 confirmed dead at wartime by their commanders and comrades. Subsequent, intensive research by US Government officials has established that half the remainder—about 370 people—are dead. Only 48 are considered to be priority discrepancy cases—that is, cases involving American personnel who were known to be alive, not gravely wounded, and in proximity to the enemy at the time of their loss. Source: DPMO"

Critical Assessment at 52: In conclusion, using the NIE's figures, this means that there are 370 Americans, including the 48, where there is not an evidentiary basis that the individuals died, and their fate is still unknown. *The NIE fails to point this fact out to the reader,* even though the statistics by which such a conclusion can be logically drawn are readily apparent. One of the reasons this distortion by omission is of critical concern is because when one adds to this 370 figure the large number of still unaccounted for Americans in North Vietnamese controlled areas of Laos, the case becomes more persuasive for the claims about the total number of POWs made in the 1205 and 735 documents from Russian archives discussed earlier in this assessment.

[5] *Id.* at 29-31: The NIE statement that the number of POWs allegedly held is *inconsistent with reliable US Government statistics* is not proven or demonstrated anywhere in the NIE—it is merely asserted. Given the priority assigned by the National Security Advisor to the President for an assessment of these documents, it is simply unacceptable that a detailed analysis of the numbers is not presented in the NIE. This is especially disturbing because the NIE's claim on its face is, in fact, demonstrably false as shown below.
First, with respect to the so-called "735" Document:
According to the English translation of the 735 document, the Russian GRU reports a statement by a North Vietnamese official to a North Vietnamese leadership gathering, that "...we published the names of 368 American pilots who were shot down and taken captive in the territory of the D.R.V. (North Vietnam)...The overall number of American pilots imprisoned in the D.R.V. is 735. As I already stated, we published the names of 368 pilots. This is our diplomatic move." The time frame for the report is dated "End of December, 1970/early January, 1971," according to the GRU cover page to the translated text from Vietnamese to Russian. It is true and verifiable that during this time-frame, Hanoi did, in fact, publish a list of exactly 368 names, entitled, "U.S. Pilots Captured in the Democratic Republic of Vietnam from August 5, 1964 to November 15, 1970." Yet, nowhere in the NIE is the confirmation of this statement in the "735" document acknowledged. The IC has a responsibility to share this information with the reader of the NIE. It did not. Why? The 368 list was published by the DRV's Ministry of National Defense, and is dated November 15, 1970. The list was released to representatives of Senators Kennedy and Fulbright in Paris on December 22, 1970, and provided to certain other foreign governments as well. All of the names of the men on the list had previously been unofficially provided to American peace activist Cora Weiss between May and November, 1970. The 368 list itself consisted of 339 Air Force and Navy pilots and crewmembers currently in captivity, 9 such personnel previously released, and 20 such personnel listed as dead. The status of the 339 men listed as captives was already known to the Pentagon based on the Cora Weiss lists and U.S. intelligence and casualty information at the time, although this was the first "official" acknowledgment of their status by Hanoi. Based on Department of Defense POW/MIA lists, only 335 Air Force and Navy pilots and crewmembers captured in North Vietnam prior to November 15, 1970 were later repatriated to the United States (one in Sept. 72, and the remainder following the signing of the Peace Accords in 1973 (Jan-Apr). This fact essentially means only two things: Hanoi made the political decision to release a full and complete list of airmen captured in North Vietnam in December, 1970 (which was the only category of men in this category from this time period later released in 1973) *or* Hanoi, as

the 735 Document alleges, viewed the December, 1970 list as a diplomatic move, whereby the decision was made not to acknowledge all airmen captured by North Vietnamese forces at this point in the war.

[6] *NIE Statement* at 101: "Although the circumstantial evidence above is not definitive, the content of the (1205) report casts even more doubt on its accuracy." (p. 29)

[7] *Id.* at 1: Some of the judgments it (the NIH) reaches are based upon assessments made by experienced American officials rather than upon a sizable body of intelligence reporting.

[8] *Critical Assessment* at 11: I question why any National Intelligence Estimate (NIE) would make judgments in areas if there is no sizable body of intelligence reporting within the U.S. Intelligence Community (IC) upon which to base such judgments, in whole or even in part… The extent and process by which any NIE's judgments are allowed to be predominantly based upon the views of individuals outside the IC, rather than upon intelligence reporting, should be reviewed by Congress and the leaders of the IC.

[9] *NIE Statement* at 1: In some cases we had to consider intelligence reporting that is as much as 25 years old that comes from foreign intelligence services of unknown reliability or has been discredited for various reasons. For these and other reasons, there are important gaps in our knowledge of these sensitive issues, and our judgments must therefore be cautious.

[10] *Id.* at 5: Since the early 1990s, we have seen evidence for increased Vietnamese cooperation on the POW/MIA issue in the strengthened staffing, increased responsiveness, and growing professionalism of the Vietnamese organizations that deal with this issue." (p. 5)

[11] *Critical Assessment* at 13-14: Nowhere in the NIE is there a discussion of SRV leadership intentions, performance, and capabilities on the POW/MIA issue between 1987 and the early 1990s, as required by the Key Question, developed in coordination with the SSCI…. Vietnamese leadership intentions, capabilities and performance are central to the key question of this NIE, yet, with the exception of inferred leadership directives for better support, responsiveness, and professionalism at the staff level, it is unanswered with respect to this key accounting question (ie: leadership directives concerning disclosure of relevant accounting records from official SRV holdings.)

[12] *NIE Statement* at 5: In our view, Hanoi judges that…normalization requires progress on the POW/MIA issue.

[13] *Critical Assessment* at 16: US policy makers deserve the benefit of an IC judgment as to whether Hanoi believes they can just maintain the status quo without any need for improvement in their POW/MIA cooperation as a condition for further expansion of economic relations, to include the establishment of normal trade relations

[14] *Id.* at 15: The 1987 special NIE, entitled, *Hanoi and the POW/MIA Issue*, states "…there is considerable evidence that the Vietnamese have detailed information on the fates of several hundred personnel."

[15] *NIE Statement* at 6: Vietnam's performance generally has improved with respect to the US POW/MIA issue…Vietnam's overall performance in dealing with the POW/MIA problem has been good in recent years

[16] *Critical Assessment* at 21-22: Information and testimony clearly indicate that performance has not significantly improved since the early 1990s with respect to access to any relevant POW/MIA material contained in Communist Party Politburo or Central Committee-level holdings, in addition to better access to SRV Ministry of National Defense and General Political Directorate wartime documentation on American losses along the Ho Chi Minh trail in Laos.

Additionally, material, such as prison records directly relevant to POW/MIA accounting, have not been provided, and the NIE itself later acknowledges this in another section of the estimate.

[17] *NIE Statement* at 5: On the issue of recovering and repatriating American remains of U.S. personnel, we rate Vietnamese cooperation as excellent.

[18] *Critical Assessment* at 17: For the NIE to then reflect as its own IC judgment, a position that SRV cooperation concerning joint and unilateral recovery and repatriation of US remains is *excellent*, based solely on assurances provided to the IC from one non-intelligence entity (ie: JTF-FA) belies comprehension, and is especially disturbing for three main reasons: (1) there is evidence available to the Intelligence Community concerning: (a) Vietnamese manipulation of witnesses and material evidence at [redacted]…. Based on the large discrepancy in this data (300 stored vs. 170 returned), all of which was available to the IC, it is extremely inaccurate for the NIE to itself judge Vietnam's record on *unilateral* repatriation of remains as *excellent*. In essence, the NIE chose to base an evaluation of Vietnamese cooperation in the area of remains recovery on assurances from one non-intelligence entity (JTF-FA), alone, without even factoring in the positions of the non-intelligence entity that oversees JTF-FA and evaluates Vietnamese performance and knowledge in this particular area (ie: DPMO).

[19] *NIE Statement* at 5: We think Hanoi's decision to be more cooperative with the United States on POW/MIA accounting has not come easily to the Vietnamese leaders…But our reporting suggests that the POW/MIA issue no longer has the political sensitivity it once had… Incidents of outright refusal to cooperate with U.S. investigators have decreased…

[20] *Critical Assessment* at 20: Several questions come to mind with this NIE contention above because the NIE provides no clear time frame of reference for the statement and no apparent sourcing. …. Who is the source for this broad statement in the NIE – intelligence reporting, JTF-FA officials, etc…? There is little doubt that Hanoi recognized that the issue was becoming more politically sensitive for them, not less.

[21] *Critical Assessment* at 19: But even more disturbing is the NIO's statement, with respect to this specific assessment, that the IC itself cannot be expected to be a source for such an evaluation in an NIE because "the intelligence community does not deal with the Vietnamese with respect to recovery." It is *because* of the political sensitivity of the POW/MIA issue and its perceived public linkage to normalization of U.S.-SRV relations beginning in 1991 that Vietnam has taken the steps at the working level, referenced in this NIE, to give the appearance of overall progress.

[22] *NIE Statement* at 5-6: There are still instances in which the Vietnamese raise objections to POW/MIA activities. In most cases, the Vietnamese cite considerations of sovereignty—for example, in refusing to make internal Politburo documents accessible to US investigators; security, such as not allowing US officials to enter classified locations and facilities; or technical problems, such as difficulty locating documents or records. Occasionally, the Vietnamese state that local villagers are concerned about the intrusive nature of investigations and recovery operations." (p.5-6)

Critical Assessment at 21: The NIE fails to judge, from an intelligence point of view, the credibility of the above-referenced SRV excuses (e.g. does a Communist dictatorship really care about the views of local villagers), and the potential implications of these objections (ie: is this where the goods are if Hanoi's leaders had, in fact, decided to withhold certain critical information that directly bears on the POW/MIA accounting question). Moreover, the reader is led to infer from the NIE statement itself that the excuses, may, in fact, be persuasive and genuine**.**

[23] *Id.* at 23-24: With respect to (1), it remains unexplained given the gravity of key outstanding POW/MIA questions why torture would be cited in this Key Judgments portion of the NIE as the most important and relevant example to use, and not other more embarrassing examples such as the holding back of any unacknowledged American POWs after Operation Homecoming in 1973. The fact that the NIE does not reflect a more relevant example bearing on the POW/MIA accounting issue under the Key Judgments heading is not only disappointing, but very misleading to the NIE reader concerning the scope of knowledge the SRV may still possess concerning unaccounted for POW/MIAs.

[24] *Critical Assessment* at 23: Because the NIE's judgment in this area is not supported by available evidence, it is inadequate, misleading, and cannot be accepted with any confidence. Under the heading Key Judgments above, the NIE chooses to define "certain" POW/MIA matters where Hanoi is not completely forthcoming as (1) for example, records which would discredit SRV denials of POW torture, and (2) a few reports of transfer of US POWs to Russia and other countries.

[25] *NIE Statement* at 8: We have reviewed the so-called "1205 and 735 documents," which purport—falsely in our view—to be reports to the party leadership containing statements that Hanoi held large numbers of US POWs above those acknowledged to the United States. We believe the judgments in the 1993 IC assessment released by DoD remain valid: that the documents are probably authentic GRU (Soviet Military Intelligence)–

collected documents. But many of the details of the documents, including dates and other facts, are implausible or inconsistent with reliable evidence…We believe that neither document provides a factual foundation on which to judge Vietnamese performance on the POW/MIA issue.

[26] *Critical Assessment* at 26-27: The referenced *1993 IC assessment released by DoD* was actually released by DoD on January 24, 1994. It states, in part, the following in relation to the 1205 and 735 documents:

1205 Document Assessment by IC/DoD released in January, 1994:

We believe it probably is an authentic Soviet document... (it) appears to be an authentic Russian intelligence report.

- We found portions of the "1205 Report" that were unrelated to the POW-MIA issue to be plausible...the most credible of which is in the section about political operations planned for South Vietnam.
- For example, it identifies several South Vietnamese leaders who were known opponents of the regime of President Nguyen Van Thieu and who were reported to have had clandestine contacts with representatives from the North.
- It accurately depicts the circumstances surrounding the surrender of a South Vietnamese unit during the 1972 Easter Offensive, admitting that the North's propaganda had misrepresented the event.
- It predicts an upsurge in terrorist attacks beginning in October, 1972, which was indeed noted in the Mekong Delta region in November...
- We cannot dismiss the "1205 Report" as a fabrication, but before we can accept it as what the Russian cover memo claims it is, we must have better evidence of its authorship and credibility.
- There probably also is more information in Vietnamese party and military archives that could shed light on this document. We continue to pursue this.
- As further information becomes available, this assessment will be updated.

[27] *Id.* at 27: 735 Document Assessment by IC/DoD released in January, 1994:

- We have only two complete pages, 11 and 18, of a longer report, making it difficult to analyze closely.
- Like the "1205 Report", is a GRU document, transcribing and translating the text of an oral report presented at a Vietnamese Communist Party conclave.
- We believe the report is a genuine GRU document, not a fabrication, as claimed by Hanoi.
- The "735 Document" is too fragmentary to permit detailed analysis...
- There probably also is more information in Vietnamese party and military archives that could shed light on this document. We continue to pursue this.

[28] *Id.* at 28: Based on the above quotations from the previous assessment, it is clear that the current NIE has not accurately represented this earlier judgment by stating "…many of the details of the documents, including dates and other facts, are implausible or inconsistent with reliable evidence" and *not* acknowledging that portions of the 1205 report, were, in fact, accurate or plausible based on evidence available to the IC, and

represented as such in January, 1994. Equally important, the earlier assessment specifically *rejected* Hanoi's contention that the 735 Document was a fabrication, and not a genuine GRU document, and specifically judged that there was probably more information in Vietnamese party and military archives that could shed light on both documents, and that this information would be pursued in Hanoi. For the current NIE to say that the *judgments* in the prior assessment *remain valid*, but then say that neither document provides a factual *foundation upon which to judge Vietnamese performance* on the POW/MIA question is simply irreconcilable, especially given the undeniable fact that, as of this writing, Hanoi has yet to disclose any relevant data from party archives that could shed light on either of these documents. Finally, every piece of relevant data on the issue of authenticity gathered and made available to the IC since the prior assessment was conducted in 1994 has reinforced the contention that the documents, are, in fact, legitimate GRU acquisitions.

[29] *NIE Statement* at 95: "The timing of the Politburo meeting is questionable. The report supposedly was given on 15 September, 1972, but the Vietnamese claim there was no meeting on that date. [Redacted]." (p. 29)

Id. at 119: "The dates are wrong. The (735) report says it was given at the 20th plenary session of the Central Committee in late December, 1970 or early January, 1971. In fact, the 20th Plenum was not held until February, 1972. The plenum held in January, 1971 was the 19th (p.30)

[30] *NIE Statement* at 93: "The length of the (1205) report would be inappropriate for a Politburo meeting...the purpose of the meetings was to make decisions, not listen to long oral reports." (p.27)

[31] *Critical Assessment* at 93: The Intelligence Community has provided no reporting to support this bizarre claim. As proof of this fact, the NIE is only able to vaguely cite the views of one, unidentified, "academic specialist on Vietnam." In light of this, it is inappropriate for the NIE to attempt to make a judgment in this area. [Redacted] As such, there is no basis for comparing what constitutes an appropriate "length" of a report to the Politburo. If anything, the length of the 1205 report, in fact, tracks with the length of the June, 1972 report by Gen. Quang previously made available to US officials. As such, the NIE judgment does not rest on any solid foundation, and cannot be accepted with confidence.

[32] *NIE Statement* at 63: "Russian recollections are hazy on whether the "1205" document was allegedly written in Vietnamese. General Volkogonov, advisor to President Yeltsin, thought he remembered seeing an original Vietnamese version. In any event, no Vietnamese version of the document has been located" (footnote, p.26)

Critical Assessment at 63: The Chief of the GRU in 1994, General Ladygin, whose agency acquired the 1205 and 735 documents in 1971 and 1972, stated in writing to me in June, 1994 that "The translation of the report was actually done by the Main Intelligence Directorate (GRU) of the General Staff and sent to the CPSU Central

Committee in November, 1972…*The original report in the Vietnamese language* (emphasis added) was destroyed after translation in accordance with the document handling procedures established by the GRU of the General Staff.

[33] *NIE Statement* at 68-69: "One interviewee, V.V. Dukhin, who served…in Hanoi from 1992 to 1995, said that the former DCM in Hanoi, I.A. Novikov (now deceased) told him he was aware of the 1205 document when it was acquired… he (Novikov) stated that the GRU agent who acquired the document was not reliable." (p. 27)

[34] *Critical Assessment* at 25: With respect to (2), on unexplained reports of possible POW transfer from Vietnam to Russia and other countries, the NIE judges that because a few reports are unexplained, and the books remain open, then this means that Hanoi *has not been completely forthcoming*, even though the NIE subsequently states in a later section on p. 24, "...we lack good evidence that POWs were transferred to the USSR..." I agree that the books must definitely remain open on the transfer issue based on more pressing information previously made available to the IC but inexplicably not referenced in the NIE under the heading of unresolved transfer reports on p. 23. As such, it is bizarre that some unexplained reports of transfer would meet the threshold for inclusion in this section, yet a larger body of evidence on other unresolved subjects bearing on continued SRV stonewalling on POW/MIA issues would not be included here.

[35] *NIE Statement* at 6: We think Hanoi has not been completely forthcoming on certain POW/MIA matters: In some instances, we believe full disclosure would prove embarrassing to the regime. For example, Hanoi continues to deny that US POWs were mistreated while in captivity in the North. We think Vietnam still has records it could make available to US investigators but which would discredit its denials of mistreatment. A few reports of transfers of US POWs to Russia and other countries are unexplained, and the books remain open." (p.6)

[36] *Id.* at 29: (With respect to the 1205/735 documents), "In particular, the numbers of POWs allegedly held by Hanoi at the times mentioned are inconsistent with reliable US Government statistics and far outnumber the actual total of open cases."

[37] *Id.* at 111: "If there were additional POWs, we would have known of them unless Vietnam maintained a separate prison system unknown to POWs who returned in 1973. We have uncovered no reliable evidence that a separate prison system existed for certain POWs; nor do we have such indicators as plausible site locations." (p.30)

[38] *Critical Assessment* at 113-117: But even more egregious is the NIE statement above that there were no indicators of plausible site locations for other possible US POW prisons unknown to the POWs who returned in 1973 (ie: a separate or second prison system). While it is true that repatriated POWs, were only aware of those within their system, the NIE judgment is nonetheless *contradicted* by substantial information and evaluations originated by or made available to the U.S. Intelligence Community both during and/or after the Vietnam War. For example -

- ***Defense Intelligence Agency estimate***: In the 1205 report, General Quang states that there are currently (as of Sept. 15, 1972) 11 prisons in North Vietnam where all the American POWs are being held. DIA knew from the debriefings of US POWs who returned in 1973, that as of September, 1972, there were 6 prisons in North Vietnam holding the US POWs who were later repatriated. Using the established fact that, in September, 1972, 6 camps held subsequently repatriated US POWs, that leaves 5 *additional prisons* in the North for General Quang's number of total camps to be accurate (ie: 11-6=5). As of September, 1972, DIA had identified, in a published study, a total of 8 confirmed US POW camps in North Vietnam, and an additional 18 possible US POW camps in North Vietnam. A "confirmed" camp was defined as "one in which there is conclusive evidence that American prisoners are, or were, detailed on a permanent basis." A "possible" camp was defined as "one in which there is some information or evidence that it might be, or could have been, used for the detention of American prisoners on a permanent basis." Accordingly, based on the fact that DIA had identified 26 (8+18) confirmed or possible US POW camps in North Vietnam, as of September 1972, it is demonstrably inaccurate for the NIE to claim that the Intelligence Community had uncovered *"no such indicators as plausible site locations"* for 5 additional prisons for US POWs (11-6), as of the date of the 1205 report (Sept. 72).
- ***Central Intelligence Agency study****:* A CIA study, conducted "in response to recent human source reporting on American POWs still in North Vietnam," and disseminated in early 1976, concluded that "the possibility of a second prison system for the detention of American POWs in North Vietnam cannot be disregarded." CIA further concluded, based on the results of this study, that it was "precluded from drawing a firm conclusion that all the camps which held American POWs have been identified." The CIA study included "a comparative analysis of six confirmed American POW camps outside of the Hanoi area with 19 other suspect camps not *known* to have contained Americans in order to determine which camps reacted to the (November 21, 1970) Son Tay raid by constructing new defensive positions such as AAA sites, AW positions, trenching, and/or foxholes." CIA determined, based on photography and debriefings of the POW returnees, that the 6 confirmed US POW camps used in the study had all reacted to the raid in the same manner. But, more importantly, CIA determined that 7 of the other 19 camps used in the study had also reacted similarly to the raid by taking the referenced precautionary defensive measures, while the remaining camps had not reacted in a discernable fashion to defend against any additional US efforts to free US POWs from camps in the North.
- ***Central Intelligence Agency memorandum****:* A CIA memorandum, entitled "Re-evaluation of PW/MIA Information," was prepared for the Director of Central Intelligence, and sent to him via the Deputy Director for Operations on August 13, 1976. In the memorandum, CIA analysts outlined “information that can be interpreted as indicating a probability that there are still American PWs alive in North Vietnam," The information, further described as "not an exhaustive list," included reference to (1) at least one suspect detention camp for American PWs which had immediately reacted to the November, 1970 Son Tay raid, yet one of the repatriated PWs had been held there; (2) several sources reported seeing American PWs working on the main bridge across the Red River at Hanoi. None of the returned PWs had ever worked on the bridge, according to the debriefings; (3) ...several reports indicating that various North Vietnamese and South Vietnamese communist officials have stated that there are still American PWs alive

in North Vietnam. Not all of these reports have been brought to the attention of the (House) Select Committee (on Missing Persons); (4) repatriated PWs identified a number of cases in which pilots had been seen on the ground in what appeared to be captivity, but were never again seen and were not accounted for by the North Vietnamese; (5) a captured North Vietnamese official, most of whose information was highly accurate, indicated that North Vietnamese officials would hold some American PWs completely out of public view and not return them; and (6) two additional reports to support the probability of unacknowledged American PWs from North Vietnam not released in 1973. Once again, this information contradicts the NIE contention that *"if there were additional POWs, we would have known of them..."*

- *The discrepancy of US POWs related to the **Son Tay POW Camp Raid**:* According to several U.S. intelligence reports, testimony of former US officials, interviews with Russian officials, and even statements by Vietnamese officials, US POWs had been moved from the Son Tay prison camp in North Vietnam *approximately 10 days to one month prior to the failed US rescue attempt on November 21, 1970, because the North Vietnamese had learned about the forthcoming raid and a foreign journalist or peace activist had visited the camp.* US intelligence and defense officials had suspected that US POWs were still present at the camp in November, 1970 prior to launching the raid. However, those US POWs repatriated in 1973 who had been held at Son Tay in 1970 had been moved out of the camp on July 14, 1970 – *four and 1/2 months prior to the raid*— in a routine move, also attributed to potential flooding at the Son Tay camp in July, 1970. This serious discrepancy suggests other US POWs, not repatriated in 1973, had been moved in and out of the Son Tay camp after July 14th and prior to November 21st.
- ***Other Central Intelligence Agency and Defense Intelligence Agency reporting:*** Although this can hardly be considered an exhaustive listing, there are other unexplained IC reports which lend credibility to the existence of other US POWs and/or US POW camps in North Vietnam during the war, such as: (1) CIA 240202Z Jul 82, Subject: Organization and Inmates of Tan Lap Prison, Vinh Phu Province (North Vietnam), "former detention site for US POWs...Long-held inmates noted that up to 1973, American prisoners had been interned at this prison." *Note:* No repatriated US POWs were held there at this facility; (2) see Defense Intelligence Agency 15-Volume Study and Report of Uncorrelated Information Relating to Missing Americans in Southeast Asia, dated December 15, 1978; (3) see Defense Intelligence Agency Task Force Examination of PW/MIA Analysis, submitted by Lt. Gen. Eugene Tighe, USAF-ret., former Director, Defense Intelligence Agency, dated May 27, 1986; and (4) see Defense Intelligence Agency (or DPMO) database index of HUMINT reporting on POW/MIA in Southeast Asia, broken down by originating agency. All of these reports are not "resolved."

[39] *NIE Statement* at 29: (With respect to the 1205/735 documents), “In particular, the numbers of POWs allegedly held by Hanoi at the times mentioned are inconsistent with reliable US Government statistics and far outnumber the actual total of open cases.”

[40] *Id.* at 65: "Since the original examination of the document by the Intelligence Community in 1993, interviews with Russian officials who were knowledgeable about the (1205) document continue to validate the claim that it is an authentic GRU document and not a

Russian fabrication ...While supporting the authenticity of the document, none of the Russians claimed that the figure of 1,205 POWs was accurate." (p.26)

[41] *Id.* at 74: "None of the new information helps to confirm the accuracy of the 1205 report." (p.27)

[42] *Critical Assessment* at 74: This statement is factually inaccurate. As previously demonstrated, the information provided by GRU Capt. A.I. Sivets [redacted] briefly referenced in the NIE under the heading *"New Information"*— does, in fact, *help to confirm* that the 1205 document was an *accurate* representation of the political-military situation in North Vietnam in 1972. So does the information provided by former USSR Central Committee Secretary Katushev, and two Chiefs of the GRU—Generals Ladygin and Korabelnikov—in 1994 and 1997. In short, since 1994, the GRU has expressed its confidence in both the authenticity and the reliability of the information in the 1205 report. To ignore this evidence implies that the GRU being confident enough in the information it acquired in 1972 to forward it to the Soviet Central Committee (whose own official viewed it with confidence) is somehow *not* helpful information in judging whether the 1205 report could have [redacted]…

[43] *NIE Statement* at 29: (With respect to the 1205/735 documents), "In particular, the numbers of POWs allegedly held by Hanoi at the times mentioned are inconsistent with reliable US Government statistics and far outnumber the actual total of open cases." (p.8)

[44] *Id.* at 53: "We also have credible reports that US POWs were not transferred out of Vietnam. General Volkogonov told the U.S.-Russian Commission on POWs and MIAs that his delegation had uncovered no evidence that US prisoners had been transported from Vietnam to the USSR...K.F. Katushev, former Central Committee Secretary... , told US interviewers that he would have known if US POWs were transferred to the USSR. He believes no such transfers occurred." (p.24)

Exhibits

Bates

Exhibit A: *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue* (hereinafter "*Critical Assessment*"). 1
Attachments
1205 Document—Report of the Deputy Chief of the General Staff of the VNA [Vietnamese Peoples Army] General-Lieutenant Tran Van Quang at the Politburo Meeting of the PTV September 15 1972. 161
735 Document—Armed Forces General Staff of the U.S.S.R. Central Intelligence Administration of the U.S.S.R. Report by Hoang Anya, Central Committee Secretary, Vietnamese Workers Party At 20th Plenary Session of the Central Committee, VWP End of December 1970, Early January 1971. 186

Exhibit B: Challenged Redactions to *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*. 210

Exhibit C: Challenged Redactions to *A Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the charges Levied by A Critical Assessment of the Estimate* ("*Review of the Charges II*"). 226

Exhibit D: CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*, released June 25, 2021 ("*Review of the Charges I*"). 254

Exhibit E: CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate*, released December 3, 2024 ("*Review of the Charges II*"). . . . 433

Plaintiffs' Exhibit A

Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue

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A CRITICAL ASSESSMENT

of the

1998 National Intelligence Estimate (NIE)

on Vietnamese Intentions,

Capabilities, and Performance

Concerning the POW/MIA Issue

Prepared and Submitted by the Office of U.S. Senator Bob Smith[1].

November, 1998

[1] Sen. Smith is the U.S. Chairman of the Vietnam War Working Group of the U.S.-Russia Joint Commission on POWs and MIAs. He is also a senior Member of the Senate Committee on Armed Services and the former Co-Chairman of the Senate Select Committee on POW/MIA Affairs (1991–1993).

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UNITED STATES SENATE
WASHINGTON DC.

A CRITICAL ASSESSMENT

OF THE
1998 NATIONAL INTELLIGENCE ESTIMATE (NIE)
ON VIETNAMESE INTENTIONS, CAPABILITIES, AND PERFORMANCE
CONCERNING THE POW/MIA ISSUE (U)

Prepared and Submitted by the Office of U.S. Senator Bob Smith (R-NH)
November, 1998

[redacted]

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A Critical Assessment
of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue (U)

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	English translation of the so-called 735 Document, based on translation from Vietnamese into Russian by Soviet GRU in 1971.	

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EXECUTIVE SUMMARY:

Recommendation:

The National Intelligence Estimate (NIE) on the Vietnam POW/MIA disseminated earlier this year (the Key Judgments of which were released publicly in redacted form in August and September, 1998[1]) should be retracted based on the findings of this critical assessment. (U)

A copy of this critical assessment is being sent to the Members of the National Foreign Intelligence Board (NFIB) and the Military Intelligence Board (MIB), along with a request that those boards meet to consider and approve this request that the NIE be retracted. A copy has also been sent to relevant Congressional leaders, along with requests that oversight hearings concerning this NIE be conducted at the earliest possible date. (U)

In addition, copies of this critical assessment have been sent to officials who may rely on the NIE, such as U.S. policy-makers with responsibility for U.S. relations with the Government of the Socialist Republic of Vietnam (SRV) and U.S. military officials with responsibility for POW/MIA accounting efforts in Southeast Asia. It is recommended that these officials not rely on the judgments in the NIE for the reasons noted in this critical assessment. (U)

Conclusions:

[1] Letter from Director of Central Intelligence, George Tenet, to U.S. Senator Max Cleland, dated August 3, 1998; Letter from Chairman of the National Intelligence Council, John Gannon, to National Commander of The American Legion, dated August 19, 1998; News Release by the Office of the Assistant Secretary of Defense (Public Affairs), entitled *POW/MIA Document Declassified and Released*, dated August 27, 1998; and Defense POW/MIA Weekly Update, published under the auspices of the Deputy Assistant Secretary of Defense (POW/Missing Personnel Affairs), dated September 10, 1998. (U)

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Vietnamese Cooperation

With respect to POW/MIA cooperation by the Government of the Socialist Republic of Vietnam (SRV), the NIE judges that "Vietnam has become more helpful in assisting US efforts to achieve the fullest possible accounting of American personnel missing in action during the Vietnam conflict," and that "...Vietnam's overall performance in dealing with the POW/MIA problem has been good in recent years..."(U)

However, my conclusion is that the NIE fails to adequately distinguish between improved Vietnamese assistance with U.S. field operations to recover potential remains of U.S. personnel killed during the war, and continued Vietnamese stonewalling in providing full disclosure of documents from relevant Communist Party holdings that would shed light on SRV policy and knowledge concerning the fate or status of unaccounted for captured and missing in action personnel. Accordingly, the NIE's judgment of overall SRV performance on the POW/MIA problem as "good" is not reliable in view of the SRV stonewalling referenced above, which is detailed in this critical assessment. Moreover, there are ***numerous*** instances, also detailed in this critical assessment, where the analysis in support of the NIE's judgments of SRV cooperation is factually inaccurate, misleading, incomplete, shallow, and seriously flawed. (U)

The "1205" and "735" Documents

With respect to the so-called "735" and "1205" documents,[2] the NIE judges that "many of the details of the documents are implausible or inconsistent with reliable evidence" and therefore does not assess the likely range of numbers of American POWs in the spring of 1973.[3] The NIE further judges that "[n]either document

[2] The 1205/735 documents are Soviet GRU acquisitions of alleged high-level secret wartime reports by North Vietnamese officials who state that Hanoi was holding substantially more U.S. POWs in the 1970-1972 period than those released in 1973. (U)

[3] The NIE terms of reference were coordinated with the Senate Select Committee on

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provides a factual foundation upon which to judge Vietnamese performance on the POW/MIA question." (U)

However, I conclude, for the reasons noted in this critical assessment, that the NIE's judgment on the 1205/735 documents cannot be accepted with confidence because it is ***replete*** with inaccurate and misleading statements, and lacks a reasonably thorough and objective analytical foundation on which to base its judgment. I further conclude, based on a review of relevant U.S. data, that many of the statements contained in both the 1205/735 documents and the so-called 185 report discussed herein are indeed supported or plausible, and have very serious implications which should warrant an ***urgent*** review of U.S. policy toward the Government of the Socialist Republic of Vietnam (SRV). (U)

The Politicizing of Intelligence

Congress and the leaders of the U.S. Intelligence Community (IC) need to examine what role the White House, its National Security Council, and certain US policy-makers responsible for advancing the Administration's normalization agenda with Vietnam may have played in influencing or otherwise affecting the judgments of the IC as reflected in the NIE. The evidence, which appears to warrant such an examination, is detailed in this critical assessment under Part IV. (U)

Intelligence (SSCI), as noted in SSCI Chairman/Vice-Chairman letter dated October 27, 1997, and OCA/CIA letter dated November 21, 1997. (U)

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II BACKGROUND:

In the spring of 1997, in relation to Senate confirmation of a U.S. Ambassador to Vietnam, the Assistant to the President for National Security Affairs, Samuel R. Berger, directed the U.S. Intelligence Community (IC) to undertake a special National Intelligence Estimate (NIE) on the Vietnam War POW/MIA issue and to provide the IC's updated assessment of the so-called "1205" and "735" documents from the Russian archives. Mr. Berger further directed the IC to consult with the Senate Select Committee on Intelligence (SSCI) on the terms of reference for the NIE [3] Mr. Berger's directives followed personal discussions with both myself and the Senate Majority Leader, Senator Trent Lott. (U)

Subsequent to Mr. Berger's pledge to have the IC conduct a special NIE, I met personally with the Director of Central Intelligence, George Tenet, and the Director of the Defense Intelligence Agency, Lt. Gen. Patrick Hughes, to underscore the importance I attached to the need for this NIE to be thorough and objective. (U)

In the Fall of 1997, Congress passed, and the President signed into law, the National Defense Authorization Act for Fiscal Year 1998 which included a provision I authored that required the Director of Central Intelligence to "provide analytical support on POW/MIA matters.[4]" The legislative history of this provision made clear that it was related to both the preparation of the forthcoming NIE which would be relied on by departments and agencies involved with POW/MIA matters, and the need for better intelligence support for POW/MIA investigative activity — a need highlighted by the findings of a bipartisan inquiry by the SSCI in April, 1998 — an inquiry which determined that the IC had not provided input for the President's certification on whether Vietnam was fully cooperating on the POW/MIA issue. (U)

[3] Letter to the Senate Majority Leader from the Assistant to the President for National Security Affairs, dated April 10, 1998. (U)

[4] Public Law 105-85, Section 1067, entitled *POW/MIA Intelligence Analysis*. (U)

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The National Intelligence Officer (NIO) for East Asia, Robert Suettinger, was subsequently assigned the lead role by the Director of the National Intelligence Council (NIC), John Gannon, in coordination with the Director of Central Intelligence (DCI), George Tenet. An Asian analyst from the Directorate of Intelligence, [redacted] was assigned the role of principal author and was instructed to draft the NIE under the guidance of Mr. Suettinger.[5] (S) (b)(3) CIAAct

In early November, 1997, I met with Mr. Suettinger, to again underscore my concerns that the forthcoming NIE be prepared in as thorough and comprehensive a manner as possible. The Director of the Defense Intelligence Agency, Lt. Gen. Patrick Hughes, also continued to pledge that he would become personally engaged in the NIE analytical effort, to ensure that it was thorough, objective, and subjected to rigorous review.[6] (U)

The SRV POW/MIA issue addressed in the NIE centered on two key questions, as stated in the NIE's Scope Note: (1) Since 1987, to what extent has the leadership of Vietnam demonstrated a commitment to cooperating with the United States to achieve the fullest possible accounting of missing in action personnel, and (2) What is the Intelligence Community's assessment of the so-called "1205" and "735" documents from the Russian archives? (U)

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[5] Transcript of Briefing on National Intelligence Estimate to U.S. Side of the U.S.-Russia Joint Commission on POWs and MIAs, Comments by NIC Director, page 3, dated June 17, 1998. (S)

[6] Letter from Director, Defense Intelligence Agency, to Sen. Smith dated December 11, 1997(U).

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As of 1998, over 2,070 U.S. personnel remain missing or otherwise unaccounted for in Southeast Asia as a result of the Vietnam War. (U)

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III DETAILED ASSESSMENT OF NIE STATEMENTS:

Scope Note (P.1):

NIE STATEMENT: *"Some of the judgments it (the NIE) reaches are based upon assessments made by experienced American officials rather than upon a sizable body of intelligence reporting."* (p.1) (~~S~~)

ASSESSMENT:

I question why any National Intelligence Estimate (NIE) would make judgments in areas if there is no sizable body of intelligence reporting within the U.S. Intelligence Community (IC) upon which to base such judgments, in whole or even in part. Moreover, based on a listing of documents compiled by my office, scanning thirty-plus years, there does, in fact, appear to be significant intelligence reporting concerning the areas where the IC was asked to make judgments. Assessments made by U.S. officials outside the IC can certainly be reviewed by the principal drafter of a NIE, but they should not then be cited as the primary basis for some of the judgments of the NIE itself, especially when relevant intelligence information is, in fact, available. This was not done in the prior Special National Intelligence Estimate, entitled *Hanoi and the POW/MIA issue*, dated September, 1987, has not been done in NIE's on other topics which I have reviewed (for example, see NIE 95-19, entitled, "Emerging Missile Threats to North America During the Next 15 Years") and it should not have been done here. The extent and the process by which any NIE's judgments are allowed to be predominantly based upon the views of individuals outside the IC, rather than upon intelligence reporting, should be reviewed by Congress and the leaders of the IC. (~~S~~)

The National Intelligence Council (NIC) should be required to provide a listing of the judgments in this NIE which are "based upon assessments made by experienced

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American officials rather than upon a sizable body of intelligence reporting" so the reader of the NIE can more easily distinguish between NIE judgments based on intelligence reporting, and NIE judgments predominantly based on the views of individuals outside the IC. As noted above, I do not believe it was appropriate for the NIE to make judgments in areas where there is not a sizable body of intelligence, if that, in fact, is the case. Any real collection gaps should have been more fully noted in this regard, and judgments that are not predominantly based on intelligence reporting should also be clearly noted in the text of the NIE. (S)

U.S. decision-makers are quite capable of obtaining the views of other individuals outside the IC with respect to Hanoi and the POW/MIA issue. Finally, it should also be noted that this was not a requirement noted in the terms of reference coordinated with the SSCI.[7] (S)

NIE STATEMENT: *"In some cases we had to consider intelligence reporting that is as much as 25 years old that comes from foreign intelligence services of unknown reliability or has been discredited for various reasons. For these and other reasons, there are important gaps in our knowledge of these sensitive issues, and our judgments must therefore be cautious."* (p.1) (S)

ASSESSMENT:

Since one of the NIC's two main taskings with regard to this NIE was to evaluate Soviet GRU reports disseminated to the Soviet leadership in 1971 and 1972, concerning the numbers of U.S. POWs during the war and North Vietnamese policy toward their release, it is bizarre that the NIE would infer so definitively up front that the GRU was a foreign intelligence service of "unknown reliability." (S)

[7] See letters to CIA/OCA from SSCI dated May 29, 1997 and October 27, 1997, and CIA/OCA letter to SSCI dated November 21, 1997. (U)

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Additionally, if the date of these reports was a reason for the NIE's judgments to be "cautious," it strains credulity to expect the reader of the NIE to later accept the NIE's blunt "current assessment" of these documents as "not what they purport to be.[8]" (S)

[8] See page 26 of the NIE (Part II, IC Assessment of 1205/735 Documents, Current Assessment). (S)

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III DETAILED ASSESSMENT OF NIE STATEMENTS: *(continued)*

Key Judgments (P.5-8):

NIE STATEMENT: *"Since the early 1990s, we have seen evidence for increased Vietnamese cooperation on the POW/MIA issue in the strengthened staffing, increased responsiveness, and growing professionalism of the Vietnamese organizations that deal with this issue."* (p.5) (U)

ASSESSMENT:

The relevant Key Question identified earlier in the Scope Note was: "*Since 1987*, (emphasis added) to what extent has the *leadership* (emphasis added) of the Government of the SRV demonstrated a commitment to cooperating with the United States to achieve the *fullest possible accounting* (emphasis added) of American personnel missing in action during the Vietnam Conflict." (S)

The Key Judgment response begins "*since the early 1990s*, (emphasis added) we have seen evidence for increased Vietnamese cooperation on the POW/MIA issue in the strengthened staffing, increased responsiveness, and growing professionalism of the *Vietnamese organizations that deal with this issue* (emphasis added). (U)

Nowhere in the NIE is there a discussion of SRV leadership intentions, performance, and capabilities on the POW/MIA issue between 1987 and the early 1990s, as required by the Key Question, developed in coordination with the SSCI (S).

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More importantly, although the reader, by inference, can assume in the judgment quoted above that leadership decisions in Hanoi may account for better SRV staffing, responsiveness, and professionalism at the working level, the NIE neglects to judge the extent to which this action has resulted in the fullest possible accounting of American personnel missing in action from the war, as required in the Key Question.[9] (S)

Most importantly, other than the subject of working level SRV staff support provided to U.S. officials, nowhere in this first paragraph of the Key Judgments of the NIE is there a discussion of whether there is evidence that Vietnamese leaders have directed, are intending to direct, have been asked to direct, or are capable of directing the disclosure of additional records or information from official SRV Government holdings that have a bearing on the POW/MIA accounting question, and the extent to which such information still exists. Vietnamese leadership intentions, capabilities and performance are central to the key question of this NIE, yet, with the exception of inferred leadership directives for better support, responsiveness, and professionalism at the staff level, it is unanswered with respect to this key accounting question (ie: leadership directives concerning disclosure of relevant accounting records from official SRV holdings.) (S)

Finally, in view of the fact that the previous special NIE on Hanoi and the POW/MIA issue, dated 1987, judged that the Hanoi leadership had previously directed the unilateral recovery and warehousing of U.S. remains, and that it still had a large number of centrally collected and stored remains not yet repatriated, it is incredulous that the current NIE would not address this up front in this first

[9] As of 1991, 798 American personnel listed by their services as missing in action in 1973 were still unaccounted for in Vietnam, with an additional 333 for Laos, 85% of whom were lost in areas of Laos controlled by North Vietnamese forces during the war. As of 1997 (latest available figures), the number has dropped 57 to 739 in Vietnam and has dropped 47 to 286 for Laos. These numbers *exclude*, as of 1991, 1,053 American personnel listed by their services as killed in action/body not recovered in 1973 in the same geographic locations, down to 1,007 as of 1997. (U)

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paragraph.[10] This is especially disturbing in view of statements passed to the Under Secretary of Defense for Policy by the Defense POW/MIA Office earlier this year indicating that Vietnam has repatriated 134 *stored* remains since the cutoff date for the 1987 NIE.[11] (S)

NIE STATEMENT: *"In our view, Hanoi judges that...normalization requires progress on the POW/MIA issue."* (p.5) (U)

ASSESSMENT:

In view of the fact that the U.S. removed objections to international financial institution lending to Vietnam in 1993, lifted the U.S. trade embargo on Hanoi in 1994, established full diplomatic relations with Vietnam in 1995, confirmed a U.S. Ambassador to Hanoi in 1997, and the President certified Vietnam's full and good-faith cooperation on the POW/MIA issue in 1996, 1997, and 1998, the NIE's nebulous judgment above warrants clarification. (U)

Specifically, the NIE glaringly fails to define what constitutes *progress* on the POW/MIA issue from Hanoi's standpoint ie: *maintaining* their current level of cooperation or *improving* their current level of cooperation -- these differences in how progress is defined from Hanoi's standpoint have serious implications for U.S.

[10] The 1987 special NIE, entitled, *Hanoi and the POW/MIA Issue*, states "...there is considerable evidence that the Vietnamese have detailed information on the fates of several hundred US personnel. North Vietnamese and Viet Cong forces had policies governing the handling of US remains that included removing identifying data, burying the remains, and sending the identification and location of the gravesite to Hanoi. We estimate that the Vietnamese have already recovered and are warehousing between 400 and 600 remains. Thus, Hanoi could quickly account for several hundred US personnel by returning warehoused remains and by providing material evidence that could aid in determining the fate of other personnel." (U)

[11] See Memorandum for Under Secretary of Defense for Policy, Walter Slocombe, #I-98/69271 (S)

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policy makers and are critical to judging the timing and likelihood for resolution of key outstanding POW/MIA accounting issues. As such, the NIE's judgment here is inadequate and incomplete. (U)

US policy makers deserve the benefit of an IC judgment as to whether Hanoi believes they can just maintain the status quo without any need for improvement in their POW/MIA cooperation as a condition for further expansion of economic relations, to include the establishment of normal trade relations. (U)

NIE STATEMENT: *"On the issue of recovering and repatriating American remains of U.S. personnel, we rate Vietnamese cooperation as excellent."* (p.5) (U)

ASSESSMENT:

The question of exactly *who* is rating Vietnamese cooperation on recovery and repatriation of US remains, as reflected above in the NIE, is germane because the above-quoted NIE statement is repeated again in the NIE in a blue chart on page 7, entitled *Summary Evaluation: Vietnamese Cooperation with the United States on POW/MIA Accounting*. The category element is listed as *Joint Field Activities; Recovery and Repatriation of Remains*, with the level of cooperation listed as *excellent*. (U)

The source for the chart is identified in a footnote as *US officials responsible for carrying out research, investigation, and joint recovery operations of American POW/MIAs*, later identified as Joint Task Force (Full Accounting) officials. (S)

There is no distinction drawn anywhere else in either the chart or in the above-quoted NIE contention between *joint* US-SRV recovery/repatriation of remains and *unilateral* SRV recovery/repatriation of remains. Since there is no other category element in the chart to reflect unilateral SRV activity, the reader must assume that the term *recovery and repatriation of remains* refers to both unilateral and joint

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efforts. (U)

This assumption is supported by a subsequent statement on page 16 that reads, "Vietnamese responsiveness on the recovery and repatriation issue is currently described by JTF-FA officials as excellent." (S)

For the NIE to then reflect as its own IC judgment, a position that SRV cooperation concerning joint and unilateral recovery and repatriation of US remains is *excellent*, based solely on assurances provided to the IC from one non-intelligence entity (ie: JTF-FA), belies comprehension, and is especially disturbing for three main reasons: (S)

(1) there is evidence available to the Intelligence Community concerning: (a) Vietnamese manipulation of witnesses and material evidence at [redacted] and (b) Vietnamese recovery of US remains that have not been repatriated to the United States.[12] (U) (b)(1)

(2) the Research and Analysis Directorate of the Department of Defense Prisoner of War/Missing Personnel Office (DPMO), consisting of former IC analysts, and responsible for JTF-FA policy guidance on operations and investigations in Vietnam, has consistently maintained that "our own estimates regarding the number of US remains collected and stored by Hanoi are well within the range of acceptable error" for the 400-600 rough first-hand estimate provided by a source deemed reliable by that office and subsequently reflected in the 1987 special NIE. DPMO has further stated, "our analysis indicates that in total,

[12] Comprehensive Report/Case Assessments prepared by Department of Defense POW/MIA Office, and sent to Congress on November 13, 1995, and December 5, 1995, pursuant to Public Law (U); and DoD Inspector General Report of Interview with Garnett "Bill" Bell, former Chief, U.S. POW/MIA Office, 1991, dated October 10, 1996, and IC reporting since 1987. (U)

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Vietnam collected and stored an estimated 300 US remains."[13] (S)

At the same time, information made available by the U.S. Army Central Identification Laboratory (CILHI) indicates that approximately 170 US remains repatriated by Hanoi since the end of the war show evidence of storage.[14] (U) Based on the large discrepancy in this data (300 stored vs. 170 returned), all of which was available to the IC, it is extremely inaccurate for the NIE to itself judge Vietnam's record on *unilateral* repatriation of remains as *excellent*. (S)

(3) As the Deputy Assistant Secretary of Defense for POW/MIA Affairs himself recently indicated, "While, in recent years, the Vietnamese have been constructive and cooperative in facilitating the forensic review and repatriation of remains, since September 1990, these remains have all been *jointly* (emphasis added) recovered in the field or turned in by local citizens...Failure to repatriate these remains would be a very hostile act. To call their return a sign of *excellent* (emphasis added) cooperation, however, suggests that the opposite of hostile is excellent. This is a flag in the face of those skeptical of the Vietnamese record or who remember the long, slow record of Vietnamese repatriations of stored remains."[15] (S)

In essence, the NIE chose to base an evaluation of Vietnamese cooperation in the area of remains recovery on assurances from one non-intelligence entity (JTF-FA), alone, without even factoring in the positions of the non-intelligence entity that oversees JTF-FA and evaluates Vietnamese performance and knowledge in this

[13] Memorandum for Under Secretary of Defense, Walter Slocombe, #I-98/69271. (S)

[14] See Memorandum of CILHI statistics, distributed by Executive Director, National League of Families of Americans Missing and Prisoner in Southeast Asia, dated September 1, 1998. (U)

[15] Memorandum for Director, Defense Intelligence Agency from Deputy Assistant Secretary of Defense (POW/Missing Personnel Affairs), Subject: Assessment of NIE, dated June 30, 1998. (S)

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particular area (ie: DPMO). But even more disturbing is the NIO's statement, with respect to this specific assessment, that the IC itself cannot be expected to be a source for such an evaluation in an NIE because "the intelligence community does not deal with the Vietnamese with respect to recovery.[16]" This contention has serious ramifications for the reputation of the U.S. Intelligence Community, and would be akin to a statement that the IC cannot assess North Korean performance on missile proliferation because the IC does not deal with North Korea on this subject. (S)

NIE STATEMENT: *"We think Hanoi's decision to be more cooperative with the United States on POW/MIA accounting has not come easily to the Vietnamese leaders...But our reporting suggests that the POW/MIA issue no longer has the political sensitivity it once had."*(p.5) (U)

ASSESSMENT:

The NIE contends that evidence for increased Vietnamese cooperation has occurred "since the early 1990s." Yet, inexplicably, the NIE simultaneously ignores the obvious by minimizing the issue's sensitivity: It is *because* of the political sensitivity of the POW/MIA issue and its perceived public linkage to normalization of U.S.-SRV relations beginning in 1991 that Vietnam has taken the steps at the working level, referenced in this NIE, to give the appearance of overall progress. In point of fact, at no time since the end of the war in 1973, was the need for Vietnamese action on the POW/MIA issue more politically sensitive for Hanoi than when normalization of relations with the United States period was so close at hand, and then underway the last few years, while at the same time, the issue itself was under close scrutiny in Washington.[17] (U)

[16] Transcript of Briefing on National Intelligence Estimate provided to U.S. side of U.S.-Russia Joint Commission on POW/MIAs, U.S. Capitol, S. 407, on June 17, 1998 (p.26). (S)

[17] At the time of publication of the 1987 special NIE on this subject, the White House

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Indeed, the surfacing of the so-called "1205" and "735" documents from Russian archives in 1993 (discussed in Part Two of this NIE), and Hanoi's response, proves beyond any doubt that the issue itself has become *more* politically sensitive *not less* as implied in the NIE. Moreover, for the NIE to directly state that "our reporting suggests" less sensitivity mandates a full review of the IC's holdings on this judgment as it again strains credulity, in view of public events, to believe that the IC has no reporting to suggest Hanoi's continued, and even increased, sensitivity to perceptions of its cooperation on the POW/MIA issue in recent years. (U)

NIE STATEMENT: *"Incidents of outright refusal to cooperate with U.S. investigators have decreased,..."* (p.5) (U)

ASSESSMENT:

Several questions come to mind with this NIE contention above because the NIE provides no clear time frame of reference for the statement and no apparent sourcing. Incidents of outright refusal have decreased compared to what previous period - since 1987, since the early 1990's? Who is the source for this broad statement in the NIE — intelligence reporting, JTF-FA officials, etc...? Is this a realistic and reliable indicator of cooperation, and is it based on a convincing analysis of documented US requests to SRV officials which have been flatly denied, and has the record of US requests been consistent enough over time to

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appointed a Special Emissary to Hanoi on the POW/MIA Issue, General John Vessey. Four years later, in August, 1991, the United States Senate voted unanimously to establish a Senate Select Committee on POW/MIA Affairs, in view of continued suspicions about Hanoi's cooperation and the U.S. Government's handling of the issue. During this same period, the Department of State presented SRV officials with a road map to normalization of U.S.-SRV relations, requiring increased POW/MIA cooperation. The Department of Defense subsequently established a Joint Task Force contingent in January, 1992, under the U.S. Pacific Command, reporting to the Chairman of the Joint Chiefs of Staff. There is little doubt that Hanoi recognized that the issue was becoming more politically sensitive for them, not less. (U)

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accurately reflect a cooperative SRV trend? These questions warrant a response and a further review of the evidence available to the IC. (U)

NIE STATEMENT: *"...there are still instances in which the Vietnamese raise objections to POW/MIA activities. In most cases, the Vietnamese cite considerations of sovereignty — for example, in refusing to make internal Politburo documents accessible to US investigators; security, such as not allowing US officials to enter classified locations and facilities; or technical problems, such as difficulty locating documents or records. Occasionally, the Vietnamese state that local villagers are concerned about the intrusive nature of investigations and recovery operations."* (p.5-6) (U)

ASSESSMENT:

The NIE fails to judge, from an intelligence point of view, the credibility of the above-referenced SRV excuses (e.g. does a Communist dictatorship really care about the views of local villagers), and the potential implications of these objections (ie: is this where the goods are if Hanoi's leaders had, in fact, decided to withhold certain critical information that directly bears on the POW/MIA accounting question). Moreover, the reader is led to infer from the NIE statement itself that the excuses, may, in fact, be persuasive and genuine. The failure to make a judgment in this critical area concerning SRV intentions, capabilities, and performance, renders its inclusion in the Key Judgments section of the NIE meaningless. (U)

NIE STATEMENT: *"...Vietnam's performance generally has improved with respect to the US POW/MIA issue...Vietnam's overall performance in dealing with the POW/MIA problem has been good in recent years..."* (p.6) (U)

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ASSESSMENT:

A Key Judgment that "performance generally has improved" and "overall performance has been good" requires at least some attempt under this heading to define what is meant by the term "generally" and "overall." Information and testimony clearly indicate that performance has not significantly improved since the early 1990s with respect to access to any relevant POW/MIA material contained in Communist Party Politburo or Central Committee-level holdings, in addition to better access to SRV Ministry of National Defense and General Political Directorate wartime documentation on American losses along the Ho Chi Minh trail in Laos.[18] (U)

Additionally, material, such as prison records directly relevant to POW/MIA accounting, have not been provided, and the NIE itself later acknowledges this in another section of the estimate (see p. 20). (S)

And according to the Commander of the Joint Task Force (Full Accounting), the U.S., in point of fact, no longer has a full-time presence with Vietnamese counterparts working in North Vietnamese museums and archives, something which was once heralded as a breakthrough in the POW/MIA accounting mission.[19] (U)

All of the above information was available to the principal drafter of the NIE, who concedes having relied on JTF-FA opinions in both defined and undefined sections of the NIE, as opposed to intelligence reporting which is alleged not to exist. Yet, for none of the areas outlined above to warrant inclusion and consideration relating to a judgment under the heading of *performance generally* or *overall performance*

[18] DoD Testimony to House National Security Subcommittee on Military Personnel, dated June 28, 1995, November 30, 1995, and June 19, 1996 (U); and Deputy Assistant Secretary of Defense (POW/MIA Affairs) letter to U.S. Senator Hank Brown, dated April 25, 1996. (U)

[19] Memorandum for the Record, Meeting with JTF-FA Commander, General Terry Tucker, dated June, 1998. (U)

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on the POW/MIA issue implies a clear lack of knowledge of the relevant aspects to the POW/MIA accounting effort, and is especially disturbing because the referenced information was previously made available to the IC.[20] (U)

The NIE notes earlier that performance has improved in some areas, such as increased staffing, responsiveness, and professionalism, but this can hardly be interpreted as the sole basis for good overall performance *with respect to the US POW/MIA issue*. Because the NIE's judgment in this area is not supported by available evidence, it is inadequate, misleading, and cannot be accepted with any confidence. (U)

NIE STATEMENT: *"...we think Hanoi has not been completely forthcoming on certain POW/MIA matters: In some instances, we believe full disclosure would prove embarrassing to the regime. For example, Hanoi continues to deny that US POWs were mistreated while in captivity in the North. We think Vietnam still has records it could make available to US investigators but which would discredit its denials of mistreatment. A few reports of transfers of US POWs to Russia and other countries are unexplained, and the books remain open."* (p.6) (U)

ASSESSMENT:

Under the heading Key Judgments above, the NIE chooses to define "certain" POW/MIA matters where Hanoi is not completely forthcoming as (1) for example, records which would discredit SRV denials of POW torture, and (2) a few reports of transfer of US POWs to Russia and other countries. (U)

[20] Letter from Chairman and Vice-Chairman, SSCI, to CIA, dated December 3, 1997 and letters to DIA Director from Sen. Smith dated February 6, 1998 and April 15, 1998. (U)

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With respect to (1), it remains unexplained given the gravity of key outstanding POW/MIA questions why torture would be cited in this Key Judgments portion of the NIE as the most important and relevant example to use, and not other more embarrassing examples such as the holding back of any unacknowledged American POWs after Operation Homecoming in 1973. (U)

On June 17, 1998, I asked Robert Suettinger, the NIO for East Asia, the following question:

> *Sen. Smith: Would it not also be embarrassing to release information that they held back American prisoners? Yes or no.*
>
> *Mr. Suettinger: Yes.*
>
> *Sen. Smith: ...So why wouldn't you say just as conjecture, that if it is embarrassing for them to provide torture information, it would be just as embarrassing for them to tell us that they held back American POWs after the war. Wouldn't it?*
>
> *Mr. Suettinger: I suppose it would.*[21] (S)

The fact that the NIE does not reflect a more relevant example bearing on the POW/MIA accounting issue under the Key Judgments heading is not only disappointing, but very misleading to the NIE reader concerning the scope of knowledge the SRV may still possess concerning unaccounted for POW/MIAs. (U)

It bears noting that the Office of the Secretary of Defense has also formally expressed concern with the citing of this specific example under the Key Judgments portion of the NIE, stating, in part:

> *"...We agree with the assessment that Vietnamese cooperation on documents is incomplete, but we cannot agree, as the NIE asserts, that this assessment is based principally on Vietnamese reluctance to reveal instances of mistreatment...We are*

[21] Transcript of Briefing on National Intelligence Estimate provided to U.S. side of U.S.-Russia Joint Commission on POW/MIAs, U.S. Capitol, S.407, June 17, 1998, p. 26-27. (S)

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concerned that the prominence given these topics in the NIE may focus attention on an emotive topic that is irrelevant to the accounting effort...[22]" (S)

With respect to (2), on unexplained reports of possible POW transfer from Vietnam to Russia and other countries, the NIE judges that because a few reports are unexplained, and the books remain open, then this means that Hanoi *has not been completely forthcoming*, even though the NIE subsequently states in a later section on p. 24, "...we lack good evidence that POWs were transferred to the USSR..." Given this subsequent statement, it seems odd that the NIE can reach a Key Judgment on p. 6 that Hanoi has not been completely forthcoming on this topic. (S)

I agree that the books must definitely remain open on the transfer issue based on more pressing information previously made available to the IC but inexplicably not referenced in the NIE under the heading of unresolved transfer reports on p. 23.[23] (S)

However, these matters notwithstanding, the evidence before the IC has been much more continuous and voluminous that Hanoi did not acknowledge and return all US POWs under its control in 1973 than is has been on the transfer issue. As such, it is bizarre that some unexplained reports of transfer would meet the threshold for inclusion in this section, yet a larger body of evidence on other unresolved subjects bearing on continued SRV stonewalling on POW/MIA issues would not be included here. As such, the Key Judgment in this section is woefully inadequate, shallow, and misleading to the NIE reader with respect to the potential scope of SRV knowledge.

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[22] Memorandum to Director, Defense Intelligence Agency, from Deputy Assistant Secretary of Defense (POW/Missing Personnel Affairs), dated June 30, 1998, p.2.

[23] See [redacted] Soviet-MIG defector, Alexander Zuyev (S), follow-up JCSD interviews with him (U), and published claims by Zuyev in Malcolm McConnell's book, *Fulcrum* (U); in addition to the report by Russian Presidential Advisor and Co-Chairman of the Joint Commission on POW/MIAs, the late Dmitri Volkogonov, discovered in early January, 1998, concerning evidence of a KGB assigned mission and plan to "transfer knowledgeable Americans to the USSR" in the late 1960s, made available to the NIC by the JCSD on January 14, 1998. (U)

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NIE STATEMENT: *"We have reviewed the so-called "1205 and 735 documents," which purport — falsely in our view — to be reports to the party leadership containing statements that Hanoi held large numbers of US POWs above those acknowledged to the United States. We believe the judgments in the 1993 IC assessment released by DoD remain valid: that the documents are probably authentic GRU (Soviet Military Intelligence) - collected documents. But many of the details of the documents, including dates and other facts, are implausible or inconsistent with reliable evidence...We believe that neither document provides a factual foundation on which to judge Vietnamese performance on the POW/MIA issue."* (p.8) (U)

ASSESSMENT:

The referenced *1993 IC assessment released by DoD* was actually released by DoD on January 24, 1994. It states, in part, the following in relation to the 1205 and 735 documents:

1205 Document Assessment by IC/DoD released in January, 1994:

- *We believe it probably is an authentic Soviet document...(it) appears to be an authentic Russian intelligence report.*
- *We found portions of the "1205 Report" that were unrelated to the POW-MIA issue to be plausible...the most credible of which is in the section about political operations planned for South Vietnam.*
- *For example, it identifies several South Vietnamese leaders who were known opponents of the regime of President Nguyen Van Thieu and who were*

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reported to have had clandestine contacts with representatives from the North.

- *It accurately depicts the circumstances surrounding the surrender of a South Vietnamese unit during the 1972 Easter Offensive, admitting that the North's propaganda had misrepresented the event.*
- *It predicts an upsurge in terrorist attacks beginning in October, 1972, which was indeed noted in the Mekong Delta region in November...*
- *We cannot dismiss the "1205 Report" as a fabrication, but before we can accept it as what the Russian cover memo claims it is, we must have better evidence of its authorship and credibility.*
- *There probably also is more information in Vietnamese party and military archives that could shed light on this document. We continue to pursue this.*
- *As further information becomes available, this assessment will be updated.*[24] (U)

735 Document Assessment by IC/DoD released in January, 1994:

- *We have only two complete pages, 11 and 18, of a longer report, making it difficult to analyze closely.*
- *Like the "1205 Report", it is a GRU document, transcribing and translating the text of an oral report presented at a Vietnamese Communist Party conclave.*
- *We believe the report is a genuine GRU document, not a fabrication, as claimed by Hanoi.*
- *The "735 Document" is too fragmentary to permit detailed analysis...*
- *There probably also is more information in Vietnamese party and military archives that could shed light on this document. We continue to pursue this.*[25] (U)

[24] Department of Defense News Release/Memorandum for Correspondents, No. 028-94, dated January 24, 1994. (U)

[25] Ibid.

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Based on the above quotations from the previous assessment, it is clear that the current NIE has not accurately represented this earlier judgment by stating "...many of the details of the documents, including dates and other facts, are implausible or inconsistent with reliable evidence" and *not* acknowledging that portions of the 1205 report, were, in fact, accurate or plausible based on evidence available to the IC, and represented as such in January, 1994. (U)

Equally important, the earlier assessment specifically *rejected* Hanoi's contention that the 735 Document was a fabrication, and not a genuine GRU document, and specifically judged that there was probably more information in Vietnamese party and military archives that could shed light on both documents, and that this information would be pursued in Hanoi. (U)

For the current NIE to say that the *judgments* in the prior assessment *remain valid*, but then say that neither document provides a factual *foundation upon which to judge Vietnamese performance* on the POW/MIA question, is simply irreconcilable, especially given the undeniable fact that, as of this writing, Hanoi has yet to disclose any relevant data from party archives that could shed light on either of these documents. The prior judgments put a lie to Hanoi's performance and credibility on this aspect of the 1205/735 documents, leaving the NIE reader with a Key Judgment that is not supported by the prior judgments the NIE itself references. (U)

Finally, every piece of relevant data on the issue of authenticity gathered and made available to the IC since the prior assessment was conducted in 1994 has reinforced the contention that the documents, are, in fact, legitimate GRU acquisitions.[26] For the NIE to be timid and hesitant to remove the 1994 term "probably" for purposes of the current NIE Key Judgment on whether the documents are, in fact, authentic GRU collected materials, is extremely misleading to the NIE reader. In point of

[26] See Record of USRJC meetings and JCSD interviews and investigations conducted between 1994-1998, maintained by the Vietnam War Working Group, JCSD, Defense POW/MIA Office, Department of Defense, and the Office of Senator Bob Smith. (U)

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fact, aside from Hanoi's rhetorical claims against the documents, no credible witness or information has surfaced to suggest that these are not authentic wartime GRU acquisitions. Continuance of the term "probably" injects unwarranted speculation concerning authenticity which is unsupported by the historical record concerning the discovery and release of this information to the United States in 1993, and subsequent investigations by the Joint U.S.-Russia Commission on POWs and MIAs. (U)

NIE STATEMENT: *(With respect to the 1205/735 documents), "In particular, the numbers of POWs allegedly held by Hanoi at the times mentioned are inconsistent with reliable US Government statistics and far outnumber the actual total of open cases."* (p.8) (U)

ASSESSMENT:

The NIE statement that the number of POWs allegedly held is *inconsistent with reliable US Government statistics* is not proven or demonstrated anywhere in the NIE -- it is merely asserted. Given the priority assigned by the National Security Advisor to the President for an assessment of these documents, it is simply unacceptable that a detailed analysis of the numbers is not presented in the NIE. This is especially disturbing because the NIE's claim on its face is, in fact, demonstrably false as shown below. (U)

First, with respect to the so-called "735" Document:

According to the English translation of the 735 document, the Russian GRU reports a statement by a North Vietnamese official to a North Vietnamese leadership gathering, that "...we published the names of 368 American pilots who were shot down and taken captive in the territory of the D.R.V. (North Vietnam)...The overall number of American pilots imprisoned in the D.R.V. is 735. As I already stated, we published the names of 368 pilots. This is our diplomatic move." The time frame

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for the report is dated "End of December, 1970/early January, 1971," according to the GRU cover page to the translated text from Vietnamese to Russian. (U)

It is true and verifiable that during this time-frame, Hanoi did, in fact, publish a list of exactly 368 names, entitled, "U.S. Pilots Captured in the Democratic Republic of Vietnam from August 5, 1964 to November 15, 1970." Yet, nowhere in the NIE is the confirmation of this statement in the "735" document acknowledged. The IC has a responsibility to share this information with the reader of the NIE. It did not. Why? (S)

The 368 list was published by the DRV's Ministry of National Defense, and is dated November 15, 1970. The list was released to representatives of Senators Kennedy and Fulbright in Paris on December 22, 1970, and provided to certain other foreign governments as well.[27] All of the names of the men on the list had previously been unofficially provided to American peace activist Cora Weiss between May and November, 1970.[28] (U)

The 368 list itself consisted of 339 Air Force and Navy pilots and crewmembers currently in captivity, 9 such personnel previously released, and 20 such personnel listed as dead.[29] The status of the 339 men listed as captives was already known to

[27] Memorandum to President Nixon from National Security Advisor, Henry A. Kissinger, dated December 23, 1970; Joint Chiefs of Staff Memorandum for the Record of the December 22, 1970 meeting of the NSC Ad-Hoc Group on Vietnam, dated December 23, 1970; Memorandum of Conversation of the USSR Ambassador to Vietnam with Chief of the Department of the USSR of the Ministry of Foreign Affairs of the Democratic Republic of Vietnam, dated December 22, 1970; AP Bulletin dated December 22, 1970, UPI Bulletin dated December 22, 1970; New York Times News Service, dated December 25, 1972; and American Embassy Rome message, May 3, 1971. (U)

[28] See "Cora Weiss" lists of POWs obtained by Defense Intelligence Agency, released to Sen. Smith in 1993 from DIA holdings previously sent to National Archives in 1984 (U); Memorandum from Secretary of Defense to Service Secretaries, dated August, 1971. (U)

[29] Memorandum from Chief, Evasion and Escape Branch, Production Support and Resources Division, Defense Intelligence Agency, dated June 21, 1972. (U)

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the Pentagon based on the Cora Weiss lists and U.S. intelligence and casualty information at the time, although this was the first "official" acknowledgment of their status by Hanoi.[30] (U)

Based on Department of Defense POW/MIA lists[31], only 335 Air Force and Navy pilots and crewmembers captured in North Vietnam prior to November 15, 1970 were later repatriated to the United States (one in Sept. 72, and the remainder following the signing of the Peace Accords in 1973 (Jan-Apr). (U)

This fact essentially means only two things: Hanoi made the political decision to release a full and complete list of airmen captured in North Vietnam in December, 1970 (which was the only category of men in this category from this time period later released in 1973) *or* Hanoi, as the 735 Document alleges, viewed the December, 1970 list as a diplomatic move, whereby the decision was made not to acknowledge all airmen captured by North Vietnamese forces at this point in the war. (U)

Incredibly, the NIE is completely silent on this vital and obvious question of Vietnamese intentions, as described above. More importantly, the evidence is powerful that Hanoi did not and would not have released, in 1970, a complete list of airmen captured by North Vietnamese forces, nor did the U.S. Government believe it to be a complete list of U.S. POWs held in North Vietnam at the time.[32] Yet, the

[30] Statement by Dr. Roger E. Shields, Deputy Assistant Secretary of Defense, before the Senate Foreign Relations Committee, dated January 28, 1974, p.4. (U)

[31] Chronological List of U.S. Personnel lost, captured, missing, and repatriated from Southeast Asia, Defense POW/MIA Office Official Reference Document, dated May, 1997. (U)

[32] U.S. Secretary of Defense Melvin Laird stated at the time, based on DoD's review of the 1970 list, "I do not accept it as a complete list of all the prisoners held in North Vietnam." (Memorandum from the Secretary of Defense to the Secretaries of the Military Departments, dated August, 1971). He reinforced that position 21 years later in testimony before the Senate Select Committee on POW/MIA Affairs on September 21, 1992, stating "I felt those lists were inadequate...it was not complete information, and we knew of the existence of other POWs when those lists were delivered to us... We felt there were more... We had solid, confirmed evidence

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NIE would have its readers believe otherwise without even attempting to demonstrate its unsupported contention. (U)

In addition, according to official U.S. Government statistics, forwarded to the Director of Central Intelligence during this period, as of December, 1970 (the same month as the alleged "735" report), the Department of Defense officially listed 462 POWs, 962 MIAs, and 117 Non-Hostile missing, for a total of 1,541 "missing and captured personnel."[33] This statistic alone puts a lie to the NIE's contention that "735" (less than half of 1,541) is *inconsistent* with reliable U.S. Government statistics. (U)

Based on an examination of these wartime statistics, to include factoring in all U.S. air losses over both North Vietnam and North Vietnamese controlled areas of Laos (no airmen captured in Laos were on the disclosed 368 list), it is plausible that Hanoi could have had a pool of 367 additional US personnel "imprisoned in the DRV" who were not acknowledged as captive in December, 1970 (367 + 368 list = 735). Moreover, based on the actual total of open POW or MIA cases from North Vietnam and Laos, (as of 1997 - 607, of which the majority were loss prior to January, 1971), and inherent uncertainties concerning dates of death with respect to many of the approximately 500 remains repatriated from Southeast Asia since the end of the war, the *possibility* of 367 additional personnel having been held in

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that there were more POWs in the North at that time." In addition, Acting Secretary of the Army, Thaddeus Beal, wrote to the Secretary of Defense on July 10, 1970, stating, "At present, Cora Weiss maintains that about 334 Americans are detained by Hanoi. But the facts are that 780 Americans are listed as missing in North Vietnam, and 769 in South Vietnam and Laos. We know with some certainty that of this number, 376 are PW in North Vietnam and 78 are PW elsewhere in Indochina. *We expect that among those listed as missing, substantial numbers will eventually turn up as captives*...To accept Hanoi's admission of responsibility for less than 350 US PW as conduct constituting reasonable, humane, or internationally responsible conduct is to betray those other forgotten Americans." (U)

[33] Message for Director, Central Intelligence Agency from American Embassy Saigon, "following are official figures from missing and captured personnel lists prepared by Deputy Comptroller for Information, DoD...", dated May 10, 1971. (U)

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captivity during this period, in point of fact, does not *far outnumber the actual total of open cases*, as the NIE claims. This is a glaring and readily apparent mathematical error in the NIE. (U)

The plausibility of the scenario in the "735" document being more historically accurate than the NIE's implicit contention that Hanoi chose to list all POWs it held in the North in 1970, is further demonstrated by information in another Soviet-era report previously disclosed to the IC.[34] In that report, originated by the Soviet Ambassador in Hanoi during the war, I.S. Scherbakov, and entitled, "Soviet-Vietnamese Negotiations in April, 1967," the Soviet Ambassador advises his North Vietnamese counterparts, "it is not necessary to inform the Americans on the exact number of prisoners. A half of them could be handed over and the others could be released later in exchange for repair of damage inflicted by the U.S. bombardment of the DRV."[35] It is interesting to note that the 735 Report describes a similar scenario being followed by Hanoi's leaders. Yet, inexplicably, this evidence is not presented in the NIE. (U)

Second, with respect to the so-called "1205" Document:

According to the English translation of the 1205 document, the Russian GRU reports statements by a North Vietnamese official to a North Vietnamese leadership gathering, to include the following:

"the total number of American POWs captured to date on the fronts of Indochina, ie: in North Vietnam, South Vietnam, Laos, and Cambodia, comprises 1205 people...624 aviators captured in North Vietnam, 143 aviators captured in South Vietnam, 47 diversionists and other American servicemen captured in North

[34] See letter from Chairman and Vice-Chairman, SSCI, to CIA, dated December 3, 1997 and letters to DIA Director from Sen. Smith dated February 6, 1998 and April 15, 1998. (U)

[35] Extract from report entitled "Soviet Vietnamese Negotiations of April, 1967 and the Following WPV Policy with regard to a Vietnamese Problem Settlement," dated August, 1967 from Soviet Embassy, Hanoi. (U)

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Vietnam, and 391 American servicemen of other categories, which includes 283 captured in South Vietnam, 65 in Cambodia, and 43 in Laos..."

"We intend to resolve the American POW issue in the following manner: The U.S. Government must demonstrate compliance with a cease-fire and the removal of Nguyen Van Thieu...Nixon must compensate North Vietnam for the great damage inflicted on it by this destructive war... For now, we have officially published the list of the 368 POWs. The rest are not acknowledged. The U.S. Government is aware of this, but they do not know the exact number of POWs, or they perhaps only assume an approximate number based on their losses. That is why in accordance with instructions from the Politburo, we are keeping the number of POWs secret...when the American government resolves the political and military issues on all three fronts of Indochina, we will set free all American POWs." (U)

The time frame for the report is dated "September 15, 1972," according to the GRU cover page to the translated text (from Vietnamese to Russian). (U)

As demonstrated under the previous section with respect to the 735 document, it is true and verifiable that Hanoi did, in fact, officially release a list of exactly 368 names of captured Americans, which is again referenced above in the 1205 document. As noted earlier, this fact is not pointed out to the reader anywhere in the NIE. (U)

But more importantly, the NIE fails to offer the reader any convincing analysis of the numbers in the 1205 report to demonstrate their accuracy or inaccuracy. This is especially disturbing in view of U.S. statistics which listed approximately 1,800 U.S. personnel as captured or missing in Indochina as of September, 1972,[36] thereby on its face giving credence to an alleged North Vietnamese statistic that 1,205 Americans had actually been captured by communist forces as of that date. (U)

[36] Chronological List of U.S. Personnel lost, captured, missing, and repatriated from Southeast Asia, Defense POW/MIA Office Official Reference Document, dated May, 1997. (U)

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With respect to one of the two largest categories of captured Americans noted in the 1205 report — 624 aviators captured in North Vietnam as of September, 1972, — U.S. statistics, based on Operation Homecoming in 1973, show that 405 aviators captured and held in North Vietnam as of September 15, 1972, returned alive, which would leave a discrepancy of 187 U.S. aviators (an adjusted high end figure which factors in early returnees and died in captivity airmen) if the 1205 report were plausible. [redacted] In view of the fact that, following Operation Homecoming, the U.S. Government still listed as captured or missing 430 airmen lost over North Vietnam prior to September, 1972, the question is whether 187 of 430 missing men could have been captured alive. The question is even more relevant given the fact that 1.) over 300 American airmen are still missing in action from incidents over North Vietnam alone; and 2.) none of these statistics include so-called Killed in Action/Body Not Recovered cases compromising men believed during the war by the U.S. side to have died without their bodies being recovered. (U)

With respect to the second of the two largest categories of captured Americans noted in the 1205 report — 283 captured American servicemen (not aviators) captured in South Vietnam as of September, 1972 — U.S. statistics, based on Operation Homecoming in 1973, show that 77 Army personnel and 17 Marines were returned to U.S. control, the majority of which had been captured prior to September, 1972. The 1205 report alleges, therefore, that approximately 190 additional U.S. ground personnel were captured by communist forces in South Vietnam. In view of the fact that, following Operation Homecoming, the U.S. Government still listed as captured or missing approximately 400 Army and Marine Corps personnel lost in South Vietnam, the question is whether 190 of 400 missing men could have been captured alive. And again, the question is even more relevant given the fact that 1.) over 300 men in this category are still missing in action from incidents in South Vietnam; and 2.) none of these statistics include so-called Killed in Action/Body Not Recovered cases compromising men believed during the war by the U.S. side to have died without their bodies being recovered. (U)

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The numbers of captured U.S. POWs in the 1205 report are also consistent with U.S. estimates in other smaller categories as well. For example, with respect to Laos, the 1205 report alleged "from other categories of American servicemen in Indochina, we have captured...forty-three in Laos." U.S. estimates were quite close to this figure. In January, 1973, the Military Assistant to the Secretary of Defense told White House officials "we don't know what we will get from Laos. We have only six known prisoners in Laos, although we hope there may be forty or forty-one.[37] (U)

Once again, the NIE fails to offer any convincing analysis of these numbers and possibilities, and instead, forces its reader to accept an inaccurate claim on its face that the numbers in the 1205 document are *inconsistent and far outnumber the actual total of open cases*. Moreover, the NIE inexplicably ignores statements by credible Russian officials since 1993, (which were provided to the NIE principal author in early 1998), indicating their judgment that the total number of referenced US POWs was true or plausible. As examples —

- In September 1996, the Russian Chairman of the U.S.-Russia POW/MIA Commission, General-Major Vladimir Zolotarev, stated "***We consider the number of American POWs given in that report quite plausible.***"

- In August, 1995, the Chief State Archivist of the Russian Federation, Dr. Rudol'f Pikhoya, stated "***I am absolutely certain that the numbers cited in the 1205 report are true. I believe that data still exists in Vietnam which deals specifically with US POWs.***"

- Also, in August, 1995, Captain 1st Rank Alexander Sivets of the Main Intelligence Directorate (GRU) of the General Staff of the Russian Federation stated "***We consider that the Vietnamese leaders, in their desire to exploit the POW problem for their own interests, would publicly cite a lower figure than***

[37] Excerpt from transcript of the Washington Special Actions Group (WASAG) Meeting, White House Situation Room, January 29, 1973. (U)

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the real one. This is something that we do not doubt...we believe there were more American POWs than Vietnam was publicly admitting to" as the 1205/735 documents claim.

- In a conversation with Gen. Vessey on June 22, 1993, Russian General Volkogonov stated "*the Vietnamese would naturally not keep those prisoners the US knew were in captivity*," thus lending credibility to the fact that, with the exception of 16 individuals, all POWs captured during the Vietnam War prior to the date of the 1205 report, were, in fact, known to be POWs and so listed by the Pentagon prior to their release. [38] (U)

Finally, the NIE ignores credible testimony from former U.S. officials, (also provided to the principal NIE author in early 1998) which would tend to corroborate indications in 1973 that Hanoi had not acknowledged all US POWs in the lists turned over in Paris in January, 1973 for repatriation under the peace accords. As examples —

- On September 21, 1992, former Secretary of Defense Melvin R. Laird testified before the Senate Select Committee on POW/MIA Affairs, stating "*Now when you get into the lists that were finally given to the Administration on January 27, 1973...I did not think at that time that those were full lists, that was my gut reaction...my expectations were higher, and I was disappointed.*"

- On June 24, 1992, former Chairman of the Joint Chiefs of Staff, Admiral Thomas R. Moorer, stated, in response to questioning by Senator Harry Reid on the reasons Moorer believed there were more POWs still in Southeast Asia in 1973, "*Well, because of the scope of the operations, and the number of persons that were involved and the number of aircraft that were shot down and so on, where we didn't find immediate information about what happened to the pilot and son on. I thought also, in view of the fact that the war had been going on*

[38] see DoD Enclosures for the Record, Hearing of the Senate Select Committee on POW/MIA Affairs, September 24, 1992, p. 838. (U)

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for 9 years, you know, I certainly would expect it to be more than the 591 (acknowledged POWs returned by Hanoi in 1973). I that that was the number on the initial list. I didn't think you could clean it up that fast."

- On September 21, 1992, former Special Assistant to Dr. Kissinger, Winston Lord, stated *"We were disappointed that the lists were not longer...we were naturally suspicious of Hanoi after all our experience."*

- Another assistant to Dr. Kissinger, Peter Rodman, stated in his Senate deposition in 1992 that *U.S. negotiators were "stunned" that there were not more names of POWs on the lists turned over in Paris in January, 1973, for repatriation.*

- On September 21, 1992, former Director of the Central Intelligence Agency and Secretary of Defense, Dr. James R. Schlesinger, stated, in response to questioning by Senator Charles Grassley on whether Schlesinger believed men were left behind, *"I think that, as of now, I can come to no other conclusion, Senator...Despite the Paris agreements, there was no reason, in my judgment, to assume that the North Vietnamese would release everybody."*

- On June 24, 1992, in response to questioning by Senator John Kerry on reaction to the lists turned over by North Vietnam in Paris in January, 1973, former Director of Intelligence for the Pacific Command, and Director, DIA, Lt. Gen. Eugene Tighe, stated *"My personal view was shock because I had a great deal of faith in the approximate numbers of those lists we had compiled and the dossiers, and my reaction was that there was something radically wrong with the lists versus our information. They should have contained many more names. That was my personal judgment and it was the collective judgment of all those that had worked compiling the lists. It pertained to the personnel aspects of casualty reporting and the intelligence reports."*

- On September 9, 1992, former Director of the National Security Agency and Deputy Director of Central Intelligence, Admiral Bobby Ray Inman, testified in his Senate deposition, in response to a question on his view on whether men

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were still alive left behind in 1973, ***"In '73, a large number of us shared the view that there were, simply because we had known people had gotten to the ground, and that there were substantial prisoners in Laos that were unaccounted for..."***

- On June 5, 1992, former Military Assistant on the NSC in 1973, and subsequently National Security Advisor in the Reagan Administration, Robert C. "Bud" McFarlane testified in his Senate deposition ***"I told President Reagan that I believe there were hundreds of Americans that were alive after they were lost in North Vietnam or Laos, and that many of them were undoubtedly murdered, many of them were undoubtedly held...if a lot of them were alive right after they went down, then it becomes a matter of did the Vietnamese have more of an interest in keeping them alive or keeping them dead, killing them. It seems to me logical that they would have kept some alive, all of them perhaps..."***

- McFarlane subsequently stated in an interview on October 26, 1994, ***"I think that at the end of the war, there were live American prisoners, and I think it's one of the real scandals of our history of that war...although we might not have been able to get them back, at least we ought to have held the Vietnamese publicly to account about it...I am willing to forgive as well as the next person, but I don't like to be had, and the Vietnamese are getting all of our leverage given away to them for nothing..."***

- On June 30, 1993, Dr. George Carver, former Special Assistant for Vietnamese Affairs to three successive Directors of Central Intelligence between 1966 and 1973, testified that "***...during 1973's initial months, a number of government officials, myself included, were convinced that the Vietnamese Communists were not leveling and never had leveled with the United States on the matter of American POWs...***" (U)

The NIE also ignores supporting evidence for these views made available to the principal author of the NIE, including a report previously forwarded by CIA to the

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National Security Council in 1973, and an analysis of POW numbers done by DIA that same year.[40] (U)

In conclusion, it is apparent that neither the 1994 IC/DoD Assessment of the 1205/735 documents nor the current NIE demonstrates the inaccuracy of the numbers cited in these documents. Both assessments ***assert*** the documents' inaccuracies, but neither ***demonstrates*** it. If the NIE cannot demonstrate the inaccuracy of the numbers cited, then its judgment that *neither document provides a factual foundation to judge Hanoi's performance on POW/MIA issues* **cannot be accepted** with any degree of confidence. (U)

[40] Central Intelligence Agency Memorandum for Dr. Henry A. Kissinger, Subject: ***Indication that the Communists are Holding Previously Unlisted U.S. POWs as a Future Bargaining Tool***, dated March 20, 1973; Defense Intelligence Agency Memorandum, Subject: The Status of U.S. Prisoners in Laos, dated March 24, 1973, "***...DIA has analyzed the number we thought should be prisoners in North Vietnam against the number the DRV has listed and found that 45% of our possibles turned up on the final list. A similar comparison in South Vietnam yields the figure of 21%. Since we carry 352 as possible in Laos, nine Americans on the Pathet Lao list gives a ridiculously low figure of 2.5%.***" (U)

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III DETAILED ASSESSMENT OF NIE STATEMENTS: *(continued)*

Discussion. (P.9):

Part One: The Question of Vietnamese Cooperation

> **"...Vietnam is a hard-line Communist state, and we make a big mistake judging things like credibility by our standards. They have a different set of standards. For them, world revolution is ethical and proper... We shouldn't try to judge what they say or assess its credibility by any other standard than what is in their interest and furthers their cause."**
>
> **— Rep. Henry Hyde, (R-IL) [41]**

NIE STATEMENT: *"In some instances, Vietnamese on recovery teams have willingly worked beyond the terms of their contracts to successfully complete operations. Cultural reasons contribute to this record."* (p.11) (S)

"...for local officials, participation in joint field activities can be financially profitable. People in their villages can earn much more by working on the activity than they could in their normal work. Vietnamese officials sometimes have been known to expand investigations in

[41] From transcript of Press Conference by Congressional delegation to Hanoi to discuss POW/MIA issues, dated January 15, 1980 (press conference held in Bangkok, Thailand, see State cable 151820Z Jan 80, from American Embassy, Bangkok to SecState). (U)

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such a manner as to prolong an activity and thereby obtain more revenue." (p.12) (S)

ASSESSMENT:

The above two conflicting statements appear to leave an NIE reader wondering "which is it?" Are the Vietnamese assisting U.S. efforts "for the money" and if so, then I question why these statements are cited in the NIE as good indicators of Vietnam's cooperative intentions. (S)

NIE STATEMENT: *"...U.S. requests to see Politburo documents pertaining to US POW/MIA issues have been turned aside...Vietnamese authorities have said they will research the records and provide relevant POW/MIA information, but we cannot always verify the accuracy of the information they have given us."* (p. 15) (S)

ASSESSMENT:

This is the first apparent indication to the Congress of which I am aware that Vietnamese officials have unilaterally researched Politburo records and passed on information on POW/MIAs obtained from those records. Based on my own review of this particular aspect of the POW/MIA issue, I seriously question the accuracy of this NIE statement, especially because the Defense POW/MIA Office (DPMO) has indicated the opposite in both open testimony and written communication to Congress. (S)

NIE STATEMENT: *"Vietnamese Initiative in Recovery Operations: (Two) Recent Examples...Case 1927, Lt. Daniel Borah...In 1995, the VNSOMP (ie: Vietnam) reported that it had located a veteran of an antiaircraft battery whose members had found a dead American pilot named Borah,*

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and had buried the body. The VNSOMP located a witness to the burial and then provided this information (though not the witness) to U.S. investigators...team subsequently excavated the site and recovered a complete set of remains...subsequently identified as Lt. Daniel Borah." (p. 17) ~~(S)~~

ASSESSMENT:

I question why the NIC would make a decision to include, in a separate blue box on page 17, two examples of cooperation by Vietnam on MIA cases, but not also give examples of cases where Hanoi has not been very cooperative, especially when such evidence exists in the judgment of the same DoD analysts who have worked on and analyzed the two referenced cases. I further question the appropriateness of selecting these cases and pointing the reader toward Vietnamese cooperation on MIA recovery operations without also pointing out similar cases where apparent stonewalling continues. ~~(S)~~

Moreover, it is very interesting to note that with respect to Case 1927 (Lt. Borah) cited above, the family of Lt. Borah continues to believe that Vietnamese officials manipulated the crash site investigation, based on the evidence uncovered by JTF-FA personnel (ie: including a flight suit in remarkable condition for having allegedly been lying in acidic soil for 25 years as claimed by the Vietnamese)[42], and Vietnam's refusal to facilitate an interview with the alleged witnesses to the burial. Moreover, declassified National Security Agency intercepts from 1972 confirm North Vietnamese knowledge of this particular incident, including the status of the pilot at the time of shootdown, making it difficult to believe Vietnam could not have resolved this case fully years earlier. As a result, I question what independent analysis the IC conducted on this particular case before determining to include it as an example of positive Vietnamese initiative. The NIE's judgment with respect to including this case as a positive highlight in an NIE appears quite naive. (S)

[42] Photographs of the recovered flight suit and other information from DoD pertaining to this case have been provided to the Office of Senator Bob Smith.

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NIE STATEMENT: ***"A 1987 Special National Intelligence Estimate (SNIE) stated that we had evidence that Vietnam was storing about 400 to 600 sets of remains. But that judgment was retracted (by an NIO/EA assessment) in 1996 because it turned out to have been based on the unsupported testimony of a single unreliable source*** **(emphasis added)." (p.18) (S)**

ASSESSMENT:

This statement represents one of the most egregious and unsupported misrepresentations of facts in the entire NIE — a misrepresentation that was defended, incredulously, by the NIO for East Asia, Robert Suettinger, during a closed-door meeting on June 17, 1998 with myself and other members of the U.S. side of the U.S-Russia Commission on POWs and MIAs.[43] (S)

The issue at hand is the phrase "unsupported testimony of a single unreliable source." The referenced source is an ethnic Chinese former mortician who was forced to leave Hanoi in 1979, and was subsequently located and interviewed by the U.S. Defense Attaché Office in Hong Kong in a refugee camp later that year. Prior to leaving Hanoi, he worked on the preservation and treatment of U.S. servicemen remains from the war which were being stored by the SRV in Hanoi, and there is convincing evidence attesting to his bonafides (e.g. he was photographed along with other SRV technicians at an official Vietnamese repatriation of U.S. remains ceremony attended by U.S. officials in 1976 at Gia Lam airport on the outskirts of Hanoi.) (S)

During the past 18 years, beginning in the Carter Administration, through the

[43] Transcript of referenced NIC Briefing to Joint Commission, pages 36-38. *"Sen. Smith: You said he is unreliable. NIO Suettinger: That is correct, and we do consider him unreliable."* (S)

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Reagan Administration to the current Administration, the Defense Intelligence Agency, the Department of State, relevant Congressional committees, the Joint Chiefs of Staff, and most recently the Defense POW/MIA Office have *all reaffirmed and stood by the reliability of this source*, thereby rejecting Vietnam's official rhetoric to the contrary.[44] Some examples of this include the following statements before Congress and elsewhere: (S)

[44] The official Vietnamese position with respect to the mortician was formally first put forth in a letter from SRV Vice Foreign Minister Phan Hien to The Honorable Lester Wolff, Chairman, U.S. House International Relations Subcommittee on East Asia and Pacific Affairs, dated January 18, 1980. The letter followed a visit to Hanoi on January 15, 1980 by CODEL Wolff during which Vietnamese officials "discounted" the information from the mortician (see American Embassy Bangkok cable; Subject: CODEL Wolff press conference transcript, dated January 15, 1980) The SRV letter read, in part, "...the information you received is a complete fabrication...I sincerely recommend that you not believe in fabrications of that sort because such lies disrupt your as well as our efforts to pursue humanitarianism." (See American Embassy Bangkok cable, Subject: CODEL Wolff: Visit to Hanoi, dated January 19, 1980. Vietnamese officials repeated their denials in a subsequent meeting with a State Dept. official and the SRV UN Mission Charge on MIAs on February 8, 1980, "indicating there was no point in discussing rumors which had been concocted for malicious purposes. (SRV official) emphasized that reliance on rumors would poison the atmosphere between us and that publicizing distortions and fabrications like the story of the 400 remains would only antagonize ordinary Vietnamese who ultimately had to provide MIA information." (See SecState cable, Subject: Meeting with Vietnamese on MIAs, dated February 12, 1980) On February 20, 1980, in response to concerns raised by Secretary of State Vance, the SRV Ministry of Foreign Affairs, through its UN Ambassador, stated that the report of 400 remains "was completely untrue, spread with ill-intention, and aimed at creating further complications to the relations between our two countries and to the search itself for the American MIA...It was a tremendous fabrication, and even opinion among American political circles was also skeptical about the single source of spreading speculation. I, therefore, believe there is no sound justification for a serious concern in the United States..." The SRV Ministry of Foreign Affairs then published a so-called White Paper in April, 1980 in which they again dismissed the account as having been fabricated, stating, "In this election year of 1980, some politicians in the United States concocted the story, based on Beijing's allegations, of Vietnam holding the remains of 400 US servicemen killed in Vietnam. The story was concocted for political ends with familiar political tricks and with fictional details which can confuse public opinion." (copy on file in Sen. Smith's office).

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"DIA obtained information that the Socialist Republic of Vietnam has in its possession in Hanoi the remains of more than 400 U.S. military personnel who were lost as a result of hostilities in Southeast Asia. This information was furnished by a technician who reported that he had personally prepared the skeletal remains of many of these U.S. personnel...The technician's personae vita has been cross-checked and independently verified. His polygraph examination conducted by DIA indicated no deception. The allegation that the Socialist Republic of Vietnam is maintaining and withholding 400 remains of U.S. personnel is judged by the Defense Intelligence Agency to be valid."

— *Statement of Lt. Gen. Eugene T. Tighe, Jr., USAF, Director, Defense Intelligence Agency, before Congress on June 27. 1980 (U)*

"In November, 1979, we learned that a refugee from Vietnam stated he knew that the Vietnamese were holding the remains of over 400 Americans...The refugee was exhaustively debriefed and was found to be a credible source."

— *Statement of Michael Armacost, Deputy Assistant Secretary of State, East Asian and Pacific Affairs, Department of State, before Congress on June 27, 1980. (U)*

"Since 1975, DIA has received over 700 reports from Indochinese refugees... From that body of reporting came the significant testimony of a former mortician, concerning his knowledge of over 400 remains of U.S. MIA's being held in Hanoi. DIA's efforts resulted in providing solid information to Congress, subsequently used in making an official approach to Hanoi in 1980."

— *Remarks of Lt. Gen. Richard Lawson, USAF, "on behalf of the Chairman of the Joint Chiefs of Staff, Gen. David C. Jones," as delivered before the National League of Families on June 28, 1980. (U)*

"Chairman Guyer: General, back in the June 27 hearing of this subcommittee,

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which was a public hearing in which the Vietnamese mortician testified, he said that he had seen and handled 400 sets of remains in Hanoi...Does the DIA still consider his testimony valid? Gen. Tighe: I stand by the testimony at that time. I stand by him as a credible witness."

— *Transcript of Hearing of the House Foreign Affairs Subcommittee on Asian and Pacific Affairs with Director, Defense Intelligence Agency, Lt. Gen. Eugene Tighe, on December 2, 1980. (U)*

"Admiral Paulson: ...a Vietnamese mortician provided information, which we judged to be valid, that the Vietnamese have in their possession the remains of approximately 400 U.S. military men lost in the Vietnam War...we have spent a considerable effort to establish the mortician's authenticity; he clearly was a Government mortician...Chairman Solarz: Do we believe that his report is accurate with respect to the remains? Admiral Paulson: Yes."

— *Transcript of Hearing of the House Foreign Affairs Subcommittee on Asian and Pacific Affairs with Admiral A. G. Paulson, Assistant Vice Director for Collection Management, Defense Intelligence Agency, on March 22, 1983. (U)*

"We remain convinced that the Hanoi government does have the remains of U.S. servicemen lost in Vietnam. In November of 1979, information was received that the Vietnamese Government had in its possession the remains of more than 400 U.S. military personnel who were lost as a result of hostilities in Indochina. This information was furnished by a mortician who observed the stored remains and reported that he personally prepared the skeletal remains of many of these U.S. personnel. We know that he was a Government mortician, we have additional evidence that supports his contention, and he indicated no deception on a polygraph. We consider his testimony valid in spite of our inability to determine precisely where the remains may now be held."

— *Statement of Lt. Gen. James A. Williams, Director, Defense*

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Intelligence Agency, before Congress on July 14, 1983. (U)

"We put the mortician through every proof and cross-check that we could possibly run, and there's no doubt in my mind that he was not only very truthful, but also what he reported was very accurate."

— *Remarks by former DIA Director, Lt. Gen. Tighe, as quoted in First Heroes, p.92, published 1987. (U)*

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"We have found information from this source, a Vietnamese mortuary technician, reliable and have consistently maintained so. [redacted] *aside, our own estimates regarding the numbers of U.S. remains collected and stored by Hanoi are well within the range of acceptable error for the rough firsthand estimates provided by this source. His estimates are also consistent with information from members of the VNOSMP regarding how many remains they collected. Moreover, they are backed up by other less well placed sources, information in Vietnamese records, and U.S. forensic analysis of repatriated remains."*

— *Memorandum to Director, Defense Intelligence Agency, signed by Deputy Assistant Secretary of Defense for POW/MIA Affairs on June 30, 1998. (S)*

Additionally, Secretary of State Cyrus Vance approached Vietnamese officials in writing on February 7, 1980, and it was explained to SRV officials at the time that the mortician was "believed to have had sufficient access to information about MIAs to warrant our asking Vietnamese leaders about his allegations."[45] (U)

Moreover, relevant Congressional committees that looked into this matter as far back as 1980 also considered the mortician to be a "highly credible source" who

[45] SecState cable, Subject: Meeting with Vietnamese on MIAs, dated February 12, 1980

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"convincingly reported" information that was judged to be "significant and reliable."[46] (U)

The source was also deposed at length by the bipartisan Senate Select Committee on POW/MIA Affairs in December, 1991, and further determined to be reliable.[47]

The record with respect to the reliability of this source could not be more clear. Moreover, it stood unchallenged by the Intelligence Community until I made a request to the Director of Central Intelligence in the spring of 1996 for the 1987 Special National Intelligence Estimate (SNIE) on Hanoi and the POW/MIA issue to be processed for declassification, as it should have been under an Executive Order from President Bush in July, 1992 and NSC memoranda to the DCI (done at the urging of a Senate resolution), which encompassed such documents. That SNIE had contained judgments, based in part, on the mortician's testimony.[48]

[46] American Embassy Bangkok cable, Subject: CODEL Wolff press conference transcript, dated January 15, 1980; and transcript of House Foreign Affairs Subcommittee on Asian and Pacific Affairs hearing, dated June 27, 1980. (U)

[47] Final Report of the Senate Select Committee on POW/MIA Affairs (Rpt.103-1), p.288-289, January, 1993 *Note*: Sen. Bob Smith was present at the deposition of the mortician, and heard his testimony first-hand. (U)

[48] See letter from Sen. Smith to Director of Central Intelligence, dated June 10, 1996. Copies of referenced Executive Order, Senate Resolution, and NSC instructions to DCI are attached to this letter. That request was initially denied because of CIA and National Intelligence Council concerns about the "uncertainty inherent in judgments on some of the key issues addressed in the estimate" (1987 SNIE); as well as concerns that the release of the SNIE might jeopardize U.S. efforts to normalize relations with Hanoi (see CIA letters to Senator Smith dated September 26, 1996, and October 29, 1996, and CIA briefing to Congressional staff, held at House Permanent Select Committee on Intelligence, on November 20, 1996.) The reasons for these denials of my declassification request in 1996 continue to warrant additional scrutiny in my judgment, because of the implications they have for Congressional oversight on intelligence matters. My request eventually resulted in the NIO for East Asia conducting his own study, later released in October, 1996 alongside the declassified 1987 SNIE, in which he claimed that the SNIE's judgment that Hanoi had warehoused 400 to 600 sets of American remains was "based on limited direct evidence whose reliability was open to question." That judgment, however, did not represent a

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Based on the testimony cited above, it is obvious that the NIE's claim that the mortician was an "unreliable source" who provided "unsupported testimony" is demonstrably ***false***. This judgment in the current NIE should, therefore, be immediately retracted by the Intelligence Community (IC), because the IC has already attested to the reliability of the mortician. (S)

NIE STATEMENT: *"We have no evidence that the Vietnamese presently are storing remains of American dead...The Vietnamese Government collected and stored remains during the Vietnam War, but we do not know how many."* (p.18) (S)

ASSESSMENT:

Both of these sentences, which appear in the same paragraph in the NIE, would seem to each contradict the other. If the IC has established that Vietnam collected U.S. remains during the war, and concedes not knowing how many, then it is logical to assume that there is a possibility that Hanoi could still be holding remains, *a possibility which is enhanced* in view of the Defense POW/MIA Office assessment provided to DIA on June 30, 1998 that "it is our analysis that in total Vietnam collected and stored some 300 U.S. remains," and the Army Central Identification Lab's estimate that approximately 170 remains repatriated by Hanoi since 1973 show forensic evidence of storage. Based on this discrepancy, and an accurate review of evidence available to the IC, including the testimony of the mortician discussed previously, *it is extremely misleading for the NIE to state categorically that there is "no evidence" that Vietnam is now storing remains of American dead.*

formal retraction of the 1987 SNIE's judgment because the study itself was not approved or coordinated within the Intelligence Community under established procedures for publication of an intelligence estimate, such as the 1987 SNIE. Indeed, the cover page to this study stated "CIA defers judgment on this Assessment to those Community components with expertise and information files on the location, identification, and availability of US remains in Southeast Asia." (It remains unclear which IC components are being referred to in that statement.) (S)

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NIE STATEMENT: *"As of March, 1998, 1,565 Americans were listed as unaccounted for in Vietnam (emphasis added)...Of the 1,565, there were 825 confirmed dead at wartime by their commanders and comrades. Subsequent, intensive research by US Government officials has established that half the remainder — about 370 people — are dead. Only 48 are considered to be priority discrepancy cases — that is, cases involving American personnel who were known to be alive, not gravely wounded, and in proximity to the enemy at the time of their loss. Source: DPMO"* (p. 19) ~~(S)~~

ASSESSMENT:

The NIE chose to only list the number of unaccounted for Americans "in Vietnam" thereby implying to the NIE consumer that Hanoi's capabilities and performance on POW/MIA cases should be limited to those incidents of loss which took place within the commonly recognized borders of Vietnam alone. This decision ignores the undisputed fact that over 85 percent of American losses in Laos, and many in Cambodia, occurred in areas of those countries (such as the Ho Chi Minh Trail) which were controlled by communist North Vietnamese forces during the war. Once again, the NIE has inserted a misleading statistic, demonstrating its lack of understanding of Hanoi's knowledge of POW/MIA issues, even though such knowledge is demonstrated by Intelligence Community reporting dating back to the war, and has since been confirmed through countless historical documents and publications available to the public at large. ~~(S)~~

When questioned on this serious omission of nearly 500 unaccounted for U.S. servicemen earlier this year, the NIO for East Asia claimed that the terms of reference for the NIE "did not include Laos, and that was agreed to by the Senate

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Select Committee on Intelligence (SSCI)."[49] There is no record, however, that the SSCI ever indicated that Vietnamese knowledge of American losses in Laos should not be considered under the established terms of reference for the NIE. Moreover, SSCI staff have confirmed to me that there was no such understanding. Indeed, any such understanding would have been ludicrous. (S)

This omission notwithstanding, the statistics cited in the NIE for Vietnam are presented in such a way as to leave the reader to believe that there are only 48 possible POWs still unaccounted for, which would tend to further discredit the numbers cited in the 1205 and 735 documents discussed earlier in this assessment. (S)

However, a careful analysis of the 1,565 statistic broken down in the NIE reveals the following: If you have 1,565 still unaccounted for Americans in Vietnam, and 825 were confirmed dead during the war by their commanders (ie: KIA/BNR), that leaves 740 question marks. The NIE asserts that 370 of this remaining 740 number have been established as "dead" based on further research by US Government officials. That leaves 370 other question marks, of which 48 are cases where there is information the person was alive in proximity to the enemy. Again, these 48 are part of the remaining 370. In conclusion, using the NIE's figures, this means that there are 370 Americans, including the 48, where there is not an evidentiary basis that the individuals died, and their fate is still unknown. (S)

The NIE fails to point this fact out to the reader, even though the statistics by which such a conclusion can be logically drawn are readily apparent. One of the reasons this distortion by omission is of critical concern is because when one adds to this 370 figure the large number of still unaccounted for Americans in North Vietnamese controlled areas of Laos, the case becomes more persuasive for the claims about the total number of POWs made in the 1205 and 735 documents from Russian archives discussed earlier in this assessment. (S)

[49] Transcript of Briefing by NIC to U.S. side of Joint U.S.-Russia Commission on POWs and MIAs, p. 39-40, dated June 17, 1998. (S)

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NIE STATEMENT: *"We also have credible reports that US POWs were not transferred out of Vietnam. General Volkogonov told the U.S.-Russian Commission on POWs and MIAs that his delegation had uncovered no evidence that US prisoners had been transported from Vietnam to the USSR...K.F. Katushev, former Central Committee Secretary...,told US interviewers that he would have known if US POWs were transferred to the USSR. He believes no such transfers occurred."* (p.24) (S)

ASSESSMENT:

The NIE's account of the information provided by the above Russian sources is inaccurate or lacking in important detail. This view has been expressed by the Joint Commission Support Directorate at DoD, and it is one with which I agree, by virtue of my direct involvement with these matters as US Chairman of the Vietnam War Working Group of the Joint U.S.-Russia Commission on POWs and MIAs. (S)

First, as is noted in the NIE statement above, Russian Gen. Volkogonov said that "his delegation *had uncovered no evidence*" of a transfer (emphasis added). The absence of evidence, however, is not proof that an event did not take place. The NIE, therefore, is wrong to characterize Volkogonov's statement as a "credible report that US POWs were *not* transferred out of Vietnam." This is especially true in view of Gen. Volkogonov's testimony on this specific question before the U.S. Senate Select Committee on POW/MIA Affairs on November 11, 1992 in which he stated, "Hypothetically, we cannot dismiss the possibility that several individual American servicemen were taken to the Soviet Union from Vietnam or Korea." (S)

More importantly, after Volkogonov made the above-quoted NIE statement about having uncovered no evidence, Volkogonov received a very serious indication that a transfer might have taken place during the Vietnam War era, and he writes about

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this indication in a brief autobiographical sketch dated August, 1994. This notation, which specifically mentions the existence of a KGB plan to transfer Americans in the late 1960s, was discovered by my Commission staff in February, 1998, and was immediately shared with the NIE principal author. It is the subject of high-level approaches by the US Government to the Russian Government at the present time. (Indeed I personally pursued this matter during my own visit to Moscow in early 1998) The existence of this notation by Volkogonov makes clear that by 1994, Volkogonov himself had serious misgivings about the transfer issue. He referenced it as "a secret which I was unable to penetrate." Yet, in view of this evidence shared with the NIC earlier this year, the NIE omits any reference to it, and instead, by doing so, misrepresents the views of Gen. Volkogonov. As such, the NIE statement, on its face, is both inaccurate and seriously incomplete. (S)

With respect to K.F. Katushev, identified in the above-quoted NIE statement as having provided a "credible report that US POWs were not transferred," the record of this interview, which was arranged at my request in July 1997 during a visit to Moscow, does not support the NIE statement. First, the NIE falsely cites Katushev as an example of testimony from a Russian "who served in Vietnam during the war, and would have reason to know." In point of fact, although he traveled to Hanoi just once to negotiate an agreement with the North Vietnamese, Katushev did not serve in Vietnam. He worked in Moscow as a CPSU Central Committee Secretary during the Vietnam War. (S)

Second, Katushev actually stated "he would have known if US POWs were transferred to the USSR." Our Commission, however, has frequently heard the claim "I would have known", during routine interviews with former Soviet officials displaying an inflated view of their own importance. Based on Commission investigations to date, we continue to believe that any covert, highly sensitive GRU or KGB operation to remove any American POWs from Southeast Asia to the former USSR would have been known to only a handful of Soviet officials. It is unlikely that a Central Committee Secretary would have been one of them. In any event, Katushev's claim that he would have known is assuredly *not* a "credible report that US POWs were *not* transferred out of Vietnam." (S)

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NIE PHOTOGRAPHS: *The NIE contains only two photographs, both provided by the U.S. Army Central Identification Laboratory (CILHI) in Hawaii, and both found in Part One under Discussion. One, on p. 25 of the NIE, is labeled "Having made the ultimate sacrifice, a veteran returns home with full military honors." The other, on p. 18, is labeled "A recovery team excavates the site of a B-52 crash just outside Hanoi, Vietnam."* (S)

ASSESSMENT:

I question why an undated photograph of a casket draped with an American flag being escorted across a runway at Hickam Air Force Base in Hawaii has any direct relevance to Vietnam's intentions, performance, or capabilities on the POW/MIA issue, thereby justifying its inclusion in a National Intelligence Estimate, especially since such events have transpired for nearly 25 years with respect to Vietnam. Likewise, I question the need for a photograph of a crash site excavation. Neither of these photographs, labeled Figure 1 and Figure 2 in the NIE, but not specifically referenced anywhere in the text of the report, shed light on an intelligence estimate of Hanoi and the POW/MIA issue.

If the NIE had included photographs of the alleged 1205 author, Gen. Tran Van Quang, or the alleged 735 author, Hoang Anh, both of whom have met with US officials, then the inclusion of such photographs would have had credible relevance to the subject at hand. But instead, we are treated to pictures which hardly seem directly germane to the estimate's terms of reference. I find such action by the NIC troubling, especially when there is no precedent for such action with respect to other NIEs. (S)

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III DETAILED ASSESSMENT OF NIE STATEMENTS: *(continued)*

Discussion. (P.26):

Part Two: Intelligence Community Assessment of the "1205" and "735" Documents

> **"With respect to the Russian documents, given the serious potential implications of these documents, I am sure you would agree that we must accord them the most careful analysis in the context of all other known information. In doing so, we must of course, avoid the mindset to debunk, but we also have a responsibility to provide our best analysis of the facts."**
>
> **— William Jefferson Clinton**
> **President of the United States[50]**

> **"I assure you that I remain personally and deeply committed to the most thorough and objective review possible of these important issues. I intend to monitor closely the NIE process and the Community's examination of the GRU (1205/735) documents and related issues...I will assure rigorous review of the final NIE draft by the Military Intelligence Board, which I chair, and the National Foreign Intelligence Board, on which I sit."**
>
> **— Patrick M. Hughes**
> **Lieutenant General, US Army**
> **Director, Defense Intelligence Agency [51]**

[50] Letter from President Clinton to Senator Smith, dated December 10, 1993. (U)

[51] Letter from Lt. Gen. Hughes to Senator Smith, dated December 11, 1997. (U)

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Tran Van Quang (above)
Reported by GRU as 1205 Author

Hoang Anh (below)
Reported by GRU as 735 Author

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NIE STATEMENT: *"...we believe the assessment released by DoD remains valid: that is, the documents were probably collected by the military intelligence department of the former Soviet Union (GRU), but are not what they purport to be (emphasis added)"* [52] (p.26) (S)

ASSESSMENT:

If the documents are "*not what they purport to be*" — ie: reports by North Vietnamese officials to North Vietnam's leadership during the Vietnam War which is what Russian officials continue to maintain, and Western scholars and other credible individuals continue to affirm — then what are they? This question becomes critical for one to even consider accepting the NIE's judgment, especially given Vietnam's assertions that the documents are Russian fabrications, and their denials that they would have themselves fabricated such a report to pass to the Russians during the war, in addition to the NIE's conclusion that the documents were probably collected by Soviet military intelligence. The lack of any serious, in-depth discussion of this question reflects one of the most serious shortcomings in the NIE itself. The NIE has failed to bridge in any meaningful way this gap in the Russian and Vietnamese statements concerning the 1205/735 documents. By failing to address this question, and especially in view of the many NIE inaccuracies and shortcomings outlined in this section, the NIE's judgment that the documents are *not*

[52] The assessment referred to was released by DoD on January 24, 1994. The principal author of this earlier assessment was Robert Suettinger, who at the time worked on the National Intelligence Council as Deputy NIO for East Asia, (See Task Force Russia Memorandum for Record, Sub: Meeting on Analysis of VN-1205 Document, 24 May 93). Mr. Suettinger currently serves as NIO for East Asia, and it was under his auspices that the *current* NIE was prepared, as noted on the NIE's cover page. In a meeting with Senator Smith in November, 1997, Mr. Suettinger had pledged that his principal deputy preparing the report, [redacted] would be given complete discretion to draw different conclusions than Mr. Suettinger had previously drawn on the 1205/735 documents, and that Mr. Suettinger would footnote any objections he might have to any conclusions drawn by [redacted] which differed from Mr. Suettinger's earlier conclusions in the previous report. No such footnotes appear in the current NIE. (S) (b)(3) CIAAct (b)(3) CIAAct

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what they purport to be cannot be accepted as credible or convincing. (S)

NIE STATEMENT: *"The work of the Intelligence Community was the basis for a news release by the Assistant Secretary of Defense for Public Affairs, entitled "Recent Reports on American POWs in Indochina: An Assessment."* (footnote-p.26) (S)

ASSESSMENT:

This statement is incomplete, misleading, and factually inaccurate. The referenced assessment released by DoD in 1994 hardly constituted a formal or official Intelligence Community (IC) product by any established standard or precedent. By stating that the work of the Intelligence Community was "the basis" for the assessment, the NIE footnote cited above misleads the reader into believing that this was an officially-coordinated community-wide assessment, performed by the IC alone in 1993/94, which it most certainly was not.[53] Indeed, the product was tasked by an Acting Deputy Assistant Secretary of Defense as a document *to be prepared for release to the general public* in response to the controversy generated by release of the 1205 document in Russia in April, 1993.[54] Indeed, in directing the tasking, the Acting Deputy Assistant Secretary had also stated "there are many things wrong with the document...goal is to produce an unclassified report which could be released to the mass media." (S)

The input from portions of the IC appears to have been prepared in less than 30 days and was limited to the 1205 report alone.[55] The input hardly proceeded from

[53] The bipartisan inquiry by the Senate Select Committee on Intelligence (SSCI) in April, 1997 concluded that the 1205/735 documents had not been the subject of a formal Intelligence Community review. (U)

[54] Memorandum from Acting Assistant Secretary of Defense (POW/MIA Affairs), Subject: Single Assessment of Russian POW/MIA Document, dated May 21, 1993. (U)

[55] Task Force Russia Memorandum for Record, Subject: Meeting on Analysis of VN-1205

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an *objective* baseline. Indeed, the input was prepared following the first meeting to discuss preparation of the referenced tasking noted above. At this first meeting, the then-Deputy NIO for East Asia, Robert Suettinger (under whose auspices the current NIE was drafted) reportedly stated that the document "contained so many inaccuracies that it could not be what it purported to be, a report by a Deputy Chief of the North Vietnamese General Staff to the North Vietnamese Politburo. According to Mr. Suettinger, the tone of the document was wrong, the Politburo would not be addressed in the manner of the 1205 document, Gen. Quang was not in the position claimed for him by that document, the numbers of US POWs mentioned could not be correct...[56]" All of Mr. Suettinger's reported pronouncements, made prior to any serious IC analysis, amazingly became the core of the IC's final input to the 1994 DoD-released product, and even the current NIE. (S)

Additionally, the portions of the referenced 1994 DoD-released product concerning the 735 document appear to have been drafted by the Office of the Assistant Secretary of Defense for International Security Affairs' Defense POW/MIA Office in October, 1993.[57] In view of the above, the very limited work performed by elements of the IC was not "*the*" basis for the assessment. (S)

Document, *24 May 93*, dated May 25, 1993 (*note*: this was the first meeting to discuss preparation of the assessment requested by Dep. Asst. Secretary Ross); and National Intelligence Council Memorandum from Kent Harrington, National Intelligence Officer (NIO) for East Asia, to Ed Ross, Acting Asst. Secretary of Defense for POW/MIA Affairs, forwarding the "final product," Re: on Recent Reports on American POWs in Indochina, dated *June 21, 1993.* (U)

[56] Ibid.

[57] See Office of the Assistant Secretary of Defense for International Security Affairs' Defense POW/MIA Office Newsletter, Subject: Russian Provide New Document About US POWs in Vietnam, dated October, 1993, distributed to all Senators by Sen. John Kerry by letter dated October 12, 1993. (*Note*: the contents of the analysis about this new document — ie: the 735 report — are virtually identical to the product referenced in the NIE which was released by DoD on January 24, 1994.)

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Active participants in the drafting process were drawn from non-intelligence community entities, especially OSD/ISA's Defense POW/MIA Office and, to a lesser extent, Army's Task Force Russia. Only DIA, CIA, and State I&R participated from the IC.[58] The other elements of the IC, such as NSA, FBI, and the intelligence elements of the four military services, did not participate. Thus, the assessment included input from some *elements* of the Intelligence Community, but *not* the Community as a *whole*, and it was never coordinated as such, or even presented as such to either the Military Intelligence Board, the National Foreign Intelligence Board, or other officials within the Intelligence Community. (S)

NIE STATEMENT: *"The 1,205 figure was 669 more than the highest number the US Government ever believed might be held captive..."* (p.26) (S)

ASSESSMENT:

The NIE judges that 536 American POWs (1,205 minus 669) constitutes "*the highest number the US Government ever believed might be held captive.*" One assumes that the NIE is referring to Americans held captive as of September, 1972, the date of the 1,205 report. In any event, **the NIE statement is demonstrably false and misleading** as shown by previous testimony by former U.S. Government officials (see pages 36-38) and 1973 Intelligence Community reporting and assessments (see footnote #40). (S)

Following the return of 591 American POWs during Operation Homecoming in February and March, 1973, there remained 1,363 Americans listed as missing in action. This figure did *not* include over 1,100 additional Americans who had been declared killed in action/body not recovered by their wartime commanders as of

[58] Task Force Russia Memorandum for Record, Subject: Meeting on Analysis of VN-1205 Document, 24 May 93, dated May 25, 1993; and Office of Assistant Secretary of Defense (Public Affairs) release, p.1, dated January 24, 1994. (U)

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1973.[59] In May, 1973, DoD decided to maintain an official position, and so testified to Congress, that "we do not know whether those 1,300 MIAs now unaccounted for are alive or dead.[60]" (U)

Moreover, in late 1972/early 1973 (prior to Operation Homecoming), there were over 1,950 Americans who were either possibly captured or known captured in Southeast Asia (1,363+591 returned).[61] The figure 1,950 is obviously much larger than the 536 number of US POWs ever believed to have been captured during this time frame as asserted by the NIE. In addition to the testimony of former US officials referenced earlier (footnote #37), the Senate Select Committee on POW/MIA Affairs received additional testimony in 1992 that the list of "potential POWs" compiled by US intelligence in 1972 consisted of up to 1,000 to 1,600 names.[62] Again, based on these facts, the NIE judgment — that 536 Americans was

[59] See letter to the Chairman of the House Armed Services Committee from Deputy Assistant Secretary of Defense for International Security Affairs, Dr. Roger E. Shields, dated March 31, 1975, p. 9 and 12. (Entire letter is contained as Enclosure for the Record of the Hearing of the Senate Select Committee on POW/MIA Affairs, September 24, 1992, p. 835-849.) (U)

[60] See Memorandum for Assistant Secretary of Defense for International Security Affairs, Subject: Current PW/MIA Issues, signed by Dr. Roger E. Shields, dated May 24, 1973 — "I have said that we have over 1,300 American MIAs who were unaccounted for, and that this meant that we had no information to show conclusively that a man was either alive or dead. I am scheduled to testify on the MIA issue...With your concurrence, I will maintain the position that we do not know whether those MIAs now unaccounted for are alive or dead." Dr. Shields furthered testified at the referenced hearing on May 31, 1973, "As for those who are thought to have been captured alive, but who have not been returned, let me say that this is perhaps the most agonizing and frustrating issue of all." (U)

[61] On January, 28, 1974, Dr. Roger E. Shields, Deputy Assistant Secretary of Defense, again testified before the Senate Foreign Relations Committee that "At the time of the signing of the (Paris) agreement, the United States listed over 1,900 Americans as captured or missing...While we are profoundly grateful for the return of the men (at Operation Homecoming), our joy and sense of accomplishment are tempered by the fact that over 1,300 others listed by our Government as missing and captured did not return." (U)

[62] See testimony and deposition of Col. Lawrence Robson, Gen. Eugene Tighe, and Adm.

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the highest number of POWs *ever* believed to have been captured — is substantially inaccurate. (S)

NIE STATEMENT: *"Russian recollections are hazy on whether the "1205" document was allegedly written in Vietnamese. General Volkogonov, advisor to President Yeltsin, thought he remembered seeing an original Vietnamese version. In any event, no Vietnamese version of the document has been located."* (footnote, p.26) (S)

ASSESSMENT:

This NIE statement is misleading, incomplete, and inaccurate. It contradicts credible information provided to the principal author of the NIE during the estimate's drafting stage. Specifically:

- The Chief of the GRU in 1994, General Ladygin, whose agency acquired the 1205 and 735 documents in 1971 and 1972, stated in writing to me in June, 1994 that "The translation of the report was actually done by the Main Intelligence Directorate (GRU) of the General Staff and sent to the CPSU Central Committee in November, 1972...*The original report in the Vietnamese language* (emphasis added) was destroyed after translation in accordance with the document handling procedures established by the GRU of the General Staff.[63]"

- This GRU authoritative statement was confirmed by the current Chief of the GRU in a meeting with myself and the Chairman of the Senate Select

Thomas Moorer, as referenced on page 78 of the Final Report of the Senate Select Committee on POW/MIA Affairs, dated January, 1993 (Senate Rpt. 103-1). (U)

[63] Letter to Senator Bob Smith from Chief, GRU of the General Staff, Russian Armed Forces, Colonel General F. Ladygin, dated June 30, 1994. (U)

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Committee on Intelligence, Senator Shelby, in Moscow on July 1, 1997. During that meeting, General Korabelnikov cited General Ladygin's letter, asking us "to pay close attention to the words in his letter." He then amplified on that letter, in response to my questioning, stating, "The translation was indeed performed in the GRU in Moscow in 1972. But, unfortunately, we no longer have the Vietnamese language version.[64]"

- Moreover, the GRU cover pages to each of these two documents, prepared in 1971 and 1972, clearly state "translated from Vietnamese into Russian.[65]"

- Additionally, Russian officials and the GRU cover sheet itself indicate that the translations were done in Moscow.[66]

- [redacted] (b)(1)

[64] Memorandum for the Record, Subject: Meeting Notes: CODEL Smith/USRJC - Kokoshin/Korabelnikov, July 1, 1997, 4:45 p.m. - 5:45 p.m., Russian Ministry of Defense. (U)

[65] See Appendix to this Assessment for copies of complete English translations of the 1205/735 GRU acquisitions from North Vietnam. (U)

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Based on the above, the NIE statement cannot be accepted. There is no doubt or haziness on the Russian side that an original Vietnamese language version of the 1205 GRU acquisition, in fact, existed at one time. Whether it was in written or recorded form prior to translation into Russian, is irrelevant in the context of a footnote about whether it *ever* existed, which appears to be the point of inserting the footnote in the first place. A side question for the U.S. Government is whether it might *still* exist. The NIE is silent on this issue. The more pressing issue, however, in view of the credible testimony of the noted Russian officials above, is why the Vietnamese position, that no original version existed, has not been aggressively challenged by the U.S. Government. (S)

NIE STATEMENT: *"Since the original examination of the document by the Intelligence Community in 1993, interviews with Russian officials who were knowledgeable about the (1205) document continue to validate the claim that it is an authentic GRU document and not a Russian fabrication...While supporting the authenticity of the document, none of the Russians claimed that the figure of 1,205 POWs was accurate."* (p.26) (S)

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In this section, quoted above, the NIE lists [redacted] Russians as having commented on the authenticity of the 1205 document since 1993, and there is no caveat that

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these are *only* examples, as was done elsewhere on different subjects in other portions of the NIE. Inexplicably, the NIE *neglected* to include statements by other key Russian officials since 1993 which were provided to the principal NIE drafter in early 1998. These other Russian officials commented on *both* the authenticity *and* the number of POWs referenced in the document itself (see footnote #35). Had these other officials been included, the NIE could *not* have judged that none of the Russians attested to the credibility of the number of POWs referenced in the document. (S)

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More importantly, even if the NIE judgment is limited to the [redacted] individuals referenced in this section of the NIE, the judgment is *still* inaccurate, because one of those individuals, GRU Captain A.I. Sivets, in fact, *did* comment on the accuracy of the numbers in the document (see footnote #38). He further "emphatically" stated, during an interview with U.S. officials in October, 1997, that "the Vietnamese would not have deceived themselves at a closed Politburo session; they might have provided inaccurate information in press releases or in their negotiations with the Americans, but they would have no reason to do so within closed sessions of their political leadership.[68]" (S)

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In addition, another of the [redacted] was more directly associated with and knowledgeable about the GRU's acquisition of the "735" document, than the "1205" document. While [redacted] did provide some pertinent information about the acquisition of the 1205 document, he was directly involved with the acquisition of the 735 document, and had *verified* that the 735 number tracked generally with GRU figures at that time on the number of American pilots held by Hanoi. Yet the NIE fails to reflect any understanding of this fact by not even mentioning [redacted] in the following section on "new information" pertaining to the "735" document (see p.30). (S)

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[68] Memorandum for the Record, Subject: Meeting with Captain First Rank A.I. Sivets, dated October 14, 1997, p.3 (U)

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NIE STATEMENT: *"General Volkogonov, in statements to the press in 1993, expressed doubt about the reliability of the numbers."* (p.27) (~~S~~)

ASSESSMENT:

I knew General Volkogonov personally for several years prior to his unfortunate death in late 1995. Throughout 1993 and in the two years that followed, General Volkogonov consistently maintained, both publicly and privately, that only the Vietnamese knew about the reliability of the numbers contained in the report. He personally had no basis for doubting the figures and, at the same time, could not vouch for the figures — but at the same time, he maintained, "I personally don't doubt at all the authenticity and the genuine character of this document," as he told *CNN* on April 14, 1993. In that same interview[69], Volkogonov speculated on whether the Vietnamese author of the 1,205 report had reported accurate figures to his own North Vietnamese leadership, but then emphasized "one has to ask that man in Hanoi, was he telling the truth when preparing this report. We in Moscow in our commission have no answer to that question." (U)

Moreover, Volkogonov told the *New York Times* in Moscow on April 21, 1993 when challenged on the numbers, "True, I cannot guarantee that its (the 1205 document) content is a true reflection of past reality. Only the Vietnamese can know this." He later stated in December, 1994, "I have studied exhaustively the mechanism used to gather this document, and I can state that I do not know of any case where such information would have been fabricated...North Vietnamese General Quang (1205 author) was fully competent to give this report." (U)

Based on these facts, previously made available to the principal author of the NIE, it is extremely misleading to then cite General Volkogonov, based on unspecified

[69] A transcript of Volkogonov's interview with CNN was made available to the NIC by the SSCI earlier this year. My office had prepared the transcript in 1993 after obtaining from CNN directly the tape of the full interview which, incidentally, never aired. (U)

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press reports, as somehow vindicating the NIE's judgment that the 1205 number is not accurate. (S)

NIE STATEMENT: *"A TASS correspondent who served in Vietnam during the period (1972), V. Kobchev, stated that the (1205) numbers were too high."* (p. 27) (S)

ASSESSMENT:

In addition to the staff at the Joint Commission Support Directorate, I, too, have serious reservations about the value of the testimony of journalists, considering how remote is the chance that they would have been privy to reliable information on these sensitive issues. The NIE itself, on p. 23, claims "those Russians who were in Vietnam during the war have stated that the Vietnamese, sensitive about sovereignty, did not allow the Soviets to be involved in interrogations of American POWs." If the NIE's assertion is that Soviet military officials could not get close to American POWs, then it strains credulity to accept the NIE's implied assertion that a TASS journalist could have had access to reliable information on how many POWs were, in fact, held by Hanoi. Moreover, although Soviet and other Eastern European journalists were routinely invited to staged press conferences with selected US POWs in Hanoi, these POWs had all been previously acknowledged by Hanoi as being held. Thus, while journalists were privy to information about POWs being used for propaganda purposes, they were not in a position to reliably estimate how many POWs were, in fact, captured by North Vietnamese forces during the war. Citing them in a NIE only degrades the evidentiary base the NIE is unsuccessfully trying to build. Finally, it should be noted that the Joint Commission Support Directorate at DPMO, responsible for coordinating POW/MIA-related interviews with Russian officials since the Commission's inception, has no record of the interview cited in the NIE. (S)

NIE STATEMENT: *"One interviewee, V.V. Dukhin, who served...in Hanoi*

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from 1992 to 1995, said that the former DCM in Hanoi, I.A. Novikov (now deceased) told him he was aware of the 1205 document when it was acquired ...he (Novikov) stated that the GRU agent who acquired the document was not reliable." (p.27) (S)

ASSESSMENT:

A review of the diplomatic roster for the Soviet Embassy in 1971 shows that Novikov occupied a junior attaché, non-military, position in the embassy. As such, he would have been unlikely to know anything about GRU military intelligence operations in Hanoi, and certainly nothing about the GRU's most sensitive agents. (S)

More importantly, it is bewildering that the NIE would choose to include mention of this interview, but not include amplification of the more germane comments by GRU Capt. A.I. Sivets on this very topic, even though he is mentioned briefly on the previous page (p.26), and his full testimony was provided to the NIC in early 1998. Capt. Sivets, who researched this matter within the GRU, in his capacity as the GRU representative to the Joint U.S.-Russia POW/MIA Commission since 1992, told US officials in October, 1997, that:

- The 1205 document was received from a Vietnamese agent of the GRU who provided the GRU with a number of materials during the war, which were judged to be reliable.
- The GRU performed two assessments of the source's reliability. In 1993, GRU Chief General Ladygin ordered a review of the activity and reliability of the agent. Based primarily on an assessment of the agent that was performed at the beginning of the 1970s, the agent was judged to be "reliable," that everything with this agent "was in order" and the agent was "working for us."
- The GRU assessment had also determined that the information received from

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this agent was first-hand information and accurately reflected the internal political situation in North Vietnam.

- Sivets further told US officials that "the GRU would never have sent this information to the Communist Party of the Soviet Union (CPSU) Central Committee if there had been any doubt about the reliability of the information provided by this agent."[70] (S)

It is further bewildering that the NIE would not mention the relevant testimony on this specific subject by K.F. Katushev, who is also mentioned briefly on another matter elsewhere in the NIE, and whose full testimony was provided to the NIC in early 1998. Katushev, former USSR Central Committee Secretary in charge of Maintaining Ties with Other Socialist Countries in the early 1970s, told US officials during my visit to Moscow in July, 1997 that the GRU had "good channels and connections" and he had no reason to doubt that the 1205 document was not what it purports to be. He also noted that the document contained new information that was worthy of the attention of the Soviet Communist Party leadership.[71] (S)

Finally, the NIE makes no reference to the views of noted Russian and American scholars on Vietnam issues, with regard to this specific point, even though this information was made available to the NIC. For example, Ilya Gaiduk, interviewed by DoD officials on October 8, 1997, elaborated on the claims in his book[72] that

[70] Memorandum for the Record, Subject: Meeting with Captain First Rank A. I. Sivets, Moscow, October 14, 1997, p.4, signed by Roger Schumacher, Senior Analyst, Joint Commission Support Directorate, DoD (U)

[71] Joint Commission Support Directorate, USJRC/DPMO, Report of Interview with Konstantin Katushev, dated July 1, 1997. *Note: Katushev's own handwriting from 1972 appears on the 1205 document found in Soviet Central Committee archives in 1993. In his note, he requests additional information for the Soviet leadership on American POWs held by North Vietnam.* (U)

[72] Gaiduk is the author of *The Soviet Union and the Vietnam War*," Ivan R. Dee Publishers, Chicago, 1996. (U)

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Soviet intelligence penetrated the highest leadership organs of the North Vietnamese Government during the Vietnam War. He claims that the Soviets had reliable sources with direct access to persons who either participated in North Vietnamese Politburo sessions or were privy to the content of these sessions. In addition, Harvard researcher, Mark Kramer, has indicated that a published memoir of a former GRU official speaks of the GRU having penetrated the North Vietnamese Politburo during the war. ~~(S)~~

As such, the inclusion in this NIE of Dukhin's second-hand account about what Novikov allegedly recalled, *at the exclusion of more relevant testimony from more knowledgeable Russian officials and others as noted above*, is evidence of extremely shallow analysis by the principal author of the NIE. To make Dukhin's hearsay report the only reference in the entire NIE that explicitly pertains to the "reliability of the GRU agent" is extremely misleading to the NIE reader. ~~(S)~~

NIE STATEMENT: *"Vietnamese officials continue to claim the report is a fabrication."* (p.27) ~~(S)~~

ASSESSMENT:

What is the point? That Vietnamese communists officials are telling the truth? Therefore it's a fabrication? As discussed previously, the NIE fails to assess this Vietnamese claim in any meaningful way. Rather, the NIE merely states Hanoi's position with respect to the Russian documents, and in doing so, states it in an inaccurate and incomplete manner, as shown below. Moreover, at no place in the estimate is there an assessment of whether Hanoi has, in the judgment of the Intelligence Community, *performed within its capabilities* in producing evidence to *prove* its claim. This is a critical shortcoming in the NIE itself, especially in view of the NIE's title - *Vietnamese Intentions, Capabilities, and Performance concerning the POW/MIA Issue.* ~~(S)~~

Perhaps more important is the fact that while Vietnamese officials have consistently

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claimed *to American officials and the press at large* that the 1205 document is a 'complete fabrication,[73]' they have apparently ***not*** made any such claim in the course of several discussions on the matter *with Russian officials*, the contents of which have been reliably reported to US officials.

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[73] See Interim Analysis of 1205 Document, by Sen. Smith to Amb. Toon, July 21, 1993, section entitled "Reaction by Vietnamese Officials" contains extensive quotes in media by Vietnamese officials, along with commentary by Hanoi publications. The most recent reported denial took place during a meeting between Deputy Assistant Secretary of Defense (POW/Missing Personnel Affairs) Robert Jones and Vietnam's Vice Minister of Defense, Tran Hanh, during a luncheon in the Executive Dining Room, Lounge 1, at the Pentagon, on October 5, 1998. Hanh reportedly stated that "the Russian documents are complete fabrications." (U)

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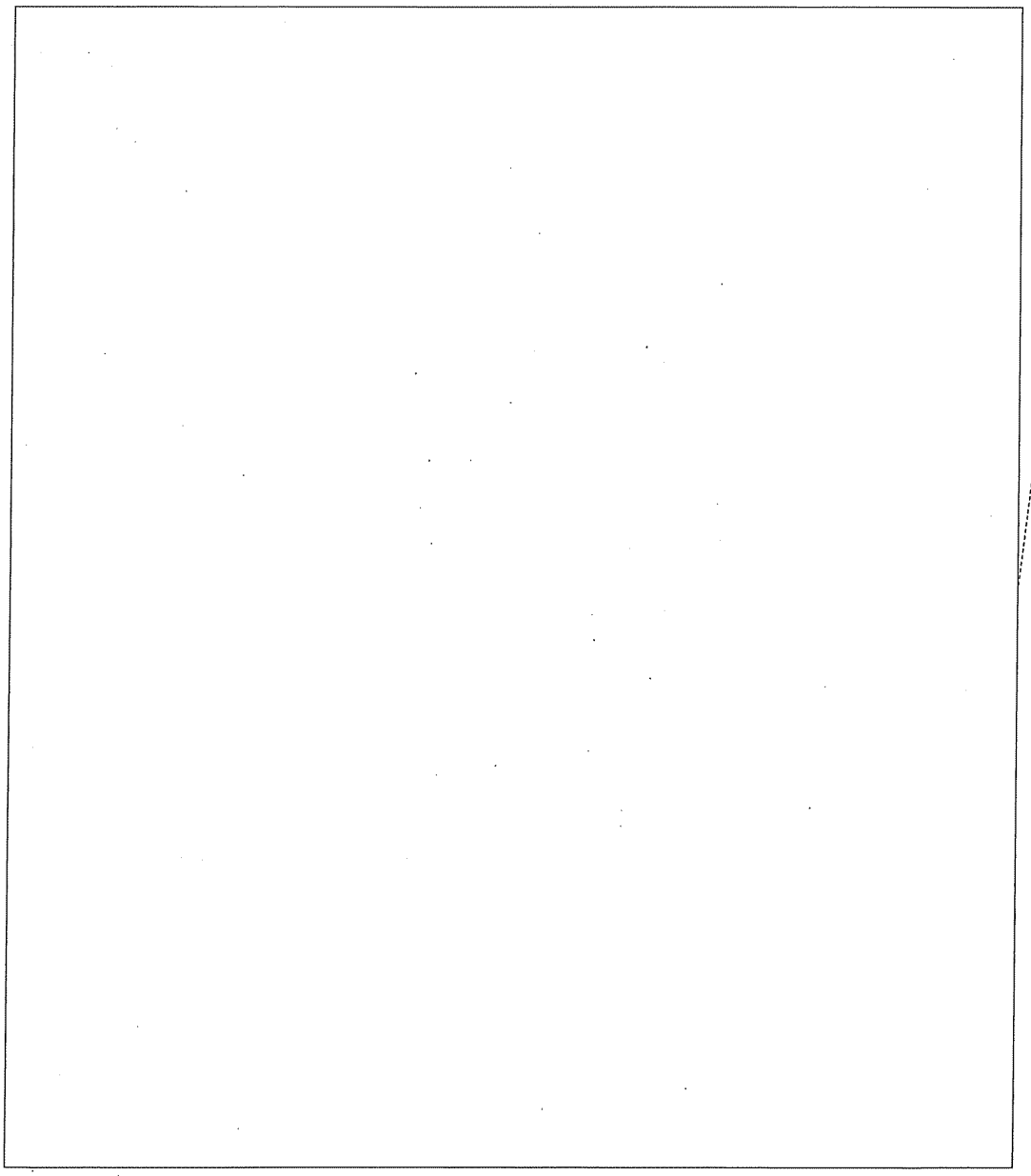

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NIE STATEMENT: *"None of the new information helps to confirm the accuracy of the 1205 report."* (p.27) (~~S~~)

ASSESSMENT: (b)(1) (b)(3) NatSecAct

This statement is factually inaccurate. As previously demonstrated, the information provided by GRU Capt. A.I. Sivets [redacted] briefly referenced in the NIE under the heading "*New Information*" — does, in fact, *help to confirm* that the 1205 document was an *accurate* representation of the political-military situation in North Vietnam in 1972. So does the information provided by former USSR Central Committee Secretary Katushev, and two Chiefs of the GRU -- Generals Ladygin and Korabelnikov -- in 1994 and 1997. In short, since 1994, the GRU has expressed its confidence in both the authenticity and the reliability of the information in the 1205 report. To ignore this evidence implies that the GRU being confident enough in the information it acquired in 1972 to forward it to the Soviet Central Committee (whose own official viewed it with confidence) is somehow *not* helpful information in judging whether the 1205 report could have

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been accurate. For the NIE to assert such an argument is absurd. (S)

NIE STATEMENT: *"Quang's[75] responsibilities as a battlefield commander in a combat situation make it unlikely that he would be brought to Hanoi to report on issues that were not within his scope of responsibility...Quang claims he remained with his troops during the (Easter Offensive) period and could not have been in Hanoi for a 15 September Politburo meeting...He (Quang) argues plausibly that he would not have been the one to deliver such a report because the issue would not have been handled by a regional military commander."* (p.27-28) (S)

ASSESSMENT:

This NIE judgment is ***contradicted*** by substantial evidence originated by or made available to the Intelligence Community prior to and during the drafting of this estimate. This includes information which indicates Quang was hardly just a battlefield commander with a scope of responsibilities limited to his battlefield command position, (who would have had to have been "brought to Hanoi") but rather was a top leader in the communist North Vietnamese hierarchy during the Vietnam War. As examples — (b)(1) (b)(3) NatSecAct

- [redacted] Quang was elected a secret alternate member of the Lao Dong (North Vietnam's Communist) Party Central Committee and of the Central

[75] North Vietnamese Lt. General Tran Van Quang, now Chairman of the Vietnamese War Veterans Association (elected in November, 1992), was reported by the Russian GRU in 1972 to be the North Vietnamese author of the "1205" report acquired by the GRU and dated September 15, 1972. (U)

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Military Affairs Party Committee (CMAPC), and held those positions from 1960 until 1976. Quang was noted publicly in these positions in 1974, but as a member, vice 'alternate' member. Quang's membership on the CMAPC is significant because the CMAPC ran the war under Politburo guidance, and supervised the General Political Directorate of the VPA, which had responsibility for the handling and exploitation of US POWs.[76] (S)

This information is corroborated by a U.S. Joint Public Affairs Office

[76] Note: The Central Committee of Vietnam's Communist Party was the elite governing body of North Vietnam consisting of the country's leadership positions. The Military Affairs Committee of the Party Central Committee (CMAPC), who Secretary was Politburo member General Vo Nguyen Giap, was charged with conducting the war itself, and has been referred to as "second only to the Politburo as the center of decision making in the DRV..., and more important than the National Defense Council in terms of DRV policy making" (See *Bases of Power in the DRV*, Vietnam Documents and Research Notes, #107, p.7-8, published October, 1972). Quang's membership in the CMAPC, which also reportedly included certain non-military Politburo members such as Le Duc Tho (Kissinger's counterpart in Paris), makes him one of the most powerful and influential figures in North Vietnam during the war. Additional background on the Central Committee role during the war, and specifically its Military Affairs section, can be found in *The Party in Command: Political Organization and the Viet Cong Armed Forces*, Vietnam Documents and Research Notes #34, published May, 1968, which includes notes from captured COSVN documents, for example, "The Central Committee establishes the Party Central Military Affairs Committee (including a number of Central Committee military and non-military members) to help it in its leadership of the People's Army. The General Political Directorate is placed under the Central Committee, which to some extent, delegates its power to the Party Central Military Affairs Committee...Thus, the Central Committee directly decides upon major affairs related to the armed forces. The Party Central Military Affairs Committee, which exercises command over the armed forces under the direct leadership of the Central Committee, is a part of the Central Committee...These facts show the supreme power of the Central Committee over the armed forces. The Central Committee exerts direct control of the armed forces in all fields, particularly in ideological matters. To help the Central Committee, there has been established a large political organ, the General Political Directorate which works under the supervision of the Central Committee and the Party Central Military Affairs Committee." Additional information on the key role played by both the Party Central Military Affairs Committee and the Party's Political Bureau (ie: Politburo) can be found in the Communist publication, *Our Great Spring Offensive*, by General Van Tien Dung, Chief of Staff, Vietnamese People's Army, 1977. (U)

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(JUSPAO), American Embassy Saigon, listing from July, 1972 listing Quang as a member of North Vietnam's Communist Party's Central Military Affairs Committee and a Deputy Chief of Staff of the Vietnamese People's Army (VPA)[77]. (U)

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[77] Note: The Russian GRU cover pages to the 1205 document, and another report by General Quang in 1972, also note Quang's title as "Deputy Chief of the General Staff of the Vietnamese People's Army." Interestingly [redacted] General Quang functioned as Deputy Chief from as early as 1954 to at least 1968, and then again from 1974 to 1982, leaving in doubt whether Quang still had that title between 1968 and 1974. (January, 1974 was the date Quang was first identified again publicly as Deputy Chief of Staff, according to FBIS reports). However, as noted, U.S. records did still carry him with that title in July, 1972, and again in a Vietnam Document and Research Note dated 1973. (S)

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- [redacted] two of Quang's aliases or pseudonyms were *Bay Tien* and *Tran Nam Trung*.[78] While Quang's use of the alias Bay Tien has been acknowledged by Hanoi in recent years[79], Quang's use of *both* aliases is a dramatic disclosure, corroborated by other reporting, which lends credence to Quang having been "probably the most powerful single individual in the entire communist apparatus in South Vietnam[80]," as well as a key military and political leader in North Vietnam's Communist Party. The reasons for this are multifold and noteworthy (S) —

  - Accorded to the captured notebook of senior North Vietnamese Communist Party Central Committee member and high ranking PAVN official "Muoi Khan[81]"), obtained by U.S. forces in 1967, Quang

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[78] [redacted] For open source biographic material on Quang's alias names, "Tran Nam Trung," and "Bay Tien," see Vietnam Courier, No. 29, p.19, October, 1974; *The Communist Road to Power in Vietnam*, Duiker, 1996, p. 198, 210, and 399(n32); International Yearbooks of Communist Affairs, 1969-1973; Vietnam Documents and Research Notes, studies published by the U.S. Mission in Vietnam during the war. (S)

[79] Memorandum for Record, Defense POW/MIA Office Research and Analysis Directorate, dated March 11, 1997 (see translated enclosures). (U)

[80] *The Communist Party of South Vietnam, A Study*, published by the United States Mission in Vietnam, Saigon-Vietnam, March, 1966, p. 25. (U)

[81] The document was captured by the Fourth U.S. Infantry Division on March 30, 1967, during Operation Junction City II. It is described as the notebook of "Muoi Khan, appointed Chief of the Administrative Staff of the Military Affairs Committee for COSVN in 1961." *Note*: According to the communist Hanoi publication, *Tho vao Nam (Letters to the South)*, published in 1985 by Su That Publishing House in Hanoi (p. 311), "Muoi Khang" was the alias for Lt. Gen Hoang Van Thai, a Deputy Chief of Staff of the VPA and Vice-Minister of Defense (Feb. 1961), who was a member of the Vietnam Workers (Communist) Party Central Committee in Hanoi, including the CC's Military Affairs Committee, as well as "Assistant Secretary of the Regional Party Military Affairs Committee of the Central Office for South Vietnam." The contents of the notebook are discussed in detail (including the identification of Bay Tien as Tran Van Quang and

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(referenced in the notebook under his alias Bay Tien) was one of two high-ranking communist North Vietnamese officials instrumental in the reestablishment in 1961 of the Central Office for South Vietnam (COSVN[82]), ie: North Vietnam's Communist Party's southern branch

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his reporting to North Vietnam's Politburo) in Vietnam Documents and Research Notes #40, *The Central Office of South Vietnam*, published by the American Embassy, Saigon (JUSPAO), dated August, 1968, p. 5, 21, and 23.

[82] COSVN, and its relation to the PRP and NLF is discussed and identified in various wartime and postwar U.S. Government studies and records, in addition to other academic publications, as — (1) "officially set up as the top command post for all communist activities in South Vietnam. It is responsible for both control of political affairs and direction of Viet Cong military activities. Through interlocking organization and concurrent assignments, COSVN members guide the People's Revolutionary Party (PRP), the National Liberation Front (NLF) and all other elements of the infrastructure and the South Vietnam Liberation Army. COSVN itself is subordinate to Hanoi and reports directly to officials there. It is the forward headquarters of the Vietnam Workers' Party (Lao Dong) of the North. The key leaders of COSVN are members of the Central Executive Committee or Politburo of the Northern Party...COSVN appears to have fairly direct access to the Hanoi Politburo...At the time COSVN was recreated in 1961, it became the central organ for the Southern Branch of the (Communist North's) Lao Dong/Workers' Party. When the People's Revolutionary Party (PRP) was established on January 1, 1962, COSVN then became the Central Committee of the new party for the South with its highest leaders making up the Standing Committee of the PRP. Establishment of the PRP was a tactical maneuver appropriate to Hanoi's strategy of depicting the revolution in South Vietnam as a movement strictly indigenous to the South." see VDRN #40, August, 1968, p.1-2 and 5; (2) "The PRP Central Committee frequently is referred to as the Central Office, South Vietnam (COSVN). The implication of this usage sometimes is that the Central Office is organizationally and geographically separated from the Central Committee of the NLF, but the PRP at all times works through the Front and is not separate from it. The PRP is referred to by communist sources as :the vanguard of the NLF, the soul of the NLF. Its pipeline into North Vietnam was by means of the Lao Dong Party (North Vietnam's Communist Party) apparatus, and the party itself appears to be its chief sponsor in Hanoi...Captured Lao Dong cadre documents state "the creation of the People's Revolutionary Party is only a matter of strategy...it is a means of...advancing the plan of invasion of the South...it has only the appearance of an independent existence, but actually, it is nothing but the Lao Dong Party (of North Vietnam), the chief of which is President Ho...take care to keep this strictly secret, especially in South Vietnam so that the enemy does not perceive our purpose...According to instructions of the Central Committee, one must not tell the people or

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(top command post or forward headquarters for the South), also known as the People's Revolutionary Party (PRP) headquarters beginning in January, 1962, and the headquarters for the National Liberation Front (NLF) established in December, 1960 (in essence, the PRP was the backbone of the NLF, the leadership of which constituted a Secretariat known as COSVN under the North's Central Committee and Politburo direction). (U)

- Quang, according to this information, had become in late 1961, the head of COSVN's (ie: NLF) Military Affairs Committee (in addition to being a COSVN member), simultaneously serving as executive officer and NLF representative of the People's Liberation Armed Forces (PLAF), (also established in 1961 with COSVN serving as its headquarters). Other intelligence reporting corroborates Quang's early involvement with COSVN's Military Affairs Committee and the PLAF.[83] (S)

party sympathizers that the People's Revolutionary Party and the Lao Dong (Communist Workers) Party of (North) Vietnam are one. One must not say that it is only a tactic, because it would not be good for the enemy to know." see *The Communist Party of South Vietnam, A Study*, published by the U.S. Mission in Saigon-Vietnam, March, 1966, p.3-25; and (3) "The top COSVN leaders were all Party veterans with a history of loyalty to the organization. At the end of each year, a leading COSVN member attended a Politburo meeting in Hanoi to consult with Party leaders and receive directions for future strategy in the South. In early 1962, Hanoi decided to set up a southern branch of the VWP, the People's Revolutionary Party, or PRP. The PRP was initially described as an independent party with no formal connections with the VWP in the North. This was a fiction designed to avoid identification of the southern movement with the Party leadership in the North. In reality, the PRP was directly subordinate to the parent organization in the DRV through COSVN." *The Communist Road to Power in Vietnam*, Duiker, 1996, p. 230. (U)

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[redacted] A DIA biographic summary, forward to the Army's Task Force Russia in April, 1993 states, "In 1960...just as his important

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- Also, according to the information from the captured notebook, *Quang was reported to be preparing and sending reports directly to the Central Committee of the Communist (Lao Dong/Workers') Party in North Vietnam*. (U)

- Quang was subsequently reported, under the alias Tran Nam Trung, in 1963, 1964, and thereafter, to still be the NLF representative of the PLAF, and the head of the NLF's Military Affairs Committee, but also the Secretary General of the PRP, and a Vice-Chairman (or Vice-President) of the NLF's Central Committee Presidium -- all of whose entities, as previously noted above, were created and directed by North Vietnam's Communist Workers'/Lao Dong Party (VWP) in Hanoi, even though Hanoi's involvement was kept secret at the time for propaganda reasons (hence the need for Quang's alias name).[84] (S)

- Quang's stature as Secretary General of the North's party apparatus in the South (ie: the PRP)[85], while simultaneously serving on the North's

military staff and political positions were being recognized, he received assignment to become Commander of the South Vietnam Liberation Army and concurrently a member of the Military Committee of the Central office for South Vietnam"; official communist publications in Hanoi, dated November 21, 1992, and December 12, 1992, state "When the war of liberation of the South was developing, he (Quang) was appointed Member of the Military Committee of COSVN..." (S)

[84] *The Communist Party of South Vietnam, A Study*, U.S. Mission in Saigon-Vietnam, March, 1966, p. 4, 17, and 25; Vietnam Documents and Research Notes #41, *The Leadership of the National Liberation Front (NLF)*, p. 1-4, August, 1968; International Yearbook of Communist Affairs, Hoover Institution Press, Stanford University, 1971, p. 689, 1972, p. 597; Vietnam Documents and Research Notes #105, *People's Revolutionary Party*, p. 24, June, 1972. (U)

[85] As discussed in a preceding footnote, and amplified here, the establishment of the PRP in 1962 was the outcome of Hanoi's judgment that there was a need to provide more effective leadership and organization to the National Liberation Front (NLF) of South Vietnam, founded on December 20, 1960. Captured NLF cadre documents made clear that the PRP was to be "the

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elite Central Military Affairs Party Committee, is significant because it further established Quang as Hanoi's senior military *and* political figure for military operations and party activities in the war effort in Central and South Vietnam. Interesting, when a biographic note on Quang was published in Hanoi in 1985[86], it did reference Quang as having been the Vietnam Communist (Lao Dong/Workers') Party Secretary of the Tri-Thien-Hue Region Party Committee and Commander of that same Military Region, in essence, a significant part of the same area that was under the COSVN (PRP/NLF) apparatus, thus verifying Quang's stature both politically and militarily in the various roles cited above. (S)

- When the leaders in Hanoi, through clandestine direction, established the Provisional Revolutionary Government (PRG) for the South in 1969 under direct COSVN guidance, *Quang, again under the alias of Tran Nam Trung, became the PRG Defense Minister*, a position he concurrently held, along with his other reported ongoing positions, through 1972 during the timeframe of the 1205 report.[87] Interestingly,

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paramount organization" which would be "responsible for the leadership of all other organizations, the liberation associations, the mutual aid associations, as well as for the leadership of all the people who would overthrow the old regime for the sake of the new." (Quoted in *Viet Cong*, by Douglas Pike, M.I.T. Press, Cambridge, Mass, 1966, p. 40.) "The PRP is, in fact, the southern branch of the Vietnam Workers' Party (Lao Dong VWP) of North Vietnam" (International Yearbook of Communist Affairs, 1970, p. 714.) (U)

[86] Memorandum for Record, Defense POW/MIA Office Research and Analysis Directorate (see translated enclosures), dated March 11, 1997. (U)

[87] See Vietnam Documents and Research Notes published by North Vietnam Affairs section, JUSPAO, American Embassy, Saigon, #60, June, 1969, p.2; #66, September, 1969, p. 21; #101, January, 1972, p. 13 and p. 27; #105, June, 1972, p.v, 7, 8, 13, and 24; #111, April, 1973, p. 7, 10, 12, and 40-42; and International Yearbook of Communist Affairs, Hoover Institution Press, Stanford University, 1970, p. 721; 1972, p. 597; 1973, p. 573; and *Le Monde*, Paris, November 25, 1972. (U)

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in its public pronouncements, communist liberation radio referenced the PRG as having been formed from representatives of many of the same geographic areas which at the time comprised Quang's concurrent battlefield command areas in the North Vietnamese Army. Quang's alias name, Tran Nam Trung, is also referenced in a North Vietnamese postwar memoir as having been present, along with Le Duc Tho, in clandestine strategy sessions in the South for the final offensive against Saigon in 1975[88], which again attests to Quang's stature in the North Vietnamese leadership structure. (S)

- According to an American Embassy, Saigon, assessment in June, 1972, "...PRG-NFL leaders probably have resided in Hanoi for a protracted period...many of the national figures may be assumed to have been in Hanoi, as of May, 1972. Some may be with NVN troops in the northern-most provinces of the Republic of Vietnam, others with COSVN." [redacted] (b)(1) (b)(3) NatSecAct [redacted] lends plausibility to Quang making presentations before NVN leaders, possibly gathered in Hanoi, in December, 1970/early January, 1971 (as the 735 report alleges); in February, 1972 (as Quang himself concedes); in June, 1972 (as the Russian GRU claims), and again in September, 1972 (as the Russian GRU claims, ie: the 1205 report). (S)

- It also bears noting that NVN ralliers reported during this same time period that PRG Defense Minister "Tran Nam Trung" was "in fact, a senior officer of the North Vietnamese People's Army and an alternate member of the Central Committee of the Vietnamese Workers' Party[89]," — descriptions which match that of Tran Van Quang.

[88] See *Our Great Spring Victory*, by North Vietnamese Army Chief of Staff, General Dung, p. 150-151, published 1977. (U)

[89] Vietnam Documents and Research Notes, *The Provisional Revolutionary Government*

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- According to the 1970/71 so-called "735" report obtained by the Russian GRU in 1971, during the course of his remarks, Hoang Anh states, in two instances, that Comrade General Tran Van Quang would be reporting to the North's Vietnam Workers' (Communist) Party Central Committee in greater detail concerning plans in South Vietnam "*on behalf of the Vietnam Workers' Party Central Committee Military Section and the VPA Command in South Vietnam*." The reference to Quang in this manner lends credence to the significant responsibilities held by General Quang referenced above, to include under his reported alias. (S)

- According to an April, 1993 Defense Intelligence Agency study of General Tran Van Quang's background, it was "completely plausible that a person of his distinguished command background, and eminent political standing, would be the person who could offer a political thesis to the politburo which involved further future aggressive moves for takeover of the South and

(PRG), North Vietnam affairs section, JUSPAO, American Embassy, Saigon, January, 1972, p. 13. (U)

[redacted]

[91] *Tho vao Nam (Letters to the South)*, Edited by Duc Luong, et al., Su That Publishing House, Hanoi, p. 311-314, 415, re: reference to Gen. Tran Van Quang in August, 1972 as alternate member of the Central Committee of the Viet Nam Workers Party, published 1985, subsequently obtained by Defense Intelligence Agency, and translated by Defense POW/MIA Office Research and Analysis Directorate on March 8, 1997. (U)

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political arguments advocated for the toughest deal to be made with the American negotiators.[92]" (U)

- According to official communist Vietnamese documentation — published in 1985 by the Vietnamese Government's Su That Publishing House in Hanoi and subsequently obtained by the Defense Intelligence Agency — "Comrade Tran Van Quang" is identified as "alternate member of the Central Committee of the Viet Nam Workers Party (Vietnamese Communist Party)" *as of August, 1972.*[93] (U)

- Former North Vietnamese Sr. Colonel Bui Tin, identified General Tran Van Quang as someone who would have been knowledgeable about the subject of American POWs, and possible Russian involvement, 16 months *prior* to the surfacing of the 1205 document from Russian archives.[94] (U)

- According to the Russian Federation —

  - General Quang, even though he served in command of the 'Fourth Military District,' "was frequently sent to South Vietnam to evaluate

[92] Defense Intelligence Agency Special Office for Prisoners of War and Missing in Action unclassified fax with enclosure, sent to Task Force Russia, Department of the Army/USRJC, dated April 29, 1993. (U)

[93] Memorandum for Record, Defense POW/MIA Office Research and Analysis Directorate, dated March 11, 1997 (see translated enclosures). (U)

[94] See letter from Bui Tin to Senate Select Committee on POW/MIA Affairs, dated December 16, 1991. In a subsequent interview with US officials in 1997, as noted in the NIE, Tin indicated he thought it was plausible that Quang could have reported to the Politburo, and that Quang could have gone by helicopter to Hanoi to make a report, and that this would not have been an unusual practice. The fact that this latter testimony was referenced in the NIE makes it strange that the NIE would then judge that circumstantial evidence makes it "unlikely Quang would be brought to Hanoi." (S)

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activities and returned to deliver reports to the Politburo;."[95](U)

- "General Tran Van Quang, according to the position he held in the Vietnamese military political leadership in 1972, was *fully competent in the matters stated in the report and qualified to speak about them at Politburo sessions of the Vietnamese Worker's Party Central Committee*;"[96] (U)

- "This number (1205) was announced by Quang at a closed Politburo meeting. As an archivist and someone who has analyzed a great many documents, military and otherwise, I can tell you that this is an absolute truth;"[97] (U)

- According to interviews conducted by US officials, several Russian and other Eastern European representatives, stationed in Hanoi during the Vietnam War, have reported having known or met General Quang during their assignments, to include seeing him in Hanoi in 1972, and vacationing with him and his wife in 1968 at the Soviet Union's Black Sea resort of Sochi (Quang was reportedly "requested" by the Soviet Government to vacation there);[98] (U)

[95] See Memorandum for Task Force Russia, Subject: Vietnamese General Tran Van Quang, "Summary: General Volkogonov stated that...Quang had a special relationship with the Politburo and made reports to them. While Quang was not officially appointed Deputy Chief of the General Staff until sometime in 1974, Volkogonov said, he functioned earlier in his special relationship." Volkogonov further described what he was passing to the U.S. side as "the latest information from the GRU," dated July 2, 1993. (U)

[96] See letter from General F. Ladygin, Chief of the GRU of the General Staff of the Russian Armed Forces to Senator Bob Smith, dated June 30, 1994. (U)

[97] Statement by Dr. Rudol'f Germanovich Pikhoya, Chief State Archivist of the Russian Federation, August, 1995. (U)

[98] For examples, see Defense Intelligence Agency messages containing Joint Commission Support Directorate interviews dated December 6, 1996; March 7, 1997; April 24, 1997; June 12,

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- According to the GRU and other Russian officials, General Quang authored at least two additional presentations made by him to sessions of the North Vietnamese leadership, one in 1970, (the contents of which have not yet been disclosed to US officials by the Russian Government) and the other dated June 26, 1972[99] — in the middle of the so-called "Easter Offensive," (the contents of which were briefly shared with US officials in July, 1993, and were subsequently judged by DoD to be "an authentic text of a PAVN report that, based on its content, could have been prepared by Gen. Tran Van Quang. DoD further judged that "most of the information in the text of that document is historically accurate."[100]) (U)

1997; and January 29, 1998. The June, 1997 report, and interview with former USSR Central Committee Secretariat official Yevgeniy Glazunov, refers to the Black Sea 1968 visit — Glazunov accompanied Quang on this visit (see DIA 120707Z Jun 97). Additional interviews have taken place since publication of the NIE in classified form in April, 1998, which further confirm this point. For example, see DIA 020147Z, Jun 98, Subj: Interview with former USSR Central Committee International Department official, Anatoliy Voronin. (*Note*: Voronin served as Quang's interpreter during the Black Sea visit). Also, the communist Polish Press Agency correspondent in Hanoi in 1972, Ryszard Rymaszewski, has told US officials that he met Gen. Quang in Hanoi when he stumbled into a meeting in 1972 of "top Vietnamese military brass to include Quang, the Vietnamese being rather irritated by his presence." It was also Mr. Rymaszewski's opinion that "since Quang was a key member of the military, he would have had the opportunity to address Politburo sessions and meet with American POWs." (U)

[99] See Interim Analysis by Senator Bob Smith to Ambassador Malcolm Toon, dated July 21, 1993; Memorandum for Task Force Russia, Subject: Vietnamese General Tran Van Quang, dated July 2, 1993; GRU translation of the so-called1970/71 "735" report wherein author Hoang Anh references a report to the plenum by Gen. Quang; and Joint Commission Support Directorate Moscow office correspondence to Russian officials, dated February, 1997. (U)

[100] Memorandum for Record, Subject: Assessment of a Text Purported to be a Translation of a 26 June 1972 Speech by PAVN Lt Gen Tran Van Quang, Research and Analysis Directorate, Defense POW/Missing Personnel Office, dated March 11, 1997. (U)

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- According to the text of the Russian GRU translation of the so-called 735 report (a speech by North Vietnamese Communist Party Central Committee Secretary Hoang Anh during the war), General Quang was one of 10 individuals selected by the Politburo to serve on an organization committee for preparation of the Communist Party's Fourth Congress — other individuals on the list of 10 included the top NVN leadership, (Le Duan, Pham Van Dong, Truong Chinh, Pham Hung, Le Duc Tho, etc...)[101] This reference to Quang among these comrades adds considerable merit to the argument that Quang was a top-ranking North Vietnamese political and military figure during the war. (U)

- [redacted] (b)(1)

- According to the former US Government official who headed the US POW/MIA Office in Hanoi in 1991 and worked Vietnam issues for over 20 years, "LTC Quang was a former Political Commissar, a former deputy head of the General Political Directorate (GPD), a former director of the Military Security Department, a former member of the National Defense Council, a former head of the South Vietnam Liberation Armed Forces, a former Deputy Secretary of the COSVN Military Affairs Committee, a former member of the Military Affairs Committee of the Party Central Committee, and a former Chief of the Enemy Proselytizing Department. That being the case, it is highly unlikely that LTC Quang does not possess significant information relative to US POW/MIA."[103] Interestingly, this same official identified Gen.

[101] See p.19 of English translation of the 735 report obtained by the Russian GRU. (U)

[redacted]

[103] Letter to Deputy Assistant Secretary of Defense for POW/MIA Affairs from Garnett E.

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Quang as a key Vietnamese official who should be interviewed by US officials for US POW information some 16 months *prior* to the surfacing of the 1205 document.[104] (U)

- General Quang himself authored two reports in 1966, one of which was published in Hanoi on July 7, 1966 — over two weeks after his June 20, 1966 appointment (date indicated in Vietnamese publication[105] [redacted] as Commander of the newly formed B.4 Front (Military Region IV). The substance of both of these reports, which were obtained and translated by U.S. intelligence in 1966[107], in addition to the timing of the second report, indicate that Quang was quite capable of holding multiple positions in the Vietnamese military and political hierarchy at the same time, and was competent enough to speak across the spectrum of Vietnam War issues with approval of the rest of the Vietnamese leadership. (U)

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- Quang himself conceded to US officials in 1993 that, on at least one occasion "in about January-February, 1972," he had "reported to the North Vietnamese Politburo."[108] (U)

"Bill" Bell, former Chief, US POW/MIA Office in Hanoi (1991), dated March 24, 1996. (U)

[104] Letter to US Senate Select Committee on POW/MIA Affairs from Mr. Bell, dated December, 1991. (U)

[105] Memorandum for Record, Defense POW/MIA Office Research and Analysis Directorate, dated March 11, 1997 (U)

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[107] See Central Intelligence Agency Office of Congressional Affairs unclassified transmittals to Senate, dated April 15, 1993, and April 29, 1993, containing the translated text of the referenced reports, prepared by US intelligence (FBIS) in 1966. (U)

[108] See Footnote #105 (U)

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- There is information from Russian and U.S. sources (previously made available to the NIC) that not all 1972 Politburo or Central Committee sessions involving North Vietnam's leadership were actually held in Hanoi, but may have been held in Hoa Binh, North Vietnam.[109] In view of the fact that there is no indication in the text of the 1205 report, that the Politburo session involving Gen. Quang actually took place *in Hanoi*, the NIE's statement that Quang would have had to have been "*brought to Hanoi*" to make his report reflects a failure to take into account other possible meeting locations, which could have been supported by the fact that the city of Hanoi was itself partially evacuated, under the command of Col. Doan Phung, Chief Political Officer for all troops stationed in the capital area, following the heavy U.S. bombing campaign which began in mid-April, 1972 and lasted for several months. (*Note*: Although it is important to point out these analytical failures in the NIE, in this case, subsequent information received by me in November, 1998 from a Russian intelligence official indicates that General Quang's presentation (ie: the 1205 report) was actually given at a meeting of the Politburo held at the Ministry of National Defense in the Citadel in Hanoi. The receipt of this new and significant information does not, however, negate the NIE's failure, as noted above, based on the information available to the IC at the time of publication earlier this year.) (S)

- In the text of the 1205 report, General Quang reportedly states the topics being covered in his September, 1972 presentation are: (1) the general offensive conducted from March 30th (1972) to the present; (2) our errors and deficiencies in the offensive...; (3) positive and negative aspects of the offensive; (4) immediate plans of the enemy, and our operations; (5) analysis of errors permitted in strategic and tactical leadership; (6) our contacts with

[109] Memorandum from Harvard researcher Stephen Morris, enclosing notes taken from USSR document referencing the "expanded meeting of the DRV politburo in Hoa Binh in early October, 1972," dated June 30, 1993; and Memorandum from former US POW/MIA official Garnett "Bill" Bell, Subject: 1972 Meetings of North Vietnamese leadership in Hoa Binh, dated July 21, 1997.(U)

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political figures of South Vietnam from the Saigon regime; and (7) the matter of American POWs captured on the three fronts of Indochina. The NIE claims that these "*issues were not within his scope of responsibility*," however, even the Vietnamese, Quang himself, US intelligence, Russian intelligence, and open source materials, ***confirm***, that at the very least, six of the above seven issues, were, in fact, within the scope of Quang's wartime responsibilities. Quang himself only challenges his reported knowledge on the American POW situation during the war (the 7th topic covered in his alleged 1205 report), a challenge which is contradicted by Quang's reported positions noted above, which would have necessitated knowledge of US POW matters.) As such, the NIE statement is seriously inaccurate, incomplete, and misleading. (S)

In view of the preponderance of relevant evidence referenced above, and previously made available to or originated by the Intelligence Community, the NIE judgment that Quang was merely *a battlefield commander in a combat situation who claims to have been with his troops and plausibly argues that he would not have delivered a report like the 1205 document*, is not supported. The judgment is seriously inaccurate and based on shoddy and incomplete research, which, itself, reflects very poorly on the U.S. Intelligence Community. To ignore this overwhelming body of evidence, and not even reference it, is troubling and makes me wonder what the intent of the Intelligence Community is with respect to this analysis. This is especially disturbing because an assessment of this document was one of the two main taskings for this Estimate. (S)

Finally, although the NIE itself notes that Quang's recent statements to US officials, denying involvement with the 1205 report, are "marred by implausible statements", it fails to point out the most glaring, and perhaps directly relevant, example which should cause anything Quang or the SRV Government alleges about the 1205 report, and the fate of American POWs, to be viewed with great skepticism.

[redacted] This fact is also confirmed by a postwar

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Communist publication.[110]

It is equally doubtful that General Quang — who has occupied since 1992 the prestigious Hanoi-based Party controlled post of Chairman of the Vietnam War Veterans Association (the association's "honorary" chairman is General Giap[112]) — would admit any such involvement with these matters. Indeed, the fact that Quang now holds this distinguished position, next to Giap himself, casts even further doubt on the NIE's minimizing of Quang's career, as of the date of the 1205 document. (S)

[110] See *Our Great Spring Victory* by North Vietnamese Army Chief of Staff, General Dung, Monthly Review Press, New York, 1977, p. 104. (U)

[111] See *Vietnam* by Karnow, p. 276-279; *Inside Hanoi's Secret Archives* by McConnell, p. 271; *The Encyclopedia of the Vietnam War* by Kutler, (under "Hue"). For denial by General Quang, see *Vietnam, A History*, by Stanley Karnow, 2nd Edition, 1997, p.543, "Revisiting Vietnam in 1981 and again in 1990, I was able to elicit little credible evidence from the Communists to clarify the episode. General Tran Do, a senior Communist architect of the Tet offensive, flatly denied that the Hue atrocities had ever occurred, contending that films and photographs of the corpses had been "fabricated." *I heard the same line from General Tran Van Quang*, who commanded the Communist forces in the region." (U)

[112] FBIS translations of *Nhan Dan* and *Voice of Vietnam* reports from Hanoi, November, 1992; December, 1992; and December, 1997. The Vietnam War Veterans Association is an entity of the Vietnam Fatherland Front (VFF) which is under the control of the Vietnam Communist Party leadership, as established under Vietnam's constitution of 1960. (See FBIS Daily Report 22 Dec 1997, International Yearbook of Communist Affairs, 1972, p. 591, and Vietnam Documents and Research Notes, #103, February, 1972, p. 4, 9.) (U)

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NIE STATEMENT: *"The length of the (1205) report would be inappropriate for a Politburo meeting...the purpose of the meetings was to make decisions, not listen to long oral reports."* (p.27) (S)

ASSESSMENT:

The Intelligence Community has provided no reporting to support this bizarre claim. As proof of this fact, the NIE is only able to vaguely cite the views of one, unidentified, "academic specialist on Vietnam." In light of this, it is inappropriate for the NIE to attempt to make a judgment in this area. [redacted] (b)(1) As such, there is no basis for comparing what constitutes an appropriate "length" of a report to the Politburo. If anything, the length of the 1205 report, in fact, tracks with the length of the June, 1972 report by Gen. Quang previously made available to US officials. As such, the NIE judgment does not rest on any solid foundation, and cannot be accepted with confidence. (S)

Moreover, a North Vietnamese Communist publication in 1977 attests to the fact that the Politburo (also referred to as the "Political Bureau") did in fact meet to listen to reports by the Central Military Affairs Party Committee (of which Gen. Quang is reportedly speaking on behalf of in the 1205 document), especially before reaching critical decisions. And that publication also reveals that both the Political Bureau and the Military Committee often met jointly to analyze and reach decisions concerning the war. Politburo members would also sit in on meetings of the Military Committee when reports and assessments were being presented and discussed.[113] (U)

[113] *Our Great Spring Offensive*, by North Vietnamese Army Chief of Staff, General Van Tien Dung, published in 1977. There are numerous references in this publication of the meetings of the Political Bureau and Central Military Committee, including references to instances when "the

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NIE STATEMENT: *"The tone of the report also is inappropriate. A person of Quang's subordinate status would not have lectured the Politburo on what its policies were. Such hard-core revolutionaries as Le Duan, Pham Van Dong, and Truong Chinh probably would not have been spoken to in such manner or have tolerated such language."* (p.27,29) (~~S~~)

ASSESSMENT: (b)(1) (b)(3) NatSecAct

The NIE judgment is not supported. As already demonstrated in this assessment, Quang himself was a member of North Vietnam's elite Central Committee, comprised of the political-military leadership of the country, including the Politburo members, and he was also a member of that Committee's Military Affairs section. Quang was just as much a "hardcore revolutionary" as his colleagues referenced in the NIE statement, [redacted] In addition, his family had a close association with Ho Chi Minh and General Giap and he was also reportedly a close friend of General Van Tien Dung, Chief of the General Staff of the Vietnamese People's Army, and the Deputy Secretary of the Central Military Affairs Party Committee in 1972.[114] ~~(S)~~

Moreover, Quang states in the 1205 document that he is reporting to the Politburo on the matters outlined in the presentation "on assignment of the Supreme Command, National Defense Council, and the Military Committee of the Politburo." It is certainly plausible that General Giap, who chaired or co-chaired (with Premier Pham Van Dong) these entities as a Politburo member, wanted Quang to report on

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Political Bureau met to hear the Central Military Committee report on the developing situation..." (U)

[114] Defense Intelligence Agency study, dated April 29, 1993. (U)

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the referenced matters to the rest of the Politburo membership, to include non-military members of the Politburo such as the Vice-Premier for Economic Issues, and the Vice-Chairman of the National Assembly Standing Committee. There is only one sentence in the entire 25-page translated 1205 report where Quang could possibly be interpreted as "lecturing the Politburo" wherein he states "we condemn individualistic mistaken views current among us on this (the American POW) matter.". Quang's use of the word "we" in this sentence, and the fact that he states he is reporting on assignment of entities headed or co-chaired by General Giap, could plausibly have given Quang the cover to have used such language at that point in the report, given the importance of the topic to the military leadership, and the very close working relationship between the Politburo and the Central Military Committee during the war. (U)

Additionally, the NIE itself judges, in a subsequent section (p.31) that "Factionalism and disagreement over policy broke out during the period of collective leadership after the death of Ho Chi Minh (1969)." Why, then, would one sentence in a 25-page report revealing evidence of disagreement before a session of the Politburo in 1972 be implausible? In any event, there is hardly enough compelling evidence for the NIE to judge that "Quang would *not* have lectured the Politburo"

[redacted] (S) (b)(1)

NIE STATEMENT: *"The timing of the Politburo meeting is questionable. The report supposedly was given on 15 September, 1972, but the Vietnamese claim there was no meeting on that date.*

[redacted]" (p. 29) (S) (b)(1)

ASSESSMENT:

First, while the NIE accurately reflects Vietnam's claim, the claim itself[115] — from a

[115] *The Washington Post* reported from Hanoi on April 19, 1993 that Vietnamese Foreign

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communist regime that to date has produced no evidence to support its claim — is hardly a basis for judging, as the NIE does, that the timing of the Politburo meeting is *questionable*. Indeed, the NIE itself, earlier on p. 27, states that "the Politburo met weekly during this particular period according to an academic specialist." Why then is a meeting on or around September 15th "*questionable*?" Moreover, the NIE statement fails to include additional, pertinent information, previously made available to the principal NIE author, which makes Vietnam's claim more questionable than the date of the meeting itself. For example, during a subsequent meeting between Foreign Minister Cam and U.S. Senator John Kerry in Hanoi on May 31, 1993, "Senator Kerry requested a copy of the Politburo calendar for that time period, so a comparison could be made. The Vietnamese misunderstood the request, believing Senator Kerry wanted Politburo minutes. They became very upset and almost canceled the rest of the meeting. The misunderstanding was corrected and order was restored.[116]" To date, the Vietnamese, at a minimum, have not produced any tangible evidence to prove their contention that no session of the Politburo was held at the time alleged by the GRU. They have not produced a record of dates on which meetings were held in the Summer/Fall of 1972, nor, as the NIE itself acknowledges in an earlier section, has Hanoi produced any information from Politburo archives that bears on POW/MIA issues. (S)

Second, the fact that the Intelligence Community, according to the NIE, has not been able to "confirm" that such a meeting took place is ***not*** evidence that the meeting was not held, and therefore, is not a basis for "questioning" whether, in fact, there was a meeting. To accept such a claim as evidence implies that the IC

Minister Nguyen Manh Cam had stated a day earlier, during a joint news conference with an American delegation headed by General John Vessey, that "records of North Vietnam's policy-making Central Committee show no Politburo meeting on the date in question." On April 22, 1993, Hanoi's state-run Voice of Vietnam issued a broadcast, stating, in part, "There was no meeting of the Politburo on 15 September, 1972." (U)

[116] Memorandum for the Record, prepared by Vietnam Veterans of America (VVA), June, 1993. *(Note: VVA accompanied Sen. Kerry on this trip and attended the meeting with Minister Cam.)* (U)

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was somehow omnipresent, having the ability to detect all other meetings of North Vietnam's Politburo during the Vietnam War. Since the NIE does not make any such suggestion, or provide evidence to support such a contention, then likewise, the inclusion of the above statement in the NIE itself is meaningless and unwarranted.

[redacted]

While the NIE claims there was no POW/MIA information in this data, it fails to mention whether there was any reporting on dates and locations of Politburo and Central Committee Military Affairs meetings, or references to Gen. Quang, including under his aliases, which could have a bearing on a thorough assessment of the 1205 or 735 documents.) Were there? (S)

Third, the NIE fails to explore other possible scenarios, such as the suggestion by Russian General Volkogonov, that the date assigned to the 1205 document by the GRU, which is reflected on the GRU cover page to the translated text (ie: September 15, 1972) could have been the date the report was actually *prepared* by North Vietnamese General Quang, not the actual date the report was *presented*.[117] (S)

NIE SATEMENT: *"On that day (September 15, 1972), Le Duc Tho, who ranked 5th in seniority on the Politburo, was meeting with Henry Kissinger at a key juncture in the Paris peace talks."* (p. 29) (S)

[117] Memorandum for the Record, Subject: Conversation between Gen. Volkogonov and Gen Vessey during visit at Walter Reed Medical Center on June 22, 1993, signed by Major General Bernard Loeffke, US Army, Director, Task Force Russia, DoD. (U)

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ASSESSMENT:

In point of fact, the meeting between Henry Kissinger and Le Duc Tho on September 15, 1972 did not represent a "key juncture in the Paris peace talks." The breakthrough in the Kissinger-Le Duc Tho discussions did not come until October 8, 1972.[118] (S)

More importantly, declassified cables and subsequent statements by Dr. Kissinger himself, made available to the principal author of the NIE in late 1997 and early 1998, contradict the NIE's judgment that September 15, 1972 represented a *key juncture* in the Paris peace talks. For example, on September 27, 1972, in a then-Top Secret message from Dr. Kissinger in Paris to Gen. Haig at the White House, Kissinger stated, "There has been no significant progress...we held firm in our basic program, including political questions...in other areas, it emerged clearly both from DRV document and discussions that we remain far apart on a number of major issues..." (S)

Finally, with this statement, the NIE seems to imply that the Politburo would not have met without Le Duc Tho, to discuss military and political strategy concerning the war. If this is not the implication, then the inclusion of this sentence serves no purpose. If this *is* the implication, then the NIE judgment is seriously undermined by the fact that Le Duc Tho was physically located in Paris in early to mid August, mid to late September (to include a few days prior to September 15th[119]), and early to mid October. To imply that the Politburo would not have met during these periods, and that communication channels with Le Duc Tho were not firmly established between Hanoi and Paris, is simply ludicrous. Moreover, Le Duc Tho had just been present in Hanoi on September 4, 1972 during a wreath laying ceremony marking the 3rd anniversary of the death of Ho Chi Minh.[120] (S)

[118] Final Report of the Senate Select Committee on POW/MIA Affairs, p. 507, dated January, 1993 (Senate Rpt. 103-1). (U)

[119] See *White House Years*, by Henry Kissinger, p. 1333-1334 (U)

[120] Vietnam Documents and Research Notes, #107, entitled *Bases of Power in the DRV*, dated

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NIE STATEMENT: *"On that day (September 15, 1972), Quang Tri fell to South Vietnamese forces...Would the Politburo be discussing POW/MIA issues with a general whose forces were defending, and losing, a key city?"* (p. 29) (S)

ASSESSMENT:

As previously discussed, the NIE has produced no evidence, other than a claim by General Quang himself, to substantiate the inference that General Quang was physically located at the B-4 or B-5 Front in September, 1972, with forces reported to be under his command in Quang Tri province, and therefore, not available to meet with a session of the Politburo on September 15, 1972. Moreover, in view of voluminous evidence outlined earlier that Quang's wartime responsibilities transcended his reported battlefield command position, that he reported on several military developments and planned operations in the 1205 report (not just POW issues), and that he might merely have issued instructions to the Front by radio from Hanoi, the NIE has not demonstrated the implausibility of Quang speaking to a session of the Politburo during this time frame. Additionally, Hanoi has produced no contemporary wartime records from September, 1972 which convincingly demonstrate that General Quang was physically located at the Front on September 15, 1972. (S)

Furthermore, the NIE has not convincingly demonstrated that a discussion of US POW matters could *not* have been one of the *many* topics addressed by General Quang, as noted in the 1205 report. In fact, U.S. intelligence reports and studies, interviews with Vietnamese witnesses, and other information made available to the principal author of the NIE in late 1997 and early 1998 indicate that General Quang

October, 1972. See p. 2 (U) *Note*: Reportedly, the Party's Central Military Affairs Committee also laid a wreath. As noted earlier, Quang was a secret member of this Committee. It is unclear, at the moment, whether Quang may have been present as well in Hanoi for this ceremony. (U)

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had served as Chief of the Central Committee's Enemy Proselytizing Organization between 1951-1954, and subsequently as Deputy Director of the General Political Directorate (GPD) of the General Staff of the Vietnamese People's Army (PAVN) in charge of the Department of Enemy Proselytizing (EPD). He was also reported to have headed a conference of the EPD in 1963. The Central Committee's Enemy Proselytizing Organization and the PAVN GPD's EPD were those elements of the North Vietnamese Government responsible for the utilization, security, documentation, and exploitation of enemy prisoners. (S)

Moreover, in interviews with US officials in 1993, General Quang himself verified that he had dealt with prisoner of war matters, though he claimed it was only with French prisoners during the French Indochina War. The above information certainly does not prove that General Quang could not have included a discussion of US POW matters in his alleged report before a session of the North Vietnamese Politburo in 1972. Given his prior involvement with prisoner matters, his continuing position as a CMAPC member in 1972 which supervised GPD activities, along with his role as PRG Defense Minister, he certainly had the stature to do so, and would have been privy to, if not directly involved with, details about the status of US POWs captured on all fronts of Indochina. (S)

Finally, although ARVN forces recaptured the Quang Tri provincial capital city on September 15th or 16th, 1972 (accounts vary on the actual date), the ARVN counterattack to retake the city actually began at the end of June, and had dragged on for some time.[121] And there is evidence from the Russian GRU that Quang reported to the Politburo on June 26, 1972 about the difficulties being encountered, to include "the strong groupings of American and puppet forces currently located

[121] See *Encyclopedia of the Vietnam War*, *Quang Tri*, Kutler, p. 463. A Communist perspective on the ARVN counterattack battle for Quang Tri is contained in North Vietnamese Army Chief of Staff General Dung's postwar memoire, *Our Great Spring Victory*, p. 45. Dung claims "after successfully defeating enemy counterattacks throughout an eighty-six-day-and-night battle to protect the citadel and the town, in the end we were only able to hold the area north of the Thach Han River. The enemy recaptured Hai Lang district, part of Trieu Phong district, and the ruins of the citadel and town." (U)

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along the fronts, with the groupings in Quang Tri and Dong Ha being the strongest.[122]" In view of this, and other supporting evidence previously discussed, it is not implausible that Quang was *not* physically located at the Front during every major military development in the spring-summer campaign. Conversely, it is also plausible that the final ARVN assault on Quang Tri city itself in mid-September caught PAVN forces, and Quang, by surprise, and it could have conceivably happened *after* Quang's presentation to the Politburo. (U)

NIE STATEMENT: *"Although the circumstantial evidence above is not definitive, the content of the (1205) report casts even more doubt on its accuracy."* (p. 29) ~~(S)~~

ASSESSMENT:

This statement represents one of the most glaring examples of distortion by omission in the entire NIE. The NIE reader is left with the clear impression that the "content of the report" casts doubt on its accuracy. There are no qualifiers to this statement. In fact, nowhere in the NIE is evidence presented which tends to *corroborate* the content of the 1205 report. Instead, the NIE makes a giant leap from the above statement directly to the next sentence which reads "the portions of the report dealing with the POW issue are inaccurate..." However, the NIE fails to point out other relevant information concerning the accuracy of much of the content of the 1205 report, to include information previously acknowledged as accurate or plausible by elements of the Intelligence Community.[123] Why? As such, the NIE seriously misleads its reader with the above statement, which taken in its totality, is

[122] See Appendix to Interim Analysis by Sen. Bob Smith, dated July 21, 1993 (re: notes taken from GRU report containing translated text of report by Gen Quang to NVN Politburo on June 26, 1972.) (U)

[123] See *Recent Reports of American POWs in Indochina: An Assessment*, p. 2, released by the Department of Defense on January 24, 1994, with input from elements of the Intelligence Community. (U)

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not supported by evidence previously made available to, originated by, or obtained by the Intelligence Community (S). For example —

- Statements by Dr. Henry Kissinger, former National Security Advisor to President Nixon, on the accuracy of portions of the 1205 report:

  "Having read the document carefully, I can only say that the description of the North Vietnamese government policy toward the South and the North's position on negotiations with the United States conforms with what we knew to be their position at the time."[124]

  "When they (General Quang) described what their negotiating tactics were, those were the tactics they were using in negotiating with us...they say in this document that their proposals were first a cease-fire and the overthrow of President Thieu, after which they would use the prisoners to negotiate whatever other concerns they had. Now, as of the date of that document, those were their proposals. A month later they changed it but I could see if you make a report to the Politburo in the middle of September and you want to summarize what the negotiating position is, this was exactly the negotiating position they had as of the date of that document. To be precise, on October 8th, about three weeks after this document, they changed their position, but up to that time, they had insisted on exactly the conditions that are in that document..."[125]

- White House/National Security Council declassified records from 1972 confirm that the U.S. delegation in Paris was privately being told by the NVN delegation during this period precisely the same negotiating position General Quang was referencing before the NVN Politburo.[126] It is further worth noting that neither the content of Quang's report

[124] Letter from Dr. Henry Kissinger to Sen. Bob Smith, dated June 22, 1993. (U)

[125] Transcript of comments by Henry Kissinger, *The MacNeil/Lehrer Newshour*, dated April 13, 1993. (U)

[126] See declassified National Security Council cables, previously made available to the IC, dated August 17, 1972, August 18, 1972, September 26, 1972, and September 27, 1972. (U)

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before the NVN Politburo or the content of the secret US-NVN talks in Paris this same month had been publicly disclosed at the time, but yet they match in many important respects, thereby adding considerable merit to the argument that the 1205 report is genuine.

- The report identifies contacts being made with several South Vietnamese leaders who were known opponents of the regime of President Nguyen Van Thieu and who were reported independently to US intelligence to have had clandestine contacts with representatives from the North.[127]

- The report accurately depicts the circumstances surrounding the surrender of a South Vietnamese unit during the 1972 Easter Offensive, admitting that the North's propaganda had misrepresented the event.[128]

- It predicts an upsurge in terrorist attacks beginning in October, 1972, which was indeed noted in the Mekong Delta region in November.[129] (U)

NIE STATEMENT: *"The portions of the (1205) report dealing with the POW issue are inaccurate with respect to how the prisoners were segregated by rank, where they were located, how they were classified, and the conditions of their release."* (p. 29)" (S)

[127] See footnote #123.

[128] Ibid.

[129] Ibid. In addition, the International Yearbook of Communist Affairs (IYCA) for the year 1972 notes that "During 1972, there were approximately 40,000 reported incidents of Viet Cong terrorism — an all time high for the Vietnam War — and it was estimated that over 10,000 additional incidents went unreported (*The New Yorker*, 13 January, 1973)" IYCA, p. 571. (U)

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ASSESSMENT:

Once again, the NIE *asserts* that the portions of the 1205 report dealing with the specified POW issues are inaccurate, but fails to convincingly *demonstrate* this point. This is especially disturbing because there is, in fact, evidence that the North Vietnamese classified POWs according to their level of cooperation or progressivity, that some had been segregated by rank, that there were more suspected US POWs camps during the war, and that the conditions outlined for the release of US POWs was either plausible or actually presented as such to Henry Kissinger during the peace talks.[130] In addition, the NIE fails to inform its reader about other portions of the 1205 report dealing with the POW issue that can be readily accepted as accurate or plausible based on information available to the US Government (S). For example —

- In the 1205 report, General Quang states, "For now, we have officially published a list of only 368 POWs." This statement is factually accurate as discussed in great detail earlier in this assessment.[131]

- In the 1205 report, General Quang states, "Shortly, we will release several POWs in order to put pressure on the Nixon administration, observe his reaction, and the reaction of the American public, as well as to demonstrate our good intentions in this matter." Again, this statement is factually accurate. On September 2, 1972, North Vietnam's General Political Directorate of the VPA[132] announced that three US POWs would be freed "as

[130] Interim Analysis of the 1205 Report, with referenced documentation, presented to Ambassador Malcolm Toon by Senator Bob Smith, dated July 21, 1993, (see pages 44-50). (U)

[131] See Critical Assessment of "Key Judgments"; concerning the 735 report:

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a sign of gratitude to that part of the progressive American public which has been calling for an immediate end to US aggression in Vietnam." That same day, North Vietnam's Ministry of Foreign Affairs issued a statement saying "North Vietnam will hand over the released pilots to a U.S. social organization animated with good will...[133]" The three US POWs were not actually released until September 25, 1972 when they were turned over to American anti-war activist Cora Weiss and her delegation. They departed Hanoi on September 26, 1972. This was the first release of US POWs by Hanoi in over three years (1969). (U)

- In the 1205 report, General Quang states the among the captured American aviators are "three astronauts: that is, three people who have completed the necessary training for space flight." There is evidence to support this statement. For instance, on February 11, 1965, Lt. Cmdr. Robert Shumacher, USN, had been shot down and captured over North Vietnam. A communist Vietnam News Agency release at the time had stated that Commander Schumacher "had been selected to be an astronaut.[134]" Moreover, the Romanian Defense Attaché in Hanoi reported to the Intelligence Community in February, 1972 that he had met Shumacher whom the North Vietnamese described as "having been selected to be an astronaut prior to his capture."[135] Two, possibly three, additional US POWs had also gone through astronaut training in the United States prior to their capture in North Vietnam.[136] Based on these facts, it is certainly plausible for the 1205 report to state that three

[133] Central Intelligence Agency Memorandum, Subject: Observations of a [redacted] on the Release of American POWs, dated September 7, 1972 [redacted] (U) (b)(3) NatSecAct

[134] See *P.O.W.*, by John Hubbel, Reader's Digest Press, 1976. (U) (b)(3) NatSecAct

[135] U.S. Defense Attaché Office Morocco message to CIA, DIA, JCS..., Subject: US POW in Hanoi, dated February 4, 1972. (Note: Romanian DATT referenced was interviewed by JCSD in May, 1998, and confirmed this account.) (U)

[136] Interim Analysis by Sen. Bob Smith, p. 43-44, dated July 21, 1993, and Memorandum for Record, Office of Senator Bob Smith, dated September 1, 1998. (U)

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people who had completed "the necessary training for space flight" were among those captured in North Vietnam. (U)

- In the 1205 report, General Quang states that among the captured American aviators are "15 US Air Force aces having more than 4,000 flight hours each." Again, it is factually accurate that there were several USAF pilot "aces" shot down and captured over North Vietnam — two of whom (Jim Kasler and Robbie Risner) had been on the cover of Time Magazine with profiles of their career background prior to their capture. (U)

- In the 1205 report, the names of four US POWs are specifically mentioned (Russian versions of American names as rendered from Vietnamese). According to the Defense Intelligence Agency, "two of the four named Americans are identifiable returned POWs. A third is a possible identification (also a returned POW), and the fourth name is too badly garbled to identify.[137]" The badly garbled name "Jim Intist Shasht," is believed to possibly correlate, at least phonetically, to "Jim Hiteshew," an Air Force colonel shot down over North Vietnam in 1967 who returned alive in 1973.[138] (U)

- In the 1205 report, General Quang states "We intend to resolve the American POW issue in the following manner: The US Government must demonstrate compliance, that is, a cease-fire and the removal of Nguyen Van Thieu, and then both sides can begin discussing the matter of returning POWs to the Nixon government...Nixon must (also) compensate North Vietnam for the great damage inflicted on it by this destructive war. Here then are the principles on the basis of which we may resolve the American POW issue."

[137] Defense Intelligence Agency memorandum, Subj: Vietnamese POW/MIA Document from Russian Archives, dated April 12, 1993, signed by Director, Defense Intelligence Agency Special Office for Prisoners of War and Missing in Action. (U)

[138] *An Interim Analysis of the 1205 Document - Report to Ambassador Malcolm Toon, US/Russia Joint Commission on POW/MIAs*, by Sen. Bob Smith, dated July 21, 1993, p. 44. (U)

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As already demonstrated by the comments made by Henry Kissinger, this was, indeed, the North Vietnamese negotiating position as of September, 1972. Moreover, the Central Intelligence Agency had itself verified Hanoi's intentions in its POW negotiating strategy, (as described in the 1205 report), in the summer of 1971.[139] Additional testimony and documentation supports the accuracy of Quang's reported statement. (U) For example —

- On August 18, 1972, Kissinger, in reporting on his August discussions with North Vietnamese officials, told South Vietnamese President Thieu, "They (the North Vietnamese) think they can use the prisoners of war to overthrow you.[140]" (U)

- A former member of the U.S. negotiating team in Paris (1969-1971), Philip Habib, has testified "...in one of the first lists of negotiating points put forward by the North Vietnamese, the Communist side bracketed the release of prisoners with what they described as 'US responsibility for war damage in Vietnam' in a single numbered point...I know of no instance in which an adversary so openly treated this humanitarian problem in this way. We recognized from an early date what we were up against.[141]" (U)

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[139] A Central Intelligence Agency, Directorate of Intelligence Memorandum, entitled Hanoi and US Prisoners of War, and dated June 28, 1971, stated, in part: "To understand Hanoi's approach to the question of prisoners of war, one should keep in mind the broader military and political issues the Communists insist must be resolved to their satisfaction *before* the prisoners can be released. Hanoi still insists on termination of American involvement in Vietnam, and end to Communist government in South Vietnam, and the establishment of a new regime affording the Communists a solid position from which to work toward full control of the South and reunification of all Vietnam." (U)

[140] Declassified NSC Transcript of Meeting between Kissinger and Thieu, dated August 18, 1972. (U)

[141] Testimony of Philip Habib, Under Secretary of State, before House Select Committee on Missing Persons, dated July 21, 1976. (U)

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- On September 26, 1972, Kissinger sought assurances from Le Duc Tho that "all American prisoners held in Indochina will be returned as a result of an agreement." Le Duc Tho responded, stating "Regarding the question of prisoners of war...if you satisfactorily solve the political question and the question of reparations, then we can find an understanding.[142]" (U)

- In a 1992 Senate deposition with Ambassador Vernon Walters, who served as defense attaché in Paris during many of the secret US-DRV negotiations, the following exchange took place:

> *Q: Was there ever any effort by the North Vietnamese that you were aware of to link the subject of our payments to them with the release of our prisoners?*
> *A: Reparations were sine qua non for peace, return the prisoners for everything.*
> *Q: From the North Vietnamese perspective you mean?*
> *A: Yes.*
> *Q: So there's no question that Dr. Kissinger was aware of the North Vietnamese desire to link reparations with the release of US prisoners?*
> *A: Not in my mind.*
> *Q: And you say that because you saw Dr. Kissinger discussing the subject with the North Vietnamese?*
> *A: I was translating what he was saying into French and they were translating back what they were saying into English.*[143] (U)

- As referenced earlier in this assessment, in a wartime report originated by the Soviet Ambassador in Hanoi, I.S. Scherbakov, and entitled, "Soviet-Vietnamese Negotiations in April, 1967," the Soviet Ambassador advised his North Vietnamese counterparts, "it is not necessary to inform the Americans on the exact number of prisoners. A half of them could be handed over and the others could be released

[142] Declassified NSC Memorandum of Conversation between Kissinger and Le Duc Tho, dated September 26, 1972. (U)

[143] Deposition of Vernon Walters, taken by the Senate Select Committee on POW/MIA Affairs, on September 1, 1992, p. 33-34. (U)

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later in exchange for repair of damage inflicted by the U.S. bombardment of the DRV." (U)

- Several additional Central Intelligence Agency and other reports and analyses disseminated prior to and well after (even years after) Operation Homecoming in 1973 indicated that North Vietnam was holding additional U.S. POWs or using the POW/MIA issue as a "bargaining chip" for negotiating purposes with the United States, and that it fully expected war reparations — all of which adds additional plausibility to the policy referenced by General Quang.[144] (S) (b)(1) (b)(3) NatSecAct

[144] Intelligence Community reporting and analysis in support of the contention that there was a relationship between the release of US POWs and payment of war reparations for DRV reconstruction is too voluminous to list here, but they include, as examples only, — Memorandum from Director of Central Intelligence Schlesinger to National Security Advisor Kissinger, Subject: Indication that the Communists are holding previously unlisted US POWs as a future bargaining tool to obtain additional concessions from the United States, dated March 20, 1973;

[redacted]

[redacted] Memorandum for National Security Advisor Anthony Lake from National Intelligence Officer for East Asia (NIC/CIA), indicating it was "possible" Hanoi held back US POWs in 1973, and was angry reparations from the U.S. had not been forthcoming, dated December 13, 1993. Additional reporting that Hanoi was expecting war reparations from the U.S. as part of a tentative agreement reached in October, 1972 can be found in Vietnam Documents and Research Notes, #108, November, 1972, p. 26, and #109, p. 32, 34, 39, and 41. Following the signing of the final accords in January, 1973, and in the 25 years that followed, there is extensive and continuous reporting in FBIS files, other press reports, and in closed-door US-Vietnam negotiations, wherein Hanoi repeatedly has called on the U.S. to implement Article 21 of the Accords (wherein the US pledged to help rebuild North Vietnam), and President Nixon's specific pledge to DRV Premier Pham Van Dong in February, 1973 to contribute up to $4.75 billion in economic reconstruction of the North ($3.25 billion in reconstruction aid, plus up to $1.5 billion in "other forms of aid") — all of which indicated Hanoi having linked that issue to

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In addition to these examples, there are other plausible statements concerning American POWs referenced by General Quang in the 1205 report, to include comments about technical and weapons information obtained through interrogations of U.S. POWs, which even Russian officials have verified receiving from their North Vietnamese counterparts during the war. (U)

Based on all of the above, it is clear that the NIE has seriously misled its readership by failing to point out information which tends to corroborate "the content of the

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their cooperation on U.S. POW/MIA accounting. Again, while the reporting is too voluminous to detail here, a few examples to illustrate this widely understood point include the following — The Washington Post Editorial Page cartoon, April 7, 1973, p. A18, (shows NVN official dragging US POW in front of President Nixon, declaring, "That's the last of the prisoners...now, where's all the money to rebuild North Vietnam,"); Memorandum to Secretary of State Henry Kissinger from Under Secretary of State Philip Habib, November 13, 1976, Re: Meeting with the Vietnamese, November 12, "...The Vietnamese representative stuck to the standard Hanoi linkage of the MIA question with our obligation to provide aid..." The meeting was described in a French AFP press report as "the first face-to-face talks since the 1973 Vietnam peace negotiations" (AFP, Paris, November 12, 1976); Final Report of the House Select Committee on Missing Persons, December, 1976, p. 4, "...The Socialist Republic of Vietnam has called for selective implementation of the Paris Peace Agreement, specifically Article 21 dealing with American reconstruction aid to Vietnam, in exchange for POW/MIA information under Article 8b."; Defense Intelligence Agency Task Force (the "Tighe Report) Examination, May 27, 1986, "...Vietnam is waging a war of politics using the POW/MIA issue as the leverage for compelling the US to pay a blood debt."; Analysis Report by FBIS, *Vietnam: Toughened Stance on MIA Issue*, July 20, 1987, "...Hanoi has toughened its line on the question of American servicemen missing in action during the Vietnam war, reviving its pre-1978 hard line linking resolution of the question to a U.S. aid commitment under the Paris Peace Accords."; Kyodo News Service, Hanoi, July 26, 1997, "a former top leader of the Vietnamese Communist Party, and current advisor to the Party, Nguyen Van Linh, cited the accounting of American soldiers as missing in action as a prominent case of inequality in international relations — 'The Vietnamese government lets the US comb any place where its troops were stationed...(but) they promised to pay more than 3 billion dollars, and have for more than 20 years now not paid a single cent...' Linh said." (S)

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1205 report" with respect to the POW issue and the other issues previously noted. (S)

NIE STATEMENT: *"If there were additional POWs, we would have known of them unless Vietnam maintained a separate prison system unknown to POWs who returned in 1973. We have uncovered no reliable evidence that a separate prison system existed for certain POWs; nor do we have such indicators as plausible site locations."* (p.30) (S)

ASSESSMENT:

In addition to ignoring the views of former senior US officials referenced earlier in this assessment, this NIE statement also ignores undisputed evidence that some of the returned US POWs only became aware of each other by virtue of the North Vietnamese forces bringing them together in the weeks before Operation Homecoming began in February, 1973 — even though some had been held together in the same prison system. We would not have known about these POWs had the North Vietnamese not decided to consolidate them with the other returning POWs.[145] This point was further documented in a post-Homecoming Defense

[145] During a hearing of the Senate Select Committee on POW/MIA Affairs on December 3, 1992, the senior returned POW from the Hanoi prison system in North Vietnam, Admiral James Stockdale, testified that "we learned that in '71 they (NVN) started bringing in lots of people we didn't know about, Army and Marine people, ground soldiers, and some helicopter pilots, but there was never any mixing of the two until the whistle blew and we all came home." Stockdale further testified about the existence of 4 USAF pilots from Laos who were brought to a Hanoi-area prison camp (nicknamed "the plantation") in early 71, stating "we never had an interchange of names with them, and we never saw any of them until the whole bunch was released." Stockdale also pointed out to the Senate committee that he "does not claim iron-clad 100 percent accountability for anybody outside the 351" previously acknowledged POWs held in the Hanoi prison system and subsequently released in 1973. (U)

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Intelligence Agency study, entitled *PW Camps in North Vietnam*,[146] and a Defense Intelligence Agency Intelligence Appraisal, entitled *A Summary of Prisoner of War Experience in Southeast Asia, a Briefing*[147], and it was again amply demonstrated in a Senate hearing exchange between U.S. Senator John Kerry and the Director of the Defense Intelligence Agency's POW/MIA Office, Robert Sheetz, on August 4, 1992:

> *Sen. Kerry: There were groups of prisoners brought together for the release who only learned of each other being alive by virtue of the process of being brought together, correct?*
> *Mr. Sheetz: There were prisoners that were consolidated toward the end.*
> *Sen. Kerry: And some were held in different locations, perhaps 10 people in one location. Is that not accurate?*
> *Mr. Sheetz: That is correct.*
> *Sen. Kerry: ...Is it not possible, however, that a whole group of 10 held somewhere were never brought back to the main group and therefore held back in some other circumstances?*
> *Mr. Sheetz: That is possible.*
> *Sen. Kerry: So, the mere fact of debriefings not showing that somebody was not accounted for does not in and of itself dispose at all of the notion that somebody else could have been held elsewhere?*
> *Mr. Sheetz: That's true...*[148] *(U)*

Thus, it is clear that the North Vietnamese had the capability to keep some

[146] Defense Intelligence Agency study, entitled PW Camps in North Vietnam, dated 1973. As further confirmation of the above-mentioned argument, the study indicates that "the period from 1968 to 1972 was marked by the movement of US POWs from South Vietnam and Laos into North Vietnam for detention. With few exceptions, the personnel moved into North Vietnam were kept separated from the men actually captured in North Vietnam." (U)

[147] The referenced DIA study is dated May 8, 1973, and was published by the Deputy Director for Intelligence, DIA. (U)

[148] Hearing of the Senate Select Committee on POW/MIA Affairs, dated August 4, 1992. Also referenced in *Interim Analysis of the 1205 Report* by Sen. Bob Smith, dated July 21, 1993. (U)

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unacknowledged US POWs *within the same prison system* as the acknowledged US POWs (approx. 350 as of Sept. 72), and we would not have known about those POWs if the North Vietnamese had not decided to repatriate them. Moreover, it is also clear that the North Vietnamese went to considerable lengths to prevent even the acknowledged US POWs from learning about each other in the course of late night sudden movements of these personnel between camps.[149] (U)

But even more egregious is the NIE statement above that there were no indicators of plausible site locations for other possible US POW prisons unknown to the POWs who returned in 1973 (ie: a separate or second prison system). While it is true that repatriated POWs were only aware of those within their system, the NIE judgment is nonetheless *contradicted* by substantial information and evaluations originated by or made available to the U.S. Intelligence Community both during and/or after the Vietnam War. For example —

- *Defense Intelligence Agency estimate*: In the 1205 report, General Quang states that there are currently (as of Sept. 15, 1972) 11 prisons in North Vietnam where all the American POWs are being held. DIA knew from the debriefings of US POWs who returned in 1973, that as of September, 1972, there were 6 prisons in North Vietnam holding the US POWs who were later repatriated.[150] Using the established fact that, in September, 1972, 6 camps

[149] See *The Raid*, by Benjamin F. Schemmer, 1976, p. 17, "It was a scary thing for the POWs being moved to another camp, usually at night, always on short notice...the guards blindfolded them...guards were put between groups of POWs to make sure no one lifted a blindfold or talked. The North Vietnamese didn't want them to see who the other prisoners were, or where they were headed." (U)

[150] The nicknames given by the returned POWs for these 6 camps were the Hanoi Hilton, the Zoo, Plantation, Dogpatch, Mountain Camp, and Rockpile. (See DIA 1973 PW Camp Study). It also should be noted that the Intelligence Community only learned the exact number after North Vietnam released the acknowledged POWs in 1973. Indeed, as of September 4, 1972 (five months prior to Homecoming), DIA estimated that only 4 of the "confirmed" US POW camps in North Vietnam were estimated to be "probably" or "possibly" holding US POWs as of September, 1972. (U)

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held subsequently repatriated US POWs, that leaves *5 additional prisons* in the North for General Quang's number of total camps to be accurate (ie: 11-6=5). As of September, 1972, DIA had identified, in a published study, a total of 8 confirmed US POW camps in North Vietnam, and an additional 18 possible US POW camps in North Vietnam. A "confirmed" camp was defined as "one in which there is conclusive evidence that American prisoners are, or were, detailed on a permanent basis." A "possible" camp was defined as "one in which there is some information or evidence that it might be, or could have been, used for the detention of American prisoners on a permanent basis."[151] Accordingly, based on the fact that DIA had identified 26 (8+18) confirmed or possible US POW camps in North Vietnam, as of September 1972, it is demonstrably inaccurate for the NIE to claim that the Intelligence Community had uncovered "*no such indicators as plausible site locations*" for 5 additional prisons for US POWs (11-6), as of the date of the 1205 report (Sept. 72). (U)

- *Central Intelligence Agency study*: A CIA study, conducted "in response to recent human source reporting on American POWs still in North Vietnam," and disseminated in early 1976, concluded that "the possibility of a second prison system for the detention of American POWs in North Vietnam cannot be disregarded." CIA further concluded, based on the results of this study, that it was "precluded from drawing a firm conclusion that all the camps which held American POWs have been identified." The CIA study included "a comparative analysis of six confirmed American POW camps outside of the Hanoi area with 19 other suspect camps not *known* to have contained Americans in order to determine which camps reacted to the (November 21, 1970) Son Tay raid by constructing new defensive positions such as AAA sites, AW positions, trenching and/or foxholes." CIA determined, based on photography and debriefings of the POW returnees, that the 6 confirmed US

[151] Defense Intelligence Agency study, entitled *Prisoner of War Camps in North Vietnam*, dated November, 1972. (*Note*: While the study itself is dated November, 1972, the actual date of the most current information used in this study is listed as September 4, 1972) (U)

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POW camps used in the study had all reacted to the raid in the same manner. But, more importantly, CIA determined that 7 of the other 19 camps used in the study had also reacted similarly to the raid by taking the referenced precautionary defensive measures, while the remaining camps had not reacted in a discernible fashion to defend against any additional US efforts to free US POWs from camps in the North.[152] (U)

- *Central Intelligence Agency memorandum*: A CIA memorandum, entitled "Re-evaluation of PW/MIA Information," was prepared for the Director of Central Intelligence, and sent to him via the Deputy Director for Operations, on August 13, 1976. In the memorandum, CIA analysts outlined "information that can be interpreted as indicating a probability that there are still American PWs alive in North Vietnam." The information, further described as "not an exhaustive list," included reference to (1) at least one suspect detention camp for American PWs which had immediately reacted to the November, 1970 Son Tay raid, yet none of the repatriated PWs had been held there; (2) several sources reported seeing American PWs working on the main bridge across the Red River at Hanoi. None of the returned PWs had ever worked on the bridge, according to the debriefings; (3) ...several reports indicating that various North Vietnamese and South Vietnamese communist officials have stated that there are still American PWs alive in North Vietnam. Not all of these reports have been brought to the attention of the (House) Select Committee (on Missing Persons); (4) repatriated PWs identified a number of cases in which pilots had been seen on the ground in what appeared to be captivity, but were never again seen and were not accounted for by the North Vietnamese; (5) a captured North Vietnamese official, most of whose information was highly accurate, indicated that North Vietnamese

[152] Central Intelligence Agency PW Camp Study, dated 1976, obtained from Defense Intelligence Agency PW/MIA intelligence records forwarded to the National Archives on May 4, 1984, and subsequently declassified and forwarded to Sen. Bob Smith by the Acting Deputy Director (POW/MIA Affairs), Office of the Assistant Secretary of Defense, dated November 12, 1993. (U)

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officials would hold some American PWs completely out of public view and not return them; and (6) two additional reports to support the probability of unacknowledged American PWs from North Vietnam not released in 1973.[153] Once again, this information contradicts the NIE contention that "*if there were additional POWs, we would have known of them...*" (S)

- *The discrepancy of US POWs related to the Son Tay POW Camp Raid*: According to several U.S. intelligence reports, testimony of former US officials, interviews with Russian officials, and even statements by Vietnamese officials, US POWs had been moved from the Son Tay prison camp in North Vietnam *approximately 10 days to one month prior to the failed US rescue attempt on November 21, 1970, because the North Vietnamese had learned about the forthcoming raid and a foreign journalist or peace activist had visited the camp.* US intelligence and defense officials had suspected that US POWs were still present at the camp in November, 1970 prior to launching the raid. However, those US POWs repatriated in 1973 who had been held at Son Tay in 1970 had been moved out of the camp on July 14, 1970 — *four and ½ months prior to the raid* — in a routine move, also attributed to potential flooding at the Son Tay camp in July, 1970. This serious discrepancy suggests other US POWs, not repatriated in 1973, had been moved in and out of the Son Tay camp after July 14th and prior to November 21st (U)

- *Other Central Intelligence Agency and Defense Intelligence Agency reporting*: Although this can hardly be considered an exhaustive listing, there are other unexplained IC reports which lend credibility to the existence of other US POWs and/or US POW camps in North Vietnam during the war, such as: (1) CIA 240202Z Jul 82, Subject: Organization and Inmates of Tan Lap Prison, Vinh Phu Province (North Vietnam), "former detention site for US POWs...Long-held inmates noted that up to 1973, American prisoners had

[153] Memorandum for Director of Central Intelligence, Subject: Re-evaluation of PW/MIA Information, dated August 13, 1976. (U)

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been interned at this prison." *Note*: No repatriated US POWs were held there at this facility; (2) see Defense Intelligence Agency 15-Volume Study and Report of Uncorrelated Information Relating to Missing Americans in Southeast Asia, dated December 15, 1978; (3) see Defense Intelligence Agency Task Force Examination of PW/MIA Analysis, submitted by Lt. Gen. Eugene Tighe, USAF-ret., former Director, Defense Intelligence Agency, dated May 27, 1986; and (4) see Defense Intelligence Agency (or DPMO) database index of HUMINT reporting on POW/MIA in Southeast Asia, broken down by originating agency. All of these reports are not "resolved." (U)

NIE STATEMENT: *"The 1,205 figure is inconsistent with our understanding of how many Americans survived the events in which they became lost to become captives...The number of Americans whose fates are uncertain (on the priority case list) has been reduced to 48."* (p.30) (S)

ASSESSMENT:

As referenced earlier in this assessment (see discussion of chart on p. 19 of NIE), the number of Americans whose fate is still uncertain in 1998, using the NIE's own figures, is at least 370, *of which* 48 are priority cases. However, the priority case list, first developed by Presidential POW/MIA Emissary to Hanoi, General John Vessey, has always been a listing of cases where survival was suspected based on information obtained by the United States and subsequently reflected in U.S. POW/MIA case files maintained by DoD. It was never intended to be the end-all list of the only cases where an American might have survived his incident to become captured, simply because it was recognized by General Vessey and U.S. intelligence officials that the Vietnamese could very likely have information on those MIA cases where the U.S. had no information to suggest death or survival. The NIE misleads its reader by not clarifying the genesis of the so-called "priority case list" in the above statement, in addition to not referencing the 370 figure and pointing out again

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that the 1,205 figure included over 500 subsequently repatriated US POWs as well. ~~(S)~~

NIE STATEMENT: *"Circumstantial evidence suggests the information in the ("735") report[154] is inaccurate."* (p. 30) ~~(S)~~

ASSESSMENT:

While the NIE presents evidence to "suggest the information in the 735 report is inaccurate, *no where in the NIE is there a similar presentation of evidence that suggests information in the 735 report is accurate*. This is a serious shortcoming in the NIE, and is especially disturbing in view of the NIE's acknowledgment that, while only two pages of the report (which referenced US POWs) were available to the IC in 1993, there are now over 27 pages of the remainder of the report available to the IC which had never been formally assessed by the Community. Included in these additional 27 pages of text are an extensive report outlining North Vietnamese political, military, and diplomatic developments throughout the year 1970 and related plans for 1971. Among these general topics are specific comments concerning —

- the situation within the Vietnamese Workers' (Communist) Party.
- the restoration of Party unity.
- the foreign policy and diplomatic strategy of the Party.
- an overview of military personnel losses.
- the U.S. incursion into Cambodia in April, 1970.
- a detailed discussion of the military and political situation in both Cambodia and Laos.

[154] As noted earlier in this assessment, the "735" report is so named by US officials because in the text of this 1971 29-page Russian translation of a North Vietnamese report, there is one sentence that refers to 735 American fliers having been captured in the DRV, while only 368 had been publicly acknowledged as a diplomatic move.

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- U.S. efforts to achieve "Vietnamization" in the South; particularly in the Mekong River Valley.
- military successes and losses, to include the disruption of the Communist transportation system on Cambodian territory which is reported to have adversely affected the supplying of communist troops in South Vietnam.
- the opening of a new supply route in the area of the Chiong Shon Mountains in central Vietnam.
- military plans in the South, including troop deployment plans.
- the continued deployment of NVN forces on land through Laos.
- the amount of weapons, ammunition, military hardware, and food deployed to the fronts in South Vietnam, Cambodia, and Laos.
- the need for literature and art to play an enormous propagandistic and educational role in support of the war effort.

Again, no where in the NIE is there an assessment of the accuracy of the matters outlined above. More importantly, there would appear to be evidence to confirm the historical accuracy, from the communist perspective, of many of the subjects above which are outlined in the text of the 735 report. As such, the NIE judgment referenced above is misleading, incomplete, and, taken as a whole, inaccurate. (S)

NIE STATEMENT: *"The dates are wrong. The (735) report says it was given at the 20th plenary session of the Central Committee in late December, 1970 or early January, 1971. In fact, the 20th Plenum was not held until February, 1972. The plenum held in January, 1971 was the 19th."* (p.30) *"...the materials in the FBIS collection of published material (indicate) the 19th Plenum was held in December, 1970-January, 1971 (the communiqué was issued on 1 February) and the 20th Plenum was held in March-April, 1972 (the communiqué was released on 10 April, 1972,)...Clearly, either the date or the plenum*

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number given in the report is wrong." (p.40) ... *"Collection Gaps:...We think a more thorough assessment of the...735 document would be facilitated by...greater information about the Vietnamese party structure in the early 1970s, how it operated..."* (p.42) (S)

ASSESSMENT:

The NIE has not demonstrated, with the statements above, that the dates given for the 735 report are *"wrong."* It has only demonstrated that the date given by the Russian GRU for the 735 report is *inconsistent* with information currently available to the U.S. Intelligence Community, which appears to be based on vague communist broadcasts or publications, *not* internal Party documents. This is an important distinction given the NIE's admission of a serious intelligence collection gap concerning information about the internal workings of the Vietnamese Communist Party and its structure in the early 1970s, which precludes, again by its own admission, "a more thorough assessment." (S)

Even the NIE contradicts itself in the above statements — first saying the 20th Plenum took place in February, 1972, then saying it took place between March-April, 1972. (S)

The NIE's judgment is further undermined by the following information which should have been brought to its readers' attention (S) —

- The 18th Plenum of the Central Committee of the Vietnam Workers (Communist) Party, according to a 1980 publication by the Vietnamese Army paper, Quan doi Nhan dan[155], took place in *January, 1970*, a full

[155] The title of the actual publication was Cuoc Khang chien Chong My Cuu nuoc, 1965-1975: Nhung Su kien Quan-su (The Anti-U.S. war of national salvation, 1965-1975; Military events), p. 203-207, as referenced in *Communist Road to Power*, Duiker, 1996, p. 306-307. (U)

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year prior to the date given for the meeting reported on in the 735 report. Yet, according to the Statute of the Vietnam's Workers Party, adopted in 1960, the Central Committee was to "usually meet *once every six months*.[156]" This meeting schedule was confirmed in an interview by US officials with the reported 735 author, Hoang Anh, in Hanoi, earlier this year, who indicated, at two different points, that the Central Committee conducted *semi-annual meetings*, and that Anh presented *oral semi-annual and annual reports at these sessions in the early 1970's*.[157] Under that scheduling scenario, a 20th meeting *could* have taken place in *January, 1971*, with the 19th meeting having occurred earlier in the prior summer months, possibly to coincide with the 10th anniversary of the Third Party Congress (September, 1960). (U)

- It is interesting to note that the 735 report scenario — that the 20th Central Committee meeting took place at the end of December, 1970 — is *consistent* with the 1205 report scenario — that the 23rd meeting had already taken place by September 15, 1972. Indeed, based on six month time-frames, a 23rd meeting could have occurred in June/July, 1972, and there is, indeed, evidence from the Russia GRU of a report to the Politburo of the Central Committee of the Party having been presented on June 26. 1972 (U). Again, the NIE is silent on this evidence (S).

- According to the translated text of the 735 report, Anh makes clear several times in his report that he is discussing "the basic features of our activities in 1970, over the period that extends from the 18th

[156] Vietnam Documents and Research Notes, #103, *The Structure of Power in the DRV: Constitution and Party Statute*, p.16, February, 1972, American Embassy, Saigon (JUSPAO). (U)

[157] See Interview of Hoang Anh by U.S. Ambassador to Vietnam, Pete Peterson, p.3-4 (DIA 270934Z Jul 98). (U)

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Plenary Session of the Central Committee of the Vietnam Workers Party (CC VWP) until now." (As noted above, the referenced 18th Plenum had indeed taken place in 1970 - in January of that year - which the NIE *fails* to note - a fact which contradicts its judgment that the "dates" given in the 735 report are "wrong.") Anh further states, "at this Plenary session, an assessment will be given of our victories in 1970...At the 18th, 19th, and now at the 20th Plenary sessions of the CC VWP, repeated emphasis was placed...". Anh goes on to report in great and extensive detail a summation of activities that had taken place *in 1970* as well as a discussion of forthcoming communist and perceived enemy plans *for 1971*. He further discusses events that had already taken place at the "19th" Plenum. Thus, there is no wiggle room for the time-frame of the report, or that it might have been the 19th meeting, according to the GRU acquisition — it clearly took place at the end of 1970, beginning of 1971. (S)

- All that is currently known about the time-frame of the 19th Plenum appears to be based on the Communiqué of the 19th Plenary Session of the Central Committee of the Vietnam Workers Party which was broadcast by the Vietnam News Agency in Hanoi on February 1, 1971, and referenced in two editorials in Party papers during the next two days, all of which was thought to have been done to coincide with the 41st Anniversary of the Founding of the Indochinese Communist Party, the VWP's predecessor organization, on February 3, 1930, by Ho Chi Minh.[158] The timing of the publication of the communiqué is not, in and of itself, *proof* that the 19th Plenum actually took place during the time-frame given by the GRU for the 735 report ("End of December, 1970/Early January, 1971). Indeed, there is evidence that communiqués were often not published until *months* after the conclusion of the plenary meetings. For example, scholars have

[158] Vietnam Documents and Research Notes, #91, the 19th Plenary Session of the Central Committee of the Viet-Nam Workers Party and its Reference Documents, p.1-27. (U)

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reported that the 15th Central Committee Party Plenum, related to the 2nd Congress, *"took place in January, 1959, even though the communiqué was not broadcast by the Vietnam News Agency until May 13, 1959.*[159]*"* (U)

- There is no verifiable evidence that the "19th Plenum" was held at the end of "December, 1970" — the date given by the Russian GRU — as the NIE attempts to assert on p.40. However, there *is* evidence from the Central Intelligence Agency dated December, 1970 (inexplicably not referenced in this NIE), of a "possible high-level DRV meeting in Hanoi.[160]" (S)

- Finally, there is considerable confusion, and contradictions, in the absence of official internal Party records from Hanoi, about the dates of Central Committee Party Plenums in the early 1970s which *precludes* relying on the NIE's judgment that the dates reported by Russian military intelligence (GRU), — which plausibly had better internal access to the truth — , are *wrong*. This argument is reinforced by the NIE's own admission of its serious intelligence collection gap in this area. As additional examples, the 21st Plenum, according to some reports, including publications from Hanoi, took place in October, 1973, yet other publications from Hanoi indicate the 22nd Plenum took place "in late 1973," while still other Vietnamese officials have reported that the Central Military Affairs Committee met in March,

[159] See *The Communist Road to Power in Vietnam*, Duiker, 2nd Edition, 1996, p.400, fn#35. (U)

[160] Memorandum for the Record, 22 December, 1970, Subject: Meeting of the NSC Ad Hoc Group on Vietnam, see para. 4, "Possible High-Level DRV Meeting in Hanoi: Mr. Carver from CIA noted that DRV Ambassadors to Moscow and Peiking, three NLF representatives to the Scandinavian countries and certain other senior DRV diplomats in Europe are converging on Hanoi in the next few days. Increased intelligence watches for possible results of such a meeting are being instituted. No output is expected before the first of the year." (U)

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1974 to consider the resolutions of the 21st Plenum. If the 21st Plenum was indeed in late 73/early 74, it makes the NIE's earlier claim that the 20th Plenum took place as early as February, 1972 even stranger (ie: no Central Committee plenum meetings for over 21 months?). Also, as noted earlier, even the dates for the exact month that the 20th Plenum took place, allegedly in 1972 according to US analysts, are in dispute, casting further doubt on the reliability of the NIE's judgment. Some analysts say April, others say February, and the NIE itself says February, and later, reverses itself and says March-April. (S)

NIE STATEMENT: *"Hoang Anh was indeed a Secretary of the Central Committee at that time and was responsible for agriculture... There is no reason why he would deliver a report that deals extensively with political and military developments and the situations in Laos and Cambodia. Agriculture is mentioned only briefly."* (p.30) (S)

ASSESSMENT:

According to U.S. biographic records and various communist Vietnamese documents (all previously available to the principal drafter of the NIE), Hoang Anh, as noted, did indeed have the title of Central Committee Secretary of the Vietnamese Workers' (Communist/Lao Dong) Party in December, 1970/January, 1971, as the Russian GRU correctly notes on its cover page to the 735 report. In fact, the leading Communist Party publication in Hanoi, *Nhan Dan*, in a report dated one month prior to the alleged "735" report, referred to Anh as "Secretary of the Lao Dong Party Central Committee.[161]" (Interestingly, Anh sidestepped and then denied having this title in interviews with US officials in April and July, 1998[162],

[161] *Nhan Dan*, Hanoi, November 17, 1970, p.1, translated by FBIS and US Embassy, Saigon. (U)

[162] In his first interview with US Ambassador to Vietnam, Pete Peterson, in Hanoi on April 6,

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while at the same time privately telling a Russian GRU official that he had been "reprimanded by the Vietnamese Communist Party because the Americans managed to obtain a copy of the speech delivered by Anh (ie: the 735 report)."[163]) (U)

However, the NIE fails to note that records also indicate Anh was assessed by the U.S. Government in 1971 as "*one of the most senior members of the Vietnam Communist (Lao Dong/Workers') Party hierarchy short of Politburo membership...with broad-ranging political, military, and managerial experience.*[164]" (S)

1998, Anh only referred to his Government ministerial position, and not his Party secretariat position, stating "that the Ambassador should understand his role during the war years. As Minister of Agriculture, he was responsible for food production and related industries..." Anh further stated, "There was no night or day. There were very few opportunities to meet at the Central Committee level. We were exhausted. I never had time to be involved with other matters. I, myself, had no knowledge of POWs." Anh stated "he left the position as Minister of Agriculture in 1970, after which he worked on the consolidated report on agriculture until 1975." In his second interview with Ambassador Peterson on July 18, 1998, Anh was specifically pressed whether he had "ever held the position of Secretary of the Central Committee of the Vietnamese Workers' Party..." Anh replied, "At the end of 1970, I continued to serve the Central Committee as the Acting Secretary for Agricultural, Marine, and Fishery matters. Mr. Anh emphasized that this was a specific, yet temporary duty assigned to him by the Central Committee, and *not a named or titled position, such as Secretary of the Central Committee*." Anh further stated, "I was never a permanent member of the Central Committee...I personally had no time for the Central Committee." (U)

[163] Memorandum for the Record, Subj: Private Meeting with (Russian Executive Secretary for the Joint POW/MIA Commission) Colonel Osipov, dated August 10, 1998, Joint Commission Support Directorate, DoD/USRJC, "...Osipov claimed that Colonel Yuri A. Potapov, defense attaché at the Russian Embassy in Hanoi for the past four years, told Osipov that he (Potapov) knows Hoang Anh. Potapov was told by Anh that he was reprimanded by the Vietnamese Communist Party because the Americans managed to obtain a copy of the speech delivered by Anh (this is apparently a reference to the so-called "735 document.")" (U)

[164] *Members of the VWP Central Committee*, North Vietnam Affairs Division, JUSPAO, American Embassy Saigon, dated 1971. (U)

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He had been elevated to the rank of Deputy Prime Minister/Vice-Premier in 1970/71, serving as "the senior in age and political experience" among the Vice-Premiers serving on the Party Secretariat.[165] Moreover, as a senior member of the Secretariat and Central Committee member since the early 1950's, Anh held a very influential position in the DRV leadership structure, having been referred to as one of two individuals who "followed just behind the top leaders of the Party in status," holding the "greatest power and influence in North Vietnam" by virtue of occupying "key posts within both Party and state.[166]" (U)

As a further example of Anh's influence as a veteran Secretariat member, a 1972 U.S. study states "the top of the power pyramid of North Vietnam is the Politburo supported by the Party Secretariat, the center of second level leadership is the Central Committee.[167]" Additionally, the power of the Secretariat is confirmed by the "Statute of the Vietnam Workers Party adopted by the Third Party Congress of the Party in September, 1960," which provides that "the Secretariat solves daily problems and controls the carrying out of Party decisions under the leadership of the Central Executive Committee and the Politburo."[168] (U)

(b)(3) NatSecAct

According to [redacted] records, prior to 1970 (the alleged date of the 735 report), Anh had been "a close associate of General Vo Nguyen Giap" and served on the National Defense Council and as a Vice-Minister

[165] See Memorandum (U) from Douglas Pike, (who is acknowledged in the NIE as a noted expert and scholar on Vietnam (S)), dated December 22, 1995; and Vietnam Documents and Research Notes, *Bases of Power in the DRV*, dated October, 1972. (U)

[166] Vietnam Documents and Research Notes, *VWP-DRV Leadership, 1960 to 1971, Part II, the Government*, p.94, published by North Vietnam section, JUSPAO, American Embassy, Saigon, dated July, 1973. (U)

[167] Ibid, part II.

[168] See Vietnam Documents and Research Notes, *The Structure of Power in the DRV: Constitution and Party Statute*, p. 17, published by the North Vietnam Affairs Division, Joint U.S. Public Affairs Office (USPAO), American Embassy, Saigon, dated February, 1972. (U)

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of Defense for at least four years (the only person lacking formal military rank to have held this title), during which time he reportedly planned the partial demobilization of the Vietnamese People's Army (VPA). He also headed PAVN's General Directorate for Rear Services, preceded by a stint as a Deputy Chief of the General Staff of the VPA. He had reportedly written a widely acclaimed treatise on guerrilla warfare in 1951, and had been active in the early 1950's fighting in the Resistance (Viet-Minh) war against the French, and concurrently serving as Chairman of Interzone Committees IV and V in Central Vietnam.[169] (U)

(b)(3) NatSecAct

He is also reported in a [redacted] dated December 22, 1976 as having been a member of the Vietnamese Communist Party's (Lao Dong/VWP) Central Committee, in addition to serving on its Secretariat, from as far back as 1951, with subsequent simultaneous membership on North Vietnam's National Assembly's Standing (Leadership Ruling) Committee, which wrote the Constitution for North Vietnam during Anh's tenure on the Committee, (was subsequently adopted in 1960.) His listing as a full member of the Party's Central Committee is further confirmed by open source accounts from the early 1970's[170], even though Anh told US officials earlier this year that "I was never a permanent member of the Central Committee...I personally had no time for the Central Committee.[171]".(U)

(b)(3) NatSecAct

[redacted] on Anh also show him serving as Minister of Finance from November, 1958 until 1965 when he was appointed as Minister of Agriculture. (U)

While he did, therefore, have expertise and responsibility for agriculture (he had left

(b)(3) NatSecAct

[169] Memorandum dated May 3, 1997 from Douglas Pike, Vietnam scholar, enclosing several [redacted] on Hoang Anh prepared in the 1960's and 1970's. (U)

[170] International Yearbook of Communist Affairs, 1970, Hoover Institution Press, Stanford University; and Vietnam Documents and Research Notes, *Bases of Power in the DRV*, dated October, 1972, and published by the American Embassy, Saigon. (U)

[171] Interview of Hoang Anh by US Ambassador to Vietnam, Pete Peterson, dated July 18, 1998.(Cable cite: DIA 270934Z July 98). (U)

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the position of Minister of Agriculture "in 1970" according to an interview he gave to US officials on April 6, 1998), Anh also ***clearly*** had expertise, authority, and responsibility *beyond* agriculture as a senior veteran member of the Secretariat in 1970. He would have been amply qualified to address the range of agricultural, economic, political, and military matters contained in the 735 report at a session of the Central Committee by virtue of his background described above, especially his tenure on the Secretariat scanning 20 years. Indeed, in 1965 and 1968, CIA had assessed Anh as having had "experience in three different fields — defense, finance, and agriculture," making him "the type of multi-purpose specialist familiar in Communist countries." (U)

It is also conceivable that Anh may have been designated to present a report to the Central Committee plenum covering the range of specified topics, with input being received from the other Secretaries of the Central Committee. The NIE fails to consider this scenario. (S)

Moreover, contrary to the NIE's assertion above, agriculture is ***not*** "mentioned only briefly" in the text of the 735 report. In point of fact, Anh's spirited defense of the DRV's agricultural policies is one of the central topics of the 735 report, with over 13 paragraphs in the report's text devoted to a detailed discussion of agriculture policies, including an assessment of mistakes, criticisms, statistics, and goals which are outlined by Anh. Given Anh's background in agriculture, these facts lend credence to the GRU acquisition being reliable. (S)

NIE STATEMENT: *"The references to agriculture in the 735 (document) do not square with other party documents available at the time. For example, a review of party documents available in FBIS files reveal a significantly different discussion of agricultural issues. Documents on agriculture policy (probably connected to the 19th Plenum in January, 1971) that were revealed after the war discuss the need to strengthen agricultural*

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collectives that had been weakened by the need to increase wartime production...the 735 document does not discuss the adaptation of technology for agriculture. In contrast, Vice Minister of Agriculture, Le Trung Dinh, authored an article in the party journal Hoc Tap in January, 1971 stating that the principle issue facing agriculture was the adaptation of technology." (p.30-31, and 41) (S)

ASSESSMENT:

The NIE statement is inaccurate and misleading. The NIE does not demonstrate convincingly that the contents of the 735 report with respect to agricultural issues "do not square" with other party documents available at the time. In point of fact, Anh *does* discuss "the need to strengthen agricultural collectives" and "the adaptation of technology for agriculture" in the 735 report. For example, Anh states (S)—

- *"Marxism teaches that agricultural collectivization is an extremely important condition for the development of a socialist economy...in our country, where colonialists left us a heritage of a backward economy, this matter is particularly important. With all our effort, we must develop agriculture, placing it on a collective basis. It will be necessary to develop a strong network of cooperatives in the entire territory of South Vietnam."*

- *"The cooperatives need to be provided with technology, which will ensure they will develop successfully."*

- *"Our leadership is giving a great deal of attention to issues of cooperative farming, and is continuing to seek ways to boost agriculture...The Politburo and Secretariat have given instructions to scientific organizations to actively participate in boosting agriculture."* (U)

Additionally, there are obvious other statements in the Anh report concerning agriculture which are confirmed by the historical record. For instance, Anh claims the DRV would have had even more difficulties in 1970 "if it were not for the help

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from brotherly socialist countries, which permits us successfully to restore agriculture." According to the International Yearbook of Communist Affairs for 1970, (published by the Hoover Institute at Stanford in 1971), "Failure to attain self-sufficiency in agriculture...has forced the DRV to depend on the U.S.S.R. and China for its vital supplies." (U)

NIE STATEMENT: *"The report speaks extensively about preparations for the 4th Party Congress, including the establishment of a preparatory committee. In fact, the Politburo did not decide when to hold the 4th Party Congress until July, 1975...The 4th Party Congress was not held until December, 1976."* (p.31) (S)

ASSESSMENT:

Once again, the NIE's judgment is not convincing and misleads the NIE reader. It is also ironic to note the NIE's use of the term "*extensively*" with respect to the 4th Party Congress remarks in the 735 report, versus the term "*mentioned only briefly*" with respect to agriculture. In point of fact, the discussion of agriculture in the 735 report is *lengthier* than the discussion of the 4th Party Congress preparations. More importantly, Anh specifically states in the text of the 735 report that the Politburo would *not* decide when the 4th Party Congress would be held until after several specific matters had been discussed at the Plenary Session and specific decisions had been made on them. Only then would the Politburo decide "when" to hold the 4th Party Congress. He goes on to say "the issue of holding the 4th Congress is extremely important, and we must prepare with the greatest care for it. Every issue must be studied and discussed thoroughly." Anh also states, correctly, that 10 years had passed since the 3rd Party Congress.[172] (S)

[172] The Third National Party Congress was held in Hanoi from September 5 through September 12, 1960. (U)

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The fact that the Politburo, in the end, waited until after the reunification of the country under its new name, the Socialist Republic of Vietnam, to decide "when" to hold the 4th Party Congress is not incongruous with Anh's presentation. Additionally, since the 3rd Party Congress had occurred 10 years earlier, it is not unusual that the Politburo may have been considering, as of 1970, when to hold the next Party Congress, and towards that end, made a decision to create an organizational committee to prepare for the next Congress. (U)

Furthermore, the NIE fails to reveal that the make-up of the 10 individuals referenced by Anh as having been selected to serve on the organizational committee can be confirmed as actual North Vietnamese leaders who are presented in order of seniority. Perhaps even more important is Anh's reference to (alleged 1205 author) Tran Van Quang as a member of that Committee, in addition to Anh himself. (S)

NIE STATEMENT: *"Another key anomaly in the purported report is the charge against 16 opportunist members of the Central Committee, 6 of whom are named. If this were true, they should have been promptly ousted from their positions... In fact, no action appears to have been taken then...Furthermore, if opportunism and disunity were of such concern, indirect references in the party press would have followed the plenum. None are evident in FBIS files of the period."* (p.31) (S)

ASSESSMENT:

The NIE presents no evidence to support its claim that the referenced opportunist members of the Central Committee "should have been promptly ousted from their positions" if such was indeed the case. Nor does the NIE present, as plausible, a scenario where many of the referenced members could have fallen back in line by the conclusion of the plenum without retribution recognizable to the outside world. Nor does the NIE mention that one of the 6 named individuals, Nguyen Van Vinh,

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correctly noted in the GRU footnote as Chairman of the Committee for Unification, was, in fact, apparently ousted during National Assembly elections later that spring, a development noted by Western observers at the time[173]. And nor does the NIE concede that the other 5 named individuals were all, in fact, correctly identified in the 735 report as either alternate or current members of the Central Committee, which is verified by a review of published information from the same time period[174]. (S)

Additionally, Anh makes clear in the text of the 735 report that "in a few days from now, these 16 comrades must present to us written explanations of their positions and then we will decide how to deal with them. He also states that the disharmony must be worked out so it does not "emerge into the open and become accessible to widespread publicity." Therefore, the NIE's claim that there apparently were not references to the disunity evident at the start of the plenum in the days following the conclusion of the plenum is not noteworthy. (S)

More importantly, it should be noted that official communist publications in Hanoi, dated February 2, 1971 and February 3, 1971, marking the 41 anniversary of the founding of North Vietnam's communist party, *did* refer to the need for "singlemindedness and solidarity within the Party" in addition to "absolute loyalty to the Party's lines, stands, viewpoints, and principles" by all Party members[175] — a view that seems consistent with Hoang Anh's call for unity among Party members presented in the 735 report in late December, 1970/early January, 1971. (U)

[173] *Yearbook (for 1971) on International Communist Affairs*, Hoover Institution Press, Stanford University, 1972, p. 591-592. (U)

[174] *Yearbook (for 1969) on International Communist Affairs*, Hoover Institution Press, Stanford University, 1970, p. 687. (U)

[175] See FBIS translations of Nhan Dan editorials dated February 2-3, 1971 "On the Forty-First Anniversary of the Founding of the Indochinese Communist Party." (U)

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NIE STATEMENT: *"Some of the dissenting policy positions alleged in the 735 report are plausible. But others — such as a proposal to invite foreign (presumably Chinese) troops to help in Laos and South Vietnam — are not."* (p.31) (S)

ASSESSMENT:

The NIE presents absolutely no evidence to support its claim that a reference by Hoang Anh in the 735 report to a *dissenting* policy position by some opportunists in the Central Committee to invite foreign (presumably Chinese) troops onto DRV territory, and on into Laos and South Vietnam, is simply implausible. The burden is clearly on the NIE to provide evidence to support its judgment, especially given the Russian GRU footnote to the 735 report on this specific point (added during translation in Moscow in 1971) which states that "the possibility of bringing Chinese troops into the DRV has been discussed numerous times." It simply strains credulity for a NIE to claim, in this instance, that it knows better than an alleged translated report of an internal North Vietnamese meeting, supported by a 1971 GRU analysis on this very point, what *dissenting* proposals may have been surfacing internally within North Vietnam's decision-making body in 1970/71. Finally, given the level of Chinese military support to communist North Vietnamese and Laotian forces during the Vietnam War and specifically the 735 report time period, which is confirmed in open-source reports from Beijing and elsewhere[176], it

[176] A Reuters article from Hong Kong, entitled *China Admits Role in Vietnam*, states "China has admitted for the first time that it sent more than 300,000 combat troops to Vietnam to fight against U.S. forces and their South Vietnamese allies. The semi-official China News Service said today in a report monitored in Hong Kong that China sent 320,000 soldiers to Vietnam during the 1960s. It also spent over $20 billion to support Hanoi's regular North Vietnamese army and Viet Cong guerrilla units. The agency report cited the *History of the People's Republic of China*, published by the official State Archives Publishing House, as saying that more than 4,000 Chinese soldiers were killed during the war. During the war, China repeatedly denied US allegations that its soldiers were operating in Vietnam." Additionally, a *New York Times* article from the 735 report time period, dated January 18, 1971, reported that the PRC had provided some $200 million in 1970 alone in military and economic aid. Further agreements, including military aid for 1971, had been signed in Beijing on October 6, 1970. According to the *International Yearbook*

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hardly seems implausible that a dissenting proposal similar to that referenced by Anh, could have been circulating among some Party members in 1970/71. As such, the NIE judgment cannot be accepted with confidence. (S)

NIE STATEMENT: *"The 1993 DoD report concluded that the 735 number was too high...The total prisoners Hanoi could have been holding at that time (before 1971) could not have exceeded 470 according to US Government records. No evidence has come to light since 1993 that would cause us to revise our judgment."* (p.31) (S)

ASSESSMENT:

First, the 735-related analysis of POW/MIA cases in the referenced DoD report (actually released in January, 1994) was not conducted by elements of the U.S. Intelligence Community, but by personnel working in the Office of the Assistant Secretary of Defense for International Security Affairs.[177] At the very least, the authors of the NIE should have conducted an independent review of POW/MIA cases bearing on the 735 time-frame, in light of Anh's report. (S)

Second, as already demonstrated earlier in this assessment (see discussion of 735 document under Key Judgments assessment), official U.S. Government statistics, forwarded to the Director of Central Intelligence for December, 1970 (the same

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on Communist Affairs covering the year 1970, "Chinese interest in military developments in Vietnam continued unabated. In an unusual move, on 21 and 22 December 1970, NLFSV and North Vietnamese military men reported on the current situation in Vietnam to Chinese Foreign Ministry meetings attended by Li Te-sheng, alternate member of the Politburo of the Chinese Communist Party and head of the General Political Department of the People's Liberation Army" (p.685) (U)

[177] See Office of the Assistant Secretary of Defense for International Security Affairs Defense POW/MIA Office Newsletter dated October, 1993.

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month as the alleged "735" report), listed 462 POWs, 962 MIAs, and 117 Non-Hostile missing, for a total of 1,541 "missing and captured personnel."[178] (U)

In addition, while DoD, and the current NIE, continue to claim that the 735 number was "*too high*," no where does the NIE reference the judgment of US officials in 1970/71 that the published December, 1970 list of 368 POWs (also referenced by Anh himself as their diplomatic move) was "*too low*,"[179] yet this is, in essence, the only group of Air Force and Navy fliers held in the North during this time frame to be repatriated in early 1973.[180] (U)

[178] Message for Director, Central Intelligence Agency from American Embassy Saigon, "following are official figures from missing and captured personnel lists prepared by Deputy Comptroller for Information, DoD...", dated May 10, 1971.

[179] U.S. Secretary of Defense Melvin Laird stated at the time, based on DoD's review of the 1970 list, "I do not accept it as a complete list of all the prisoners held in North Vietnam." (Memorandum from the Secretary of Defense to the Secretaries of the Military Departments, dated August, 1971). He reinforced that position 21 years later in testimony before the Senate Select Committee on POW/MIA Affairs on September 21, 1992, stating "I felt those lists were inadequate...it was not complete information, and we knew of the existence of other POWs when those lists were delivered to us... We felt there were more... We had solid, confirmed evidence that there were more POWs in the North at that time." In addition, Acting Secretary of the Army, Thaddeus Beal, wrote to the Secretary of Defense on July 10, 1970, stating, "At present, Cora Weiss maintains that about 334 Americans are detained by Hanoi. But the facts are that 780 Americans are listed as missing in North Vietnam, and 769 in South Vietnam and Laos. We know with some certainty that of this number, 376 are PW in North Vietnam and 78 are PW elsewhere in Indochina. *We expect that among those listed as missing, substantial numbers will eventually turn up as captives*...To accept Hanoi's admission of responsibility for less than 350 US PW as conduct constituting reasonable, humane, or internationally responsible conduct is to betray those other forgotten Americans." (U)

[180] The list of 368 names published by Hanoi was entitled, "U.S. Pilots Captured in the Democratic Republic of Vietnam from August 5, 1964 to November 15, 1970." The list was published by the DRV's Ministry of National Defense, and is dated November 15, 1970. It was released to representatives of Senators Kennedy and Fulbright in Paris on December 22, 1970, and provided to certain other foreign governments as well. All of the names of the men on the list had previously been unofficially provided to American peace activist Cora Weiss between May and November, 1970. The 368 list itself actually consisted of 339 Air Force and Navy pilots and

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NIE STATEMENT:

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This statement's choice of words is extremely incomplete and misleading to the NIE reader in several important respects —

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crewmembers currently in captivity, 9 such personnel previously released, and 20 such personnel listed as dead. Based on Department of Defense POW/MIA lists, only 335 Air Force and Navy pilots and crewmembers captured in North Vietnam prior to November 15, 1970 were later repatriated to the United States (one in Sept. 72, and the remainder following the signing of the Peace Accords in 1973 (Jan-Apr). (U)

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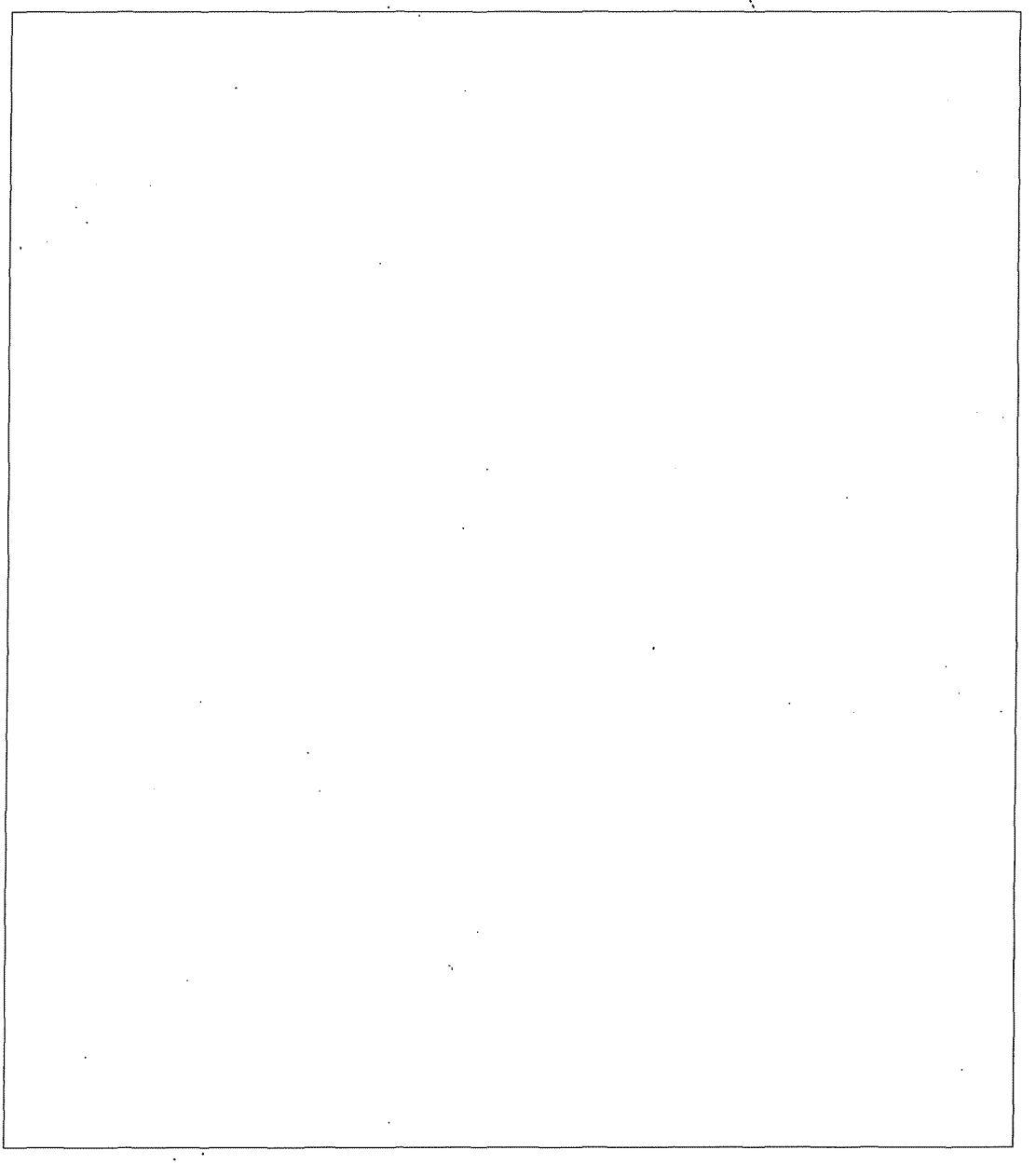

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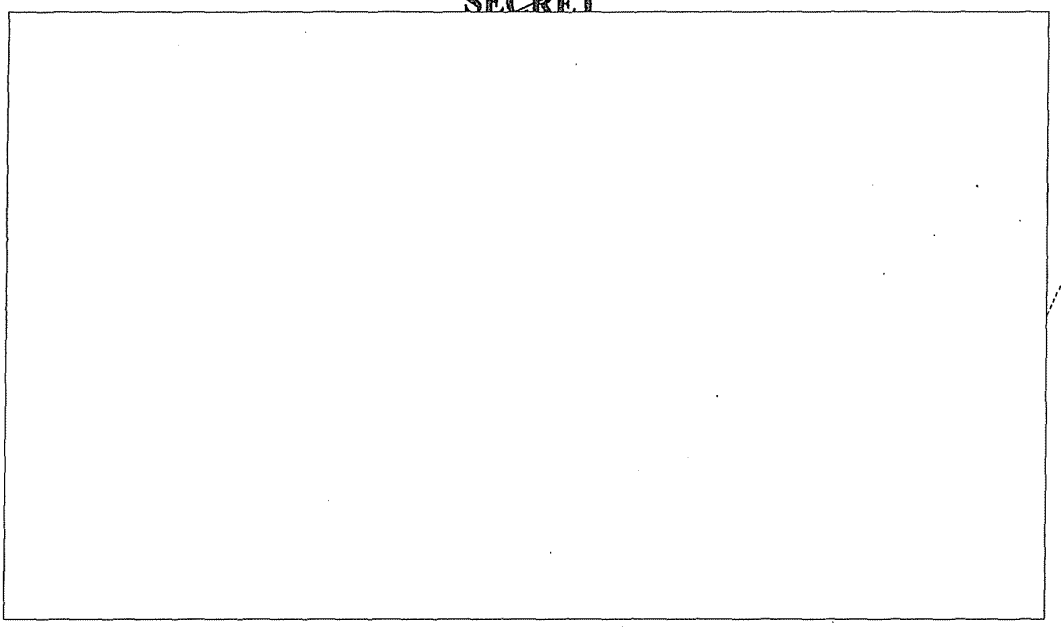

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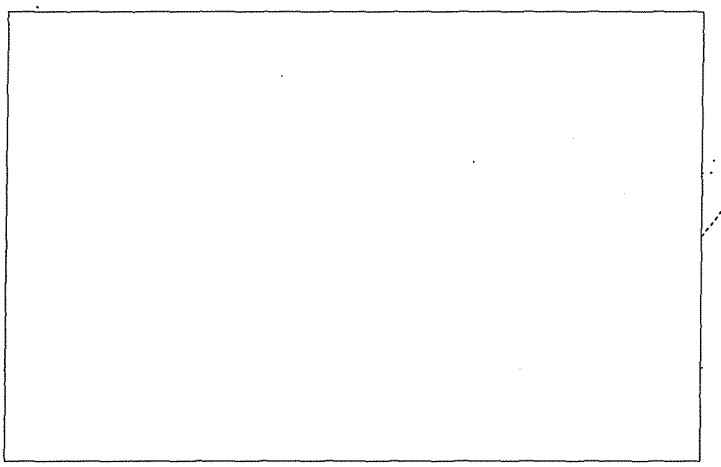

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[186] Ibid. (S)

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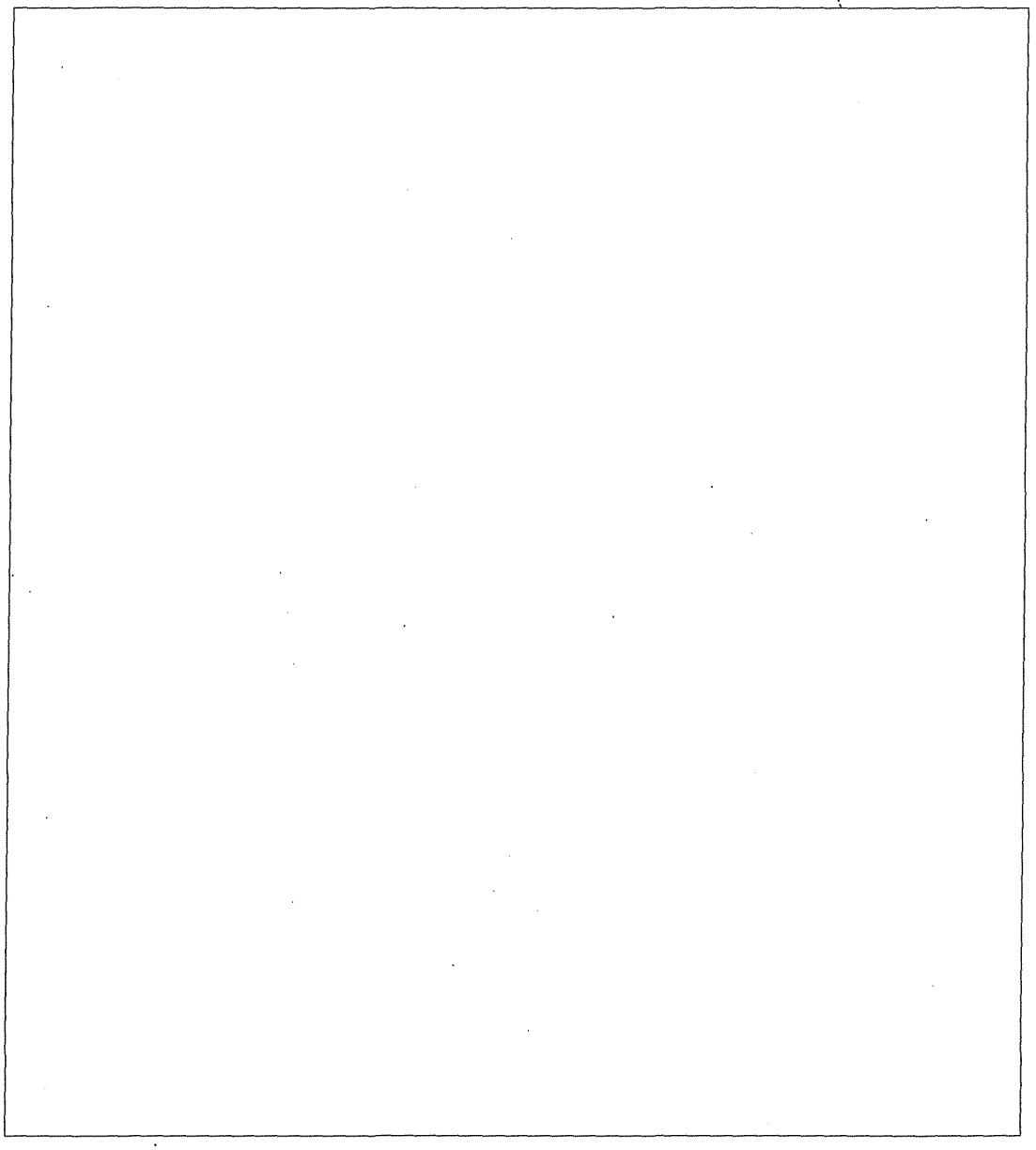

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But even more disturbing is the NIO's claim that the "allegations" in the report are "uncorroborated by any other intelligence reporting." According to a Defense Intelligence Agency Directorate for Intelligence Research published study in 1977, a report was received in the Fall of 1976 indicating that two North Vietnamese officials who had recently come to southern Vietnam had told a "high PRG official" that 235 US POWs were executed in northern Vietnam in July, 1976[188] [redacted] (b)(1)

[redacted] (S)

[redacted] (b)(1)

- Former National Security Advisor to President Carter (1977-1980), Zbigniew Brzezinski, provided the following assessment, [redacted] when [redacted] (b)(1)

[188] Recent Reports of U.S. PWs and Collaborators in Southeast Asia, Defense Intelligence Agency, information cut-off date April 1, 1977, see pages 65, and 69-70. The person who had actually learned of the above information and then passed it to U.S. intelligence had been an American left behind in the Fall of Saigon who was released on August 1, 1976. (U)

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interviewed during the MacNeil/Lehrer Newshour in April, 1993 about the number of US POWs reported in the 1205 document —

BRZEZINSKI: I suspect that the Vietnamese had the view that this would be a very prolonged conflict in which at best the United States might partially disengage from South Vietnam, but would continue supporting it and that further leverage on the United States would be desirable for them to have...In the meantime, they had gone on record repeatedly as having only had the number to which they admitted themselves having and as having no more than those that they released. And they were stuck with a situation in which they no longer needed leverage against the United States and yet had several hundred surviving Americans, many of whom they had classified as reactionaries, and therefore, as enemies, and I'm, therefore, knowing how the Vietnamese regime has behaved in the past, for that matter how the Soviet regime has behaved in the past, I'm led sadly to the conclusion that in all probability sometime after the conclusion of the Paris Agreements, or perhaps after the fall of South Vietnam in 1975, they executed those that were still living, perhaps with the exception of a small number whom they retained for continuing intelligence or technical purposes.

MACNEIL: ...In other words, it's just a straight, deliberate execution?

BRZEZINSKI: Yes, because they (the Vietnamese) were, in effect, in a situation of their own making. They had thought they would use these people as leverage on us and it's hinted in that (1205) report, the document which is now public. And they were then faced with a situation in which they no longer needed to exercise that leverage, and they had been publicly committed to the proposition that they had no more Americans, and, therefore, some of them might have felt, the leadership might have felt that this was the easiest way out. And that, incidentally, explains the howls of outrage that are now emanating from Hanoi.[189] (U)

- Former National Security Advisor and Secretary of State Henry Kissinger (1969-1976), when asked on the same news program to comment on Mr. Brzezinski's statement above, replied —

KISSINGER:...if they held prisoners that they didn't acknowledge, then there is considerable plausibility to Zbig's theory...one would have thought that if they held them

[189] Transcript of the *MacNeil/Lehrer Newshour*, Show #4605, Tuesday, April 13, 1993. (U)

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in order to blackmail us, they would have at some point produced them. Whether they though this was no longer necessary after Saigon collapsed...after that they might have believed that there was no longer any negotiating tool.[190] (U)

- [redacted] (b)(1)

- A DIA contract agent reported being privately told in 1993 by a Vietnamese PAVN General Political Directorate (GPD) officer in Hanoi that "perhaps hundreds" of the unreturned U.S POWs had been executed by North Vietnam, and that this was "Hanoi's darkest and worst secret."[192] (U)

- [redacted]

[190] Ibid.

[191] Department of Defense JCRC Liaison, Bangkok, TH, priority message, info to DIA Washington, USCINCPAC, SECDEF, P 080156Z March, 1985. (U)

[192] See *Inside Hanoi's Secret Archives* by Malcolm McConnell with Theodore "Ted" Schweitzer, 1995, p. 268-270. (U)

[193] Letter from Director of Central Intelligence James Woolsey to Sen. Bob Smith, dated July

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- Russian Presidential Advisor and Co-Chairman of the Joint U.S.-Russia Commission on POW/MIAs, General Volkogonov, told President Clinton's Special POW/MIA Emissary to Hanoi, General Vessey, in 1993, that "he feared" some of the alleged 465 US POWs with reactionary views referenced in the September, 1972 1205 report "may have been later executed."[194] (U)

- [redacted] (b)(1)

[redacted] (b)(1)

- Earlier that same month, The Washington Post reported, in a front page article, entitled "*No Hope, MIA Families Told*," that Congressman Sonny Montgomery, Chairman of the House Select Committee on Missing Persons, had told POW/MIA family members gathered in (b)(3) NatSecAct

26, 1993 (see enclosures). *Note*: [redacted] (U)

[194] Memorandum for the Record, Subject: Conversation between GEN Volkogonov and GEN Vessey during visit at Walter Reed Medical Center, dated June 22, 1993. (U)

[195] See Memorandum to Assistant to the President for National Security Affairs Anthony Lake from National Intelligence Officer for East Asia Robert Suettinger, dated December 13, 1993. (S)

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Washington that, based on the almost year long investigation by his Committee, he had been "*forced to the painful conclusion that our MIAs lost their lives in the service to their country*." (U)

- The Post, in the same above-referenced story, also reported that "*the Vietnamese Government has indicated that the U.S. must pay a price of $3.25 billion in reconstruction aid for any information it has on the missing men. The League (of POW/MIA Families) is opposed to paying such blackmail and acknowledges that such a gesture is out of the question politically*." (U)

- In a related editorial at the time, the Post further pointed out that Congressman Montgomery and his Committee had "*also made an earnest attempt to get the Vietnamese Government to understand that, no matter what they thought had been promised at a certain point by President Nixon, reparations or reconstruction aid is now politically out of the question*." (U)

- Chairman Montgomery had indeed told the Vietnamese, as early as a December 21, 1975 meeting with North Vietnamese Premier Pham Van Dong in Hanoi that "they are not going to get reconstruction aid from the United States, and we weren't going to bargain or pay blackmail." (U)

- At a public Congressional hearing on April 16, 1976, then U.S. Secretary of State Henry Kissinger had testified that "we cannot accept the proposition that we have an obligation to provide aid, which we have not. We believe that the Paris accords have been breached so completely (by the North's military conquest of the South) that it would be completely absurd to let only one article survive when all the other obligations have been totally abridged by North Vietnam...We have no plans to give any aid." (U)

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- Kissinger's comments followed, by three weeks, a statement by President Gerald Ford, characterizing the North Vietnamese as "international pirates." (U)

- [redacted] the Government of the Socialist Republic of Vietnam was again told, this time in a State Department diplomatic note to Hanoi's Foreign Ministry dated July 19th, that "The United States does not consider that it has an obligation to provide reconstruction assistance to Vietnam." (S) (b)(1)

- In a potentially ominous commentary in Hanoi in October, 1976 [redacted] the Communist Party of Vietnam publication, *Nhan Dan*, noted "...The United States has denied its responsibility and obligation to implement Article 21 of the Paris agreement on healing the wounds of war and postwar reconstruction of Vietnam...Is it that Ford and Kissinger have really been concerned about the families of American soldiers who were killed or listed as missing while perpetrating crimes in Vietnam? Not at all. Had they been truly concerned about the lives of Americans as they have been claiming, then they would have fully implemented all the provisions of the Paris agreement, including the very important Article 21 (providing for reconstruction aid)." (S) (b)(1)

[redacted]

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[redacted] (b)(1)

- As noted earlier in this assessment, Quang was dual-hatted with his positions in the North during the 1960's with positions in Central and South Vietnam as a Member of COSVN and the National Liberation Front (NLF) Central Committee, heading the Military Affairs Committee there and commanding PLAF forces. According to communist Viet Cong "Liberation Radio" broadcasts on June 24, 1965 and September 26, 1965, monitored by U.S. intelligence at the time, *three US POWs*[197] *were executed* "on orders of the National Liberation Front (NLF) Central Committee" in retaliation for South Vietnamese and U.S. actions in the South. In view of his leadership roles, *Quang undoubtedly was directly involved with ordering these executions of US POWs*. These three U.S. servicemen were subsequently listed as

[196] See *Vietnam* by Karnow, p. 276-279; *Inside Hanoi's Secret Archives* by McConnell, p. 271; *The Encyclopedia of the Vietnam War* by Kutler, (under "Hue"). For denial by General Quang, see *Vietnam, A History*, by Stanley Karnow, 2nd Edition, 1997, p.543, "Revisiting Vietnam in 1981 and again in 1990, I was able to elicit little credible evidence from the Communists to clarify the episode. General Tran Do, a senior Communist architect of the Tet offensive, flatly denied that the Hue atrocities had ever occurred, contending that films and photographs of the corpses had been "fabricated." *I heard the same line from General Tran Van Quang*, who commanded the Communist forces in the region." (U)

[197] The US POWs identified in the communist broadcasts were U.S. Army military advisor Sgt. Harold Bennett, U.S. Army Special Forces Sgt. Kenneth Roraback, and U.S. Army Special Forces [redacted] For additional references, see Newsweek, October 11, 1965, p.48, article entitled *The War in Vietnam*. (U) (b)(3)

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"died in captivity" by the Provisional Revolutionary Government (PRG) in their POW list turned over in Paris in January, 1973, and their remains, as of 1998, have still not been repatriated to the United States. (As noted earlier, Quang had also served as the PRG Defense Minister following its establishment in 1969, and would have logically prepared or approved, under that leadership capacity, the PRG US POW list presented in Paris. (U)

[redacted] (b)(1)

Following the return of acknowledged US POWs in 1973, there remained over 1,300 U.S. personnel in a missing in action status, and DoD could not say whether those individuals "were alive or dead." Moreover, U.S. officials at the time had expected a higher number of US POWs to be returned, as earlier indicated in this assessment. Finally, the figures referenced by the NIE itself (p.19) show that, as of 1998, there remain 370 unaccounted for U.S. personnel, in the judgment of DoD, whose fate has not been determined, including 48 on the "priority" last known alive list. (S)

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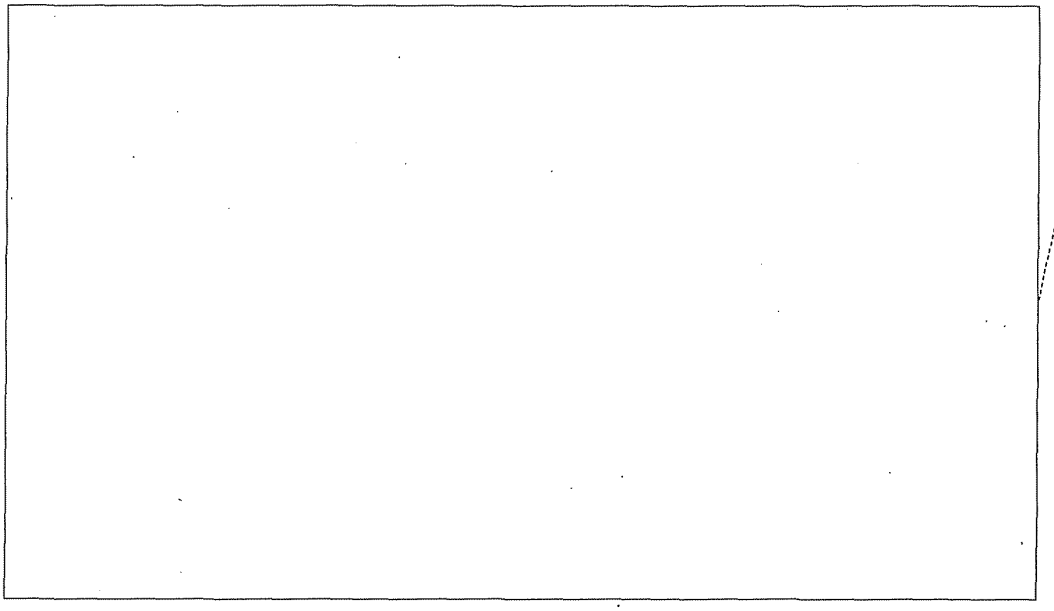

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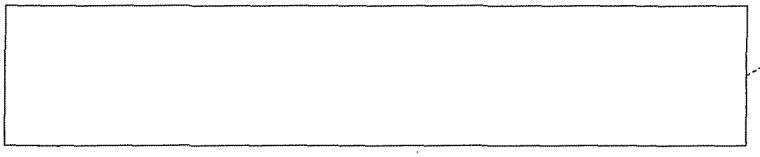

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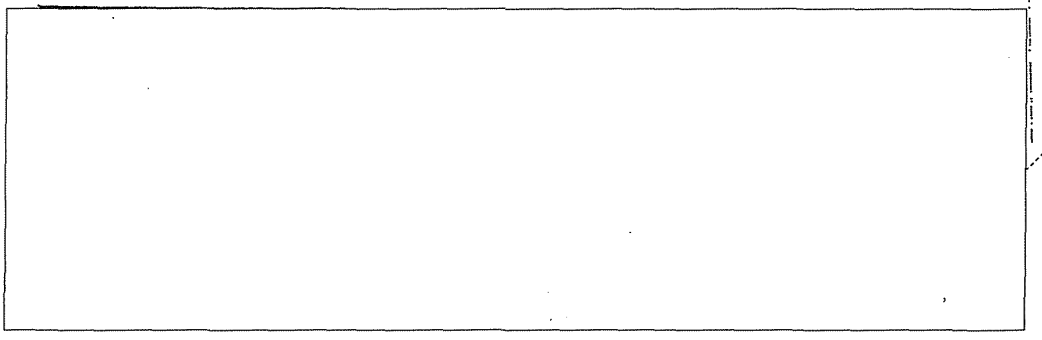

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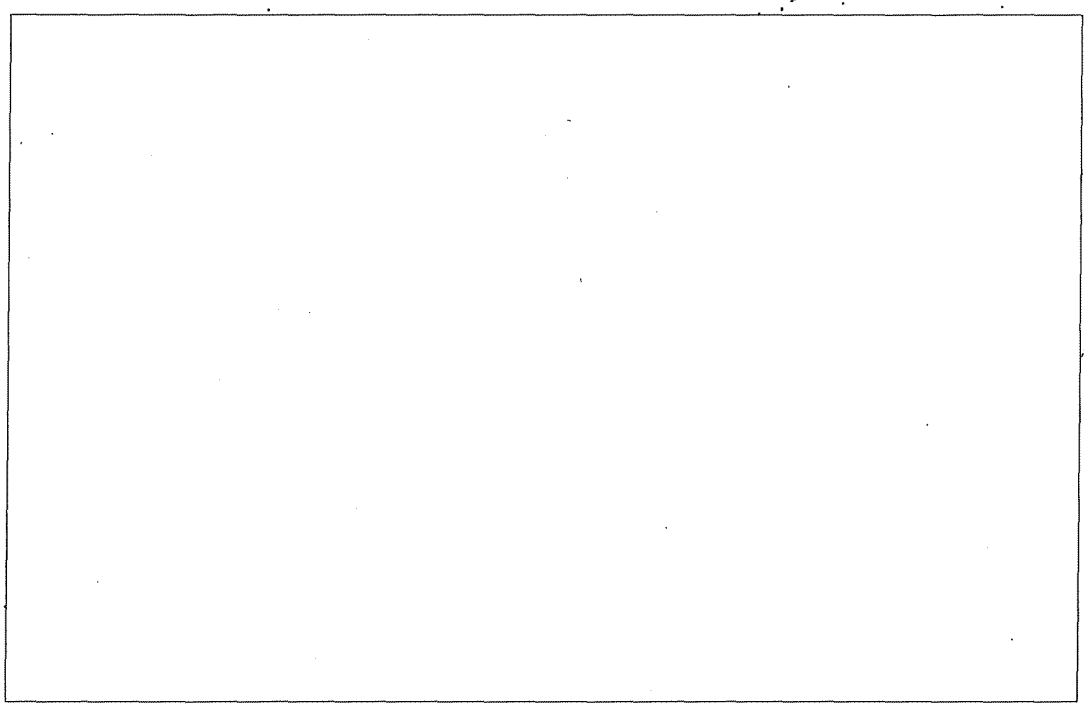

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IV POLITICIZING OF INTELLIGENCE:

As noted in this assessment's Executive Summary, Congress and the leaders of the U.S. Intelligence Community (IC) need to examine what role the White House, its National Security Council, and certain US policy-makers responsible for advancing the Administration's normalization agenda with Vietnam may have played in influencing or otherwise affecting the judgments of the IC as reflected in this NIE. If any improper communication or influence took place, immediate steps should be taken to determining how this could have occurred. Such a review is critical to ensuring that the IC is providing objective and independent analysis to its customers. (U)

This is especially important because the NIE was prepared and published in classified form during the same period that the President and his Administration were required by Public Law to determine whether Vietnam was "fully cooperating in good faith" with the United States on the POW/MIA issue. An affirmative certification is required for the expenditure of funds for US diplomatic operations in Vietnam. (U)

A bipartisan report from the Senate Select Committee on Intelligence (SSCI) had determined in April, 1997 that the IC had provided no input, nor was input solicited, in determinations for 1996 and 1997, even though the certification, by law, is required to be "based on information available to the US Government." This SSCI finding was one of the reasons National Security Advisor Berger had been requested by the Senate to have this NIE prepared. (U)

The President himself had recognized the potential impact of the NIE on the certification process, stating in a letter to me dated February 25, 1998 (8 days prior to his 1998 determination), that "the results of the National Intelligence Estimate regarding the extent of Vietnam's disclosure of information on our missing service personnel will be taken into account as we continue to advance our agenda with

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Vietnam..."[199]" (U)

The President issued his 1998 determination that Vietnam was fully cooperating in good faith on March 4, 1998 -- one month *prior* to the NIE's official dissemination and, again, only 8 days after his letter to me. (U)

Although the NIE had not yet been approved or published, there apparently was communication and coordination between the National Intelligence Council and, at the least, the Office of the Assistant Secretary of Defense for International Security Affairs (under OSD/Policy), concerning the draft contents of the NIE. Moreover, the National Intelligence Council has confirmed that it selected "four individuals outside the Intelligence Community with expertise on the Vietnam POW/MIA issue" — whom it has not yet identified to Congress — who "reviewed the draft and provided their commentary to us.[200]" Additionally, the Director of Central Intelligence, George Tenet, has also stated the "the draft was reviewed by several experts from outside the Community.[201]" Were any of these individuals employed in the Office of the Secretary of Defense for Policy, which includes DoD's POW/MIA Office, — an office which supports U.S. policy that Vietnam is fully cooperating in good faith on the POW/MIA issue? (S)

Questions concerning the politicizing of intelligence have naturally arisen as a result of these revelations. On its face, the prior pledge by the Director of Central Intelligence that the NIE would be done "*with the objectivity, timeliness, and independence that characterize our analytical efforts*[202]" needs to be further

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[199] Letter from President Bill Clinton to Senator Bob Smith, dated February 25, 1998. (U)

[200] Transcript of Briefing by National Intelligence Council to U.S. side of the US-Russia Joint Commission on POW/MIAs, p. 5-6, dated June 17, 1998 (S)

[201] Letter from Director of Central Intelligence George Tenet to Executive Director, National League of POW/MIA Families Ann Mills Griffiths, dated October 28, 1998. (U)

[202] Letter from Central Intelligence Agency, "the Director of Central Intelligence (DCI) has asked me to respond...," from John H. Moseman, Director of Congressional Affairs, CIA, dated

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examined. (U)

Questions concerning the politicizing of intelligence are further underscored by the following exchange at a Congressional hearing on June 17, 1998 between Congressman Benjamin A. Gilman, Chairman of the House Committee on International Relations, and Mr. Frederick C. Smith, Principal Deputy Assistant Secretary, International Security Affairs, Office of the Secretary of Defense (under the Under Secretary of Defense for Policy) —

Chairman Gilman: In March of this year, President Clinton certified that the Government of Vietnam was fully cooperating in goof faith on the POW/MIA issue. What role did our Department of Defense play with respect to that decision on certification?...

Mr. Smith: The Department of Defense did make an input...Our recommendation was that Vietnam was fully cooperating with our efforts in this area...

Chairman Gilman: When you made that decision in the Defense Department, did you have before you the National Intelligence Estimate on Vietnam's performance on the POW/MIA issue?

Mr. Smith: We were actually working on it at about the same time, because we were working with the Central Intelligence Agency on that issue, and so it was concurrent, simultaneous.

Chairman Gilman: Did you have that estimate before you at the time you made your decision and made your recommendation to the President?

Mr. Smith: The final copy of the estimate was issued in April, 1998, and the determination was made in March.

Chairman Gilman: So you actually didn't have the final National Intelligence Estimate?

Mr. Smith: We did not have the final estimate that was issued. That is correct. <u>But we certainly knew what was in it, and we were involved in the preparation of the estimate</u>.

November 17, 1997. (U)

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Chairman Gilman: You were working on the Estimate? Were you working on the Estimate?

Mr. Smith: Yes. The estimate had been in preparation for a number of months before hand.

Chairman Gilman: And you would have had the occasion to see what the report said at the time you made your decision?

Mr. Smith: Yes.

Chairman Gilman: Is it your view that the report supports the President's certification that Vietnam is fully cooperative?

Mr. Smith: Yes. I believe that the information about the improved cooperation we've received from the Vietnamese, and the reasons that the estimate gives for this improved cooperation are correct.[203] (U)

The above testimony would further seem to cast doubt on the reliability of testimony by Under Secretary of Defense for Policy, Walter Slocombe (Mr. Smith's superior in the OSD chain of command), on the day after the President's March 4, 1998 determination.. On March 5, 1998, before a hearing of the Senate Committee on Armed Services, the following exchange took place between myself and Under Secretary Slocombe —

Under Secretary Slocombe: Senator, I'm not familiar with the details of what input the national intelligence community had in this particular determination.

Sen. Smith: Well, you're aware there's an intelligence community estimate going on now, correct?

Under Secretary Slocombe: Yes.

[203] Transcript of Hearing before the Committee on International Relations, US House of Representatives, *A Worldwide Review of the Clinton Administration's POW/MIA Policies and Programs*, p. 10-11, dated June 17, 1998 (U)

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Sen. Smith: ...wouldn't it seem reasonable to wait until the national intelligence estimate came back?...

Under Secretary Slocombe: I think it's wholly appropriate to do an intelligence estimate. What I do not know, and am not in a position to comment on is what information was obtained from the Intelligence Community in connection with this determination, because I simply do not know.[204] *(U)*

The testimony from Deputy Assistant Secretary Smith further casts doubt on the reliability of the assurance from Director of Central Intelligence George Tenet that "at no stage was there higher level or other intervention to change or shape the body or judgments of the NIE.[205]" (U)

Moreover, in the course of preparing this intelligence estimate, the principal author reportedly traveled to Hanoi to conduct personal interviews with US Ambassador to Vietnam, Douglas "Pete" Peterson[206], in addition to conducting interviews with Dr. Lou Stern, Director for Indochina, Thailand, and Burma in the Office of the Secretary of Defense for International Security Affairs at the Pentagon[207] — two of

[204] Transcript of Hearing of the Senate Committee on Armed Services, March 5, 1998. (U)

[205] Letter from Director of Central Intelligence George Tenet to Executive Director, National League of POW/MIA Families, Ann Mills Griffiths, dated October 28, 1998. (U)

[206] Ambassador Peterson, a former POW from the Vietnam War, did not arrive in Hanoi until May, 1997, following his Senate confirmation in April of that year. Prior to confirmation, Ambassador Peterson served as a Democrat Congressman from Florida during which time he consistently advocated full U.S. normalization of relations with the Government of the Socialist Republic of Vietnam. During that same tenure, he served as US Chairman of the Vietnam War Working Group of the US/Russia Joint Commission on POWs and MIAs where he maintained his position that the so-called 1205 and 735 documents, assessed in this current NIE, were not valid. (U)

[207] Dr. Stern has been a consistent advocate for closer US ties with Vietnam during his tenure at the Department of Defense scanning several years. While employed by DoD, he has published a book on the development of US-Vietnam relations. He has also been directing involved with DoD hosting of several high-level Vietnamese delegations to the United States, and has

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the Administration's biggest advocates for continued expansion of US relations with Hanoi. (S)

When I questioned the National Intelligence Officer for East Asia, Robert Suettinger, under whose auspices the current NIE was prepared, on the Intelligence Community's role with respect to the 1998 certification and the NIE's bearing on it, the response was quite abrasive, defensive, and disturbingly evasive —

> *Sen. Smith: Let me ask you this question, and I would like a yes or no. Did the President ask you for your input prior to the certification in March, 1998 that the Vietnamese were fully cooperating or cooperating in good faith?*
>
> *Mr. Suettinger: Did he ask me personally?*
>
> *Sen. Smith: Well, did he ask the agency?*
>
> *Mr. Suettinger: I do not know.*
>
> *Sen. Smith: You do not know the answer to that?*
>
> *Mr. Suettinger: I do not.*
>
> *Sen. Smith: ...Does your intelligence estimate disagree with the President's statement that the Vietnamese are being fully cooperative, yes or no?*
>
> *Mr. Suettinger: ...I would say that the intelligence assessment, which was not intended to answer that specific question, comes down on both sides of the issue, that there has been improved cooperation, but that it is not perfect. And the reasons for its not being perfect are cited in the estimate.*[208] (U)

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strategized with Vietnamese officials concerning ways to achieve normalization of relations without the POW/MIA issue being an obstacle. (U)

[208] Transcript of Briefing by the National Intelligence Council to the U.S. side of the US-Russia Joint Commission on POW/MIAs, p. 23-24, and 29, dated June 17, 1998. (S)

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Interestingly, Mr. Suettinger's careful wording above on June 17, 1998 — using the term "*improved cooperation*" in response to a question about the validity of the President's determination that Vietnam was "fully cooperating in good faith" — is *the exact phrase* used by Deputy Asst. Secretary Smith at a House hearing *on the same day in response to the same question*. This exact phraseology is not found in the NIE itself, and raises more questions about additional collaboration between the National Intelligence Council and the Office of the Under Secretary of Defense for Policy.

Questions, in the context of the current NIE, about the politicizing of intelligence on issues bearing on U.S. policy toward Vietnam are particularly relevant in view of prior indications suggesting that such actions took place during the current Administration on the same issues being reviewed in the current NIE. (U)

For example, an "interagency intelligence assessment" on the "1205" and "735" documents was disseminated to the media, with a January 24, 1994 release date, three days prior to a U.S. Senate vote on whether to urge the lifting of the U.S. trade embargo on Hanoi, and one week prior to the President's announcement of his determination to lift the embargo. The timing of the release of this assessment became suspicious when it was learned that it had, in fact, been prepared, completed and forwarded to the Under Secretary of Defense for Policy in an unclassified format for release, through the National Intelligence Council *by June 21, 1993 — seven months earlier* (with the exception of two paragraphs later added by DoD) — even though the President had continued to maintain in communications with Congress, as recently as December, 10, 1993 that he "intended to release publicly our analysis and conclusions as soon as possible. I am sure you would agree that we must accord them the most careful analysis..." Clearly, the release of this unclassified document of information prepared with major input by elements of the Intelligence Community, had been delayed for political purposes in order to obtain maximum effect on decisions being made and/or announced within the Congress and the White House. (U)

In addition, one year earlier, on February 12, 1993, then Deputy National Security

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Advisor Sandy Berger, after having been briefed on the discovery of the so-called 1205 document in Moscow, tasked the Intelligence Community, through the Department of Defense, in an Eyes Only Memorandum, to "*analyze the implications of the following hypothetical scenario. Assume that a document from a senior North Vietnamese Army official established that on September 15, 1972 the North Vietnamese were holding 1205 American prisoners of war...; the North Vietnamese were deliberately concealing the true number of prisoners they were holding from the outside world; the fate of these prisoners was under consideration by the Hanoi Politburo...if such a document were deemed reliable...what are the implications of this information generally, what are the implications in light of Vietnam's obligations under the Paris Peace Agreement?*[209]" (U)

The phrasing of this White House tasking, ie: *if such a document were deemed reliable, what are the implications...*, can be interpreted as politicizing of intelligence, because it opens the door for an Administration judgment that a document is *not* reliable if it is deemed to have *negative* implications for planned U.S. policy toward Vietnam if it is judged to *be* reliable. Indeed, the Defense Intelligence Agency's (DIA's) apparent response to this memorandum, dated February 25, 1993, concluded that "hypothetically, the Vietnamese would have been holding 665 more POWs than we know them to have held; ...hypothetically, all of these extra POWs...would also have had to been placed in a completely separate prison system: ...hypothetically, some of these men would have survived to the present in Vietnam.[210] Furthermore, this initial eyes only tasking was posed during

[209] Eyes Only Memorandum from then-Deputy National Security Advisor Samuel R. Berger, dated February 12, 1993, forwarded to Director, Office of Senate Security, by National Security Council Senior Director for Records and Access Management, in unclassified, redacted form on March 12, 1997. A second copy of the same memorandum was received in the Senate directly from the Department of Defense on April 12, 1993. (U)

[210] DIA further stated in the same response that the "hypothesis was refuted by undisputed evidence provided by 30 years of intelligence collection." The referenced Defense Intelligence Agency memorandum was received in the Senate in April, 1993, and subsequently received again, as an unclassified document, on March 25, 1997, from the Deputy Assistant Secretary of Defense (POW/Missing Personnel Affairs). (U)

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the same period that the Administration had begun a high-level review of U.S. policy toward Vietnam with the goal of further advancing normalization of U.S. relations with Hanoi, beginning with the hoped-for removal of U.S. objections to International Financial Institution (IFI) lending to Vietnam during a planned April meeting of world financial officials — the same month the 1205 report was subsequently disclosed publicly. (U)

Whether there was any such politicizing of intelligence by the Administration, and the extent of the Intelligence Community's participation in any such effort, has not yet been firmly established, but the concerns are further underscored by the fact that subsequent to the above-referenced memorandum from Deputy National Security Advisor Berger, the Under Secretary of Defense for Policy formally requested that an assessment of the 1205 document be prepared *for release to the media*. This directive followed a White House meeting with the President, Vice-President, National Security Advisor, and two other Defense and State Department officials involved with POW/MIA accounting efforts, during which time the President reportedly stated that he "did not want the 1205 document to get in the way of normalization of relations with Vietnam." (U)

At the first meeting to discuss preparation of this assessment, the Deputy NIO for East Asia, Robert Suettinger, reportedly announced to those gathered that the 1205 report was *not reliable* with respect to US POWs, and that was the operating assumption under which the 1993/94 DoD-released product was consequently prepared. (U)

Based on this admittedly circumstantial evidence, a further review of this matter by appropriate Congressional committees and the leaders of the Intelligence Community appears warranted.

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V CONCLUSION:

On September 3, 1998, the American Embassy in Hanoi reported that Communist publications there had carried a Vietnam News Agency (VNA) report under the title "*No evidence of American POWs in Vietnam -- Affirms U.S. Intelligence.*" The reports went on to say that the "U.S. National Intelligence Council report...affirms that the Russian documents are fake...and that Vietnam has cooperated with the United States in accounting for American personnel listed as Missing in Action." (U)

As shown in this critical assessment of the above-referenced NIE, the judgments of the Intelligence Community are not supported and should be retracted. It is equally disturbing that the IC has aggressively and inexplicably gone way beyond standard and historical criteria for reaching judgments in a NIE in an effort to dismiss compelling evidence which conflicts with the NIE's judgments. (U)

It is also a sad commentary that, in the end, the NIE places more reliance on statements by communist Vietnamese officials in Hanoi than on statements from Russian officials in Moscow who are part of the emerging democratic government there . It is further unfortunate that the NIE's judgments, and their public release, will likely seriously undermine "*continued U.S. efforts to acquire additional information on the Russian documents from the Vietnamese Government... including access to other relevant Party and government archival materials*" as pledged by the President's National Security Advisor, Samuel R. "Sandy" Berger, in his letter to the Senate Majority Leader, Trent Lott, in April of last year. (U)

The NIE's judgments, and their public release, will also likely undermine any serious US effort to convince Hanoi to increase their level of cooperation with US officials, (as opposed to maintaining the status quo), especially with regard to additional unilateral disclosures of POW/MIA material from relevant archives in Hanoi, as also pledged by Mr. Berger, which would include the key, relevant records of entities such as the Central Military Affairs Party Committee. (U)

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Based on the contents of this critical assessment of the NIE, Congress and the leaders of the Intelligence Community must reexamine the judgments reached in the NIE with the goal of ensuring that U.S. policy and decision-makers are relying on judgments that are based on "the most careful analysis in the context of all other known information," a standard which was originally promised by our President himself, in a letter to me dated December 10, 1993. To do anything less is a tremendous disservice to the POW/MIA families and the memory of those still unaccounted for from the Vietnam Conflict. (U)

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Attachment to Plaintiffs' Exhibit A

1205 Document—Report of the Deputy Chief of the General Staff of the VNA [Vietnamese Peoples Army] General-Lieutenant Tran Van Quang at the Politburo Meeting of the PTV September 15 1972

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GENERAL STAFF OF THE ARMED FORCES OF THE USSR
MAIN INTELLIGENCE DIRECTORATE [GRU]

REPORT

OF THE DEPUTY CHIEF OF THE GENERAL STAFF OF THE VNA [VIETNAMESE PEOPLES ARMY] GENERAL-LIEUTENANT TRAN VAN QUANG AT THE POLITBURO MEETING OF THE TSK PTV 15 SEPTEMBER 1972
(translation from Vietnamese into Russian)

Moscow - 1972

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Dear comrades!

I reported to you earlier about the situation which has developed and about the fundamental characteristics of the past stage of our people's conflict against the American imperialists. I will cover the main tasks of the people and the army of North and South Vietnam which were proposed by the 23rd Plenum of the TsK PTV.

These tasks once again confirm our resolve to attain victory. This is a very correct course for our party and people at the present stage of conflict. We have already worked out measures for achieving the resolutions of the 23rd Plenum of the TsK. We will also cover a number of the Supreme Command's and the Government Defense Council's positions, in which an evaluation of our victories gained over the period from 30 Mar 72 to the present is given.

The military situation for us is developing favorably on all fronts. A number of profound changes which took place in the military situation demanded that we develop a necessary frame of reference for solving all issues which arise during the war. Several meetings between us and the US aimed at developing measures on resolving the Vietnam issue have already taken place.

We have decisively rejected a number of proposals put forth by the American side. With assistance from a number of countries, there were to be secret meetings in Paris and in other places aimed at drawing up a solution to the Vietnam issue. Such meetings took place. They once again testified to the deranged nature of the proposals put forward by the American side. As before, we have maintained our position, the essence of which includes the following: if the US truly wants to resolve the Vietnam issue, then above all else it must refuse to support the Nguyen Van Thieu regime, and only afterwards will we engage in a discussion about a cease fire. This demand is the main tenet in our conflict against the American imperialists.

If Nixon continues adhering to his policy of "Vietnamization" of the war and desires to leave the present Saigon Government of Thieu in power, then the peace negotiations between us and the US will not yield any results.

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During our general offensive on the fronts of South Vietnam, Laos and Cambodia, the progress which we have attained in implementing our strategic and tactical line [direction, orientation] was clearly evident.

Earlier, I analyzed the activity of our command, elucidated the great victories we have attained and also explained the shortcomings and mistakes that we made during the general offensive. The lessons we learned from analyzing the mistakes we made were also discussed. I stated all of this to the Politburo in order to work out a direction for solving the fundamental principal problems.

Today I will report a number of positions regarding expanding the scope of our future offensive.

We organized meetings with South Vietnamese representatives aimed at preparing a solution of the military and political issues in South Vietnam according to the Politburo's and State Defense Council's plan. These meetings have great significance for us, and we are linking several of our plans with them [South Vietnamese representatives]. A number of our comrades have met with representatives of the South Vietnamese authorities, and it can be said that we have succeeded in winning their sympathy at these meetings. We were able to exchange ideas not only orally, but also in written form during these meetings and contacts. This gave us the opportunity to draw definite conclusions. Recently, we have conducted 8 similar meetings with representatives of the Saigon authorities and South Vietnamese political figures.

First, we will cover meetings with General Ngo Dinh Dzu[1]. Earlier Ngo Dinh Dzu was listed as a candidate for president of South Vietnam and fought with Nguyen Van Thieu and Nguyen Cao Ky for this post. Ngo Dinh Dzu is a prominent South Vietnamese capitalist and well-known political figure. He occupied the post of chairman of the upper chamber of the Saigon Parliament and during the Ngo Dinh Diem government, he was a senator in the upper chamber. Ngo Dinh Dzu, in his own opinion, is a nationalist. He speaks

[1] Commander of the 2nd Regional Corps of South Vietnam, General-Lieutenant (GRU's note).

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against American troops on South Vietnamese territory, and also against several policy positions conducted by the Saigon authorities. At the same time, he is characterized as a reactionary, an enemy of communism. Afterwards, as Ky and Thieu attained victory in the presidential elections, the latter undertook all measures to take revenge on General Dzu. Dzu used the pre-election campaign to criticize the Saigon regime and to undermine its security. He spoke against American troops on South Vietnamese territory, for which he was subjected to bitter attacks from Nguyen Van Thieu. General Dzu was forced to leave the political arena after 9 months under pressure from Thieu. Afterwards, General Dzu became an even greater enemy of Nguyen Van Thieu and his government. This is why we tried to win this person over to our side.

Despite General Dzu remaining an enemy of communism, his relations with Nguyen Van Thieu and the present Saigon factions, as well as our meetings with him have allowed him to see the nature of the Americans and the true colors of the Saigon Government.

We sent one of our comrades from the Supreme Command to Saigon for meetings with General Dzu. At the meeting, which lasted 3 hours, General Dzu agreed to enter into a future coalition government and spoke out against the policy of "Vietnamization" of the war carried out by Nixon and also against the Nguyen Van Thieu clique. During this meeting he also stated that he will fight against Nguyen Van Thieu's clique and Nixon's present designs.

Now, we see clearly how significant changes have taken place in General Dzu's life and way of thinking. He is no longer the same ardent anticommunist. Now prevailing in his views are those features such as the conflict against Nixon's policy of "Vietnamization" of the war and against Nguyen Van Thieu's clique which he considers as fascist and as expressing the interests of the financial oligarchy which is against freedom and independence. And finally, General Dzu is for the expansion of democracy and freedom over the entire territory

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of South Vietnam. Such are General Dzu's basic national qualities which correspond to our present course. This is why we are attempting to win General Dzu over to our side and why we entered into contact with him. After the first meeting, there were three other recent meetings during which he expressed his opinions. During these meetings, we understood what kind of major changes took place in his way of thinking and in the position he has taken and in his approach to solving the problem.

Thus, we can ascertain that these meetings and contacts with General Dzu had very good results. Recently, General Dzu requested to meet with one of the prominent leaders of the NFO [National Liberation Front] of South Vietnam. We are now busy preparing for the upcoming meeting between General Dzu and Hyuyn Tan Phat. This meeting will be conducted in secret to insure the fulfillment of our main principles as we understand that this new person is contradictory - he is among those in the Saigon Government whose number is daily growing.

The second person is Nguyen Khanh. He earlier occupied the post of prime minister for three years after the overthrow of Ngo Dinh Diem. Nguyen Khanh is a representative of the army. Earlier he served in the French Army; now he is a prominent South Vietnamese capitalist whose capital is invested in various foreign enterprises, especially in France. Nguyen Khanh is a representative of the new trend. This is why we have entered into contact with him. These contacts took place in Paris, where we have conducted 5 meetings.

Nguyen Khanh maintains constant contact with military circles in the Nguyen Van Thieu government. After being removed from his post, he left the country, but periodically returns to Saigon where he engages in political activities in the capacity of an emigree representative.

In summarizing the five meetings, we noticed in Nguyen Khanh the following: first, as regards the ruling faction he believes that Nguyen Van Thieu is a dictator and fascist who is not capable of being the head of the government. Khanh considers the present government to be rotten to the core; second, he is against the bombing of North

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Vietnam; third, while criticizing the Nguyen Van Thieu faction, he speaks against the participation of Saigon troops in combat actions on Cambodian territory. He believes that the Saigon Army is in danger of disintegration and that it has poor morale and combat spirit. Nguyen Khanh speaks for the establishment of a new government which would have authority with the people and which would carry out a nationalist policy, while receiving foreign aid. These are the views of Nguyen Khanh. He says nothing about his feelings toward the policy of "Vietnamization" of the war. This is explained primarily by his connections with military circles. Therefore, we are not striving to directly attract him to our side. Presently, Nguyen Khanh is maintaining connections with the current Saigon generals.

The third person is Duong Van Minh, who also represents the military circles. Previously, he occupied the post of prime minister after Nguyen Khanh, and was then sent out of the country as an ambassador. The political views of Duong Van Min' differ from the political views of Nguyen Khanh. This is first expressed in Duong Van Min' speaking out against Nixon's policy of "Vietnamization" and for the independent solution of internal problems by the Vietnamese without US interference. He believes that the US should be responsible for prolonging the Vietnamese War and for its consequences. He subjects the Vietnamese policy of Nixon to sharp criticism, as well as the policy carried out by the current Saigon Government. These are very good political views. He speaks against Thieu's clique, considering it to be pro-fascist, anti-democratic and not capable of carrying out the leadership of the country. These are the primary political views of Duong Van Min'.

As a result of these contacts with Duong Van Minh, we have attained an important victory, which has forced him to reflect. He also met with Nguyen Thi Binh several times in Paris. At these meetings, Duong Van Minh felt that, as before, he was close to the Fatherland and that he is Vietnamese. This is why he began to conduct this great work with us and with the intelligentsia and military circles located outside of the country. He did this with the aim of entering into a coalition government and in the hope of solving the Vietnamese issue

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on the basis of conducting consultations and negotiations between the various political factions of South Vietnam. This is Duong Van Min's desire.

The fourth person is the former emperor Bao Dai. At one time the possibility existed that the former emperor would have been behind us. But, under pressure from reactionary factions after the August revolution, he was forced to emigrate to France. As before, Bao Dai holds great influence amongst the political figures in the Quang Tri and Thua Thien Provinces and also in the city of Hue, the ancient capital of Vietnam. This is why we moved to make contact with Bao Dai. We are not hoping that Bao Dai becomes a part of the coalition government, but to attract him to our side is to attract his supporters in the regions where he has influence. As a result of the meetings conducted, we clarified that Bao Dai will come out against the presence of American troops on the territory of South Vietnam, and he also criticizes Nguyen Van Thieu's existing regime. Bao Dai is also calling for all political factions to create a free, neutral, peace-loving government that would resolve the tense situation that has taken form in the country. This is why we entered into contact with Bao Dai and are trying to win him over to our side. We hope that he, in turn, will work with his people in a plan for securing peace and freedom for our country.

The fifth person is General Nguyen Van Vi who previously occupied the post of Minister of Defence of South Vietnam. Tkhieu removed him from his post for disorder and chaos in the army's financial affairs. The real reason, however, for Nguyen Van Vi's retirement was the series of serious defeats that the puppet army has suffered. From Nguyen Van Tkhieu's viewpoint, the military circles responded to this move with a specific reaction. We also had contacts with General Nguyen Van Vi which allowed us to understand his political position. He thinks that the US will certainly suffer defeat in this war and that a war in Vietnam is not the responsibility of the American Army. This is why Nguyen Van Vi is also coming out for the creation of a coalition government in order to resolve the Vietnam issue through peaceful negotiation between all of the political factions of South Vietnam.

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Nguyen Van Vi is also coming out against Nixon's "Vietnamization" of the war. Such are the basic political views of General Nguyen Van Vi. We scored a great victory at the meeting with him; we received his agreement to take part in a coalition government to resolve the Vietnam issue through peaceful negotiation between all of the political factions of South Vietnam. Nguyen Van Vi also officially recognized the victories won by the National Liberation Front of South Vietnam, i.e. our victories.

As concerns our contacts within the South Vietnamese governing apparatus, it is fitting to mention here the letter from Nguyen Cao Ky addressed to us. In the letter, he lays out his views on the course to a resolution of the Vietnam problem.

I have reported to you today on the contacts with all of these people so that you would know how the Politburo's instructions to win over these people to our side is being carried out.

The strong protest from their side is a result of a growth of contradictions within Nguyen Van Thieu's clique and of contradictions of Nixon's "Vietnamization" of the war. We can use these contradictions to improve the situation in South Vietnam and to resolve the issue in our favor. Their agreement to enter into a coalition government will precisely go in our favor. In addition to a resolution of the issue by military means on the battlefields of South Vietnam, we have engaged in contacts with several South Vietnamese political figures, who may be able to join the ranks of a coalition government. As a result of these contacts we have gained an understanding of the political views of these people and have expressed our point of view on ways to resolve the Vietnam problem.

These contacts with people who occupy high stations, prominent military and political figures, ministers and senators of the upper and lower chambers of the Saigon parliament provide the basis for making the following conclusions:

1. They are against the present regime of Nguyen Van Thieu, considering that Nguyen Van Thieu's clique is dictatorial, pro-fascist, rotten and not

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capable of carrying out the leadership of the country under the present situation that has developed in South Vietnam. They also think that if the US withdraws its troops from South Vietnam and stops aiding the regime, the government would instantly collapse.

2. The majority of them are against Nixon's "Vietnamization" of the war, against the escalation of the bombing of North Vietnam, and think that Nixon does not want to resolve the Vietnam issue or the Indochina issue as a whole.

3. They consider that the National Liberation Front has recently scored enormous victories on the military, political and diplomatic fronts. They recognize that on the military front we were able to win over extensive heavily populated regions. They also recognize the National Liberation Front's great success with the strengthening of the army, the increase in its combat ability and leadership level, the improvement in cooperation between the branches of service and many other areas.

We also tried to win over to our side the category of people from the provinces and many towns who occupy less important positions in the state apparatus. It is possible to say that they are also ready to aid in the creation of a coalition government. They are also against the policy of "Vietnamization", against Nguyen Van Tkhieu's clique and want to resolve the Vietnamese issue on the basis of a cessation of war.

Thus, on the orders of the Politburo we have been preparing to conduct meetings with various categories of the South Vietnamese population, aimed at resolving the South Vietnamese issue through peaceful negotiations between all of the political factions of South Vietnam. As a result of the contacts that have taken place to win these people over to our side, conditions have presented themselves so that these people will be able to aid us in the creation of a coalition government and in the overthrow of Nguyen Van Tkhieu's dictatorial regime. We see that we have chosen the correct course. This is also clearly indicated in the resolutions of the 23rd Plenum of the Central Committee.

In other words, we should win these people over to our side, and bring them into the coalition government so that we

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can use them to our favor in the diplomatic and political plan. In order to create a base for the successful resolution of the issues that stand before us, we specifically want to bring into the coalition government those people who earlier worked in the South Vietnamese state apparatus and held or are holding at the present a high post in the power structure.

If we are successful in resolving these issues, we will be concluding a mammoth case on which we will again report to the Politburo so that you are well informed on these issues and have formed a plan of action for mission completion. Thanks to these meetings, we are able to know who supports us and who is against us in South Vietnam. We have also worked out a new plan for the realization of our new intentions in South Vietnam and now know which representatives of the present South Vietnamese power apparatus are in favor of the war.

The meetings and contacts which we initiated were conducted with complete equality of rights and helped us win over representatives of all strata of South Vietnamese society to our side. This is our grandest victory, won in the course of these contacts with the aim of resolving the Vietnamese issue.

Thus, thanks to these contacts we understand which part of the population considers the course we are taking to be just, i.e. we have exposed all of those who are against Nixon's politics for the prolongation of the war, against Nguyen Van Thieu's clique and will join with us in the creation of a coalition government.

In addition to the military issues, this is one of the problems we are trying to resolve. We are therefore conducting these meetings and contacts directed at the resolution of political and diplomatic problems.

With the goal of realizing these aims, the Supreme Command, in conjunction with the Governmental Council of Defense, has developed directives for the army to prepare and conduct the "Ba Be" plan, which is scheduled to be executed in October. The "Ba Be" plan provides for the resolution of a number of goals. Four hundred and six individuals [406] were sent to execute the plan in South Vietnam. These individuals had gone through sufficient training and

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are well armed. Earlier, these people worked in the governing apparatus of South Vietnam. After the August revolution, during the period of the war of resistance against the French colonials, we left these people behind. They actively worked for the enemy and subsequently joined various organs of the Saigon governing apparatus. We trained and armed them well to carry out the "Ba Be" plan before they left for South Vietnam.

The basic aims of the "Ba Be" plan:

- Elimination of all people who are resistant and oppose our course and of those who occupy leadership positions at the province-district level and above; a full paralysis of the will of such people.

- Conduct of activities to carry out a disruption of the Saigon governing apparatus at the province level and below with the goal of a subsequent replacement of this apparatus with new people. We are attentively observing those people who oppose us and our decision with regards to this group must be very serious and firm. This matter has an important place in the execution of the "Ba Be" plan. We must have lists and full dossiers on these people beforehand in order to conduct the preparatory training to quickly do away with them and disrupt their routine.

- Search for and acquire materials which testify to crimes by Americans and their puppets with regard to the Vietnamese people, so that during opportune conditions, we can accuse them of committing these crimes by publishing the materials.

These are the three basic missions for the people who were dispatched for execution of the "Ba Be" plan. As for the time of completion, it is generally believed that it will be executed simultaneously with the TS-6 plan (Chyong Shon-6)*, i.e. in the month of October. This plan must be executed well in order to influence the course of the Paris Peace talks on Vietnam as well as the development of the situation in the near future. This is very important task. Its outcome may help us make a more successful advance on the front. We need to increase the pace of development on the front to win great victories in a short span of time. Therefore, the "Ba Be" plan is already being executed and we are continuing to train people to carry it out.

*The TS-6 plan is a VNA plan of military action in South Vietnam with the main effort concentrated in the Hue region (GRU note).

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The pace of the plan must be increased. We have to quickly move these people from North to South Vietnam in order to destroy a large quantity of enemy personnel. In other words, the elimination of all traitors, reactionaries, and counter-revolutionaries who currently make up a fairly significant part in South Vietnam is an important mission of the "Ba Be" plan.

We must attract the neutral forces to our side; those who are fighting for national independence from the USA; those forces who earlier fought against the regime of Ngo Dinh Diem and now fight against the regime of Nguyen Van Thieu. We must do everything necessary in order to successfully carry out the "Ba Be" plan.

Along with that, we must work on the demoralization of the puppet army on all fronts. Under good conditions, such work will lower the fighting spirit of the puppet army soldiers in the future and increase the number of servicemen who defect to our side. This is a basic requirement which helps us create the conditions for revolts in the puppet army. We were faced with this matter after the victory in Quang Tri.

Was there actually a collective anti-military uprising in the puppet 56th Regiment? No, in actuality it was not like that at the front. After we surrounded hill 241, the Regiment command understood the futility of further resistance and surrendered along with its soldiers. However, to increase the effect, we announced that because of good use of propaganda, there was an anti-military uprising in the 56th Regiment. This is a new form of stimulating anti-military uprisings in the puppet army.

The political views of puppet army officers captain and above are very reactionary. Previously they were officers or soldiers in the French Army. Now they are remaining in the army and speak in favor of the previous Saigon government, inciting counter-revolution and anti-nationalism. They hate the revolution. Therefore, applying propaganda amongst soldiers and especially amongst the officer corps is difficult and varied, demanding study from all sides

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and a creative approach in the choice of methods and means.

The brilliant results must be given their due; results which we in the propaganda organization recently achieved among the High Command staff, right up to Saigon Army generals.

We had contacts and meetings with a number of officers. For example, with General Khoang Xuan Lam, the former 1st Regional Corps Commander. He was very reactionary and spoke against our revolution. After the defeat at Quang Tri, Thieu removed him, and he began to make contact with us. At the meetings, Khoang Xuan Lam told us--if it can be said this way--a number of his views. In his opinion, the Saigon puppet army will not be able to execute missions which the plan of "Vietnamization" of the war places on the army. He believes that the revolutionary forces will achieve victory and that the puppet army will not be able to impede this. The Thieu regime is a dictatorship, is pro-fascist, and does not have the support of the people. These are some of the basic tenets expressed by General-Lieutenant Khoang Xuan Lam.

As for the closest person to the Thieu regime--General Ngo Dinh Dzu--in meetings with us, he expressed the opinion that even the 2nd Regional Corps will be lost and that the puppet army will be unable at any cost to withstand us in this region, i.e. the Tay Nguyen region. Thus, Dzu has expressed the same ideas that Khoang Xuan Lam has. He also said that the puppet army will be unable to withstand us if the Americans leave Vietnam. Ngo Dinh Dzu sees an increase in insurgency and revolution in South Vietnam, an increase in authority for the National Front for the Liberation of South Vietnam, a rise in the level of our strategic and tactical leadership as well as in the level of combat actions. Dzu understands that Nguyen Van Thieu is a bloody dictator, a fascist and that the regime he created is wholly anti-democratic.

Thus, we see that these meetings with the generals are a great victory for us and will be beneficial to us. In order to successfully manage a resolution of the issues linked to conducting propaganda work with the South Vietnamese Army generals aimed at awakening their consciousness and winning them over to our side,

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it is necessary to understand that the outcome of the coming battle depends upon the solution of these important issues. It is necessary to attain a clear understanding among the generals that the Thieu regime will never employ popular support and cannot exist. Such are the fundamental issues which we should resolve in the near future.

From the utterances of the generals set forth above, we see that the situation is developing in a direction favorable to us. We can bring Plan "BA BE" into being, but for this we should expand the net of communications and contacts with people who will carry out Plan "BA BE," in order to obtain from them all necessary materials. We should likewise search for ways to establish connections with officers and officials of the Saigon government. This matter occupies a significant place in the implementation of Plan "BA BE." The Supreme Command and Ministry of State Security discussed all matters related to successful implementation of this plan and levied new tasks upon the commands of the combat zones responsible for implementation of this plan. We successfully inserted and deployed our forces in all regions and are now conducting the final work in order to complete preparatory measures for this Plan by September 30th of this year. In comparison to other plans, the preparation of Plan "BA BE" is developing well. This is the first time we are implementing such a plan on the territory of South Vietnam. In the course of its realization we will acquire experience which can help us counter the designs of the enemy at the front.

The more savage the bombings and barrages of the enemy may become, the more victories we should grasp at the front, because such victories will aid realization of Plan "BA BE." We are linking great hopes to the implementation of this plan, especially in accelerating the pace at which the offensive at the front develops, of which I reported to you above. The favorable development of the situation will be a huge and significant factor in the collapse of US military designs and of the puppets at the front in South Vietnam. We must thwart the reactionary and treacherous plans of the enemy; successful carrying out of Plan "BA BE" will indeed help us to grasp new victories. These victories will have great strategic significance in implementation of Plans TS-6 and

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Plan S-6, which were topics above.

The goal of Plan "BA BE" is introduction of division into the ranks of the enemy and lowering of his will to resist. Successful implementation of Plan "BA BE" will help us to attain successes at the Paris negotiations on Vietnam. The nearer the victory, the more clearly will appear the treacherous designs of the Nixon-Kissinger-Laird clique, and likewise those of the puppet government of Nguyen Van Thieu. Therefore implementation of Plan "BA BE" will be a great step in the resolution of many issues in the current situation. Because of this, its significance is so great.

For successful realization of this plan we should as soon as possible insert our forces, in order to begin implementation of this plan in the month of October in accordance with indicated deadlines.

In the Paris negotiations on Vietnam we have met with a series of difficulties in recent days. These difficulties are explained by the fact that Nixon being stubborn as before and is trying above all to achieve a solution of the military issue and only then to move to settlement of political issues, which will exercise great influence on the course of development of the contemporary situation in Vietnam. As a result of exchanging opinions in private meetings with Kissinger--Nixon's advisor--Kissinger, we understood that Nixon as before is being stubborn on settling the situation which is developing today in Vietnam. To attain settlement we should conduct careful preparation to counter Nixon's designs. Let him understand: if he does not renounce this war, then precisely the US will suffer defeat in it. However, Nixon is being stubborn in continuing the aggressive war and maintaining the status quo. That is why we think, that with the US taking such a position, peaceful solution of the Vietnam issue is not possible. We see that the US obstinately continues aggression, while Nguyen Van Thieu as before holds to his insolent position. That is why we are resolved to carry out Plan "BA BE," the realization of which will be a turning point in the settlement of the situation at the front.

This would be our first military thrust on the front aimed at resolving the complicated political issue at the present stage.

I) Plan S-6 -- Plan for military operations in the Saigon region (footnote of the GRU)

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Until this, the Supreme Command had never tried working out a plan similar to the plan "Ba Be".

Over the course of six months, we prepared to execute this plan. During this time, we gathered everyone who should take part in its realization, and then conducted a thorough training of them. The intelligence directorate of the Ministry of National Defense and the Ministry of State Security conducted the training of these people. We well understand that the better the training of these people is conducted, the fewer the losses we will suffer and the faster we will be able to attain execution of this plan.

Thus, once again evaluating the plan "Ba Be", the thorough training which is now going on, and which will be realized jointly with the plan TS-6 in October, it can be said that its successful realization will assist us to attain new great victories at the Paris negotiations on Vietnam. These are very serious issues which we must devote constant attention to.

Yesterday the State Defense Council directed the Supreme Command to conduct a conference for the cadres responsible for training and carrying out this plan. At this conference, the forms, means and methods were stated, which were worked out according to the organs and confirmed at a Politburo session.

We can now say that we have achieved great successes and we are convinced that this plan will be realized. Presently, this plan is being carried out. We have already succeeded in inserting a portion of our comrades into South Vietnamese territory. We succeeded with difficulty in certain areas and for this we had to procure all possible means. In other areas, this operation was carried out more successfully, and now our people are occupying stable positions in the puppet governing apparatus.

Dear Comrades! In summing up what is stated above, it can be said that we are going in the right direction in carrying out our plans, especially the plans TS-6 and "Ba Be", and also in training for the realization of our plan S-6, the realization of which is slated for the near future.

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In addition to these issues, in accordance with the instructions from the Politburo, I will also report to you today on American POWs captured on the various fronts of Indochina.

The work with American prisoners of war has always been within the field of vision of the Politburo and has been reflected in its decisions, such as decision No. 21 DST dated 23 Mar 71, and decision No. 21 E dated 4 Apr 72. Both of these decisions concern the issues of exploiting these American POWs captured during the war. This disturbs the public opinion of the whole world and of the US. There are various thoughts on the American POW issue. Some of these are correct, others are not, but even among us there are a number of comrades whose opinions differ from the opinion of the Politburo. These comrades are not taking into consideration the particulars of the developing situation nor the inherent difficulties in their judgements. These opinions harm us in our search for methods of resolving the American POW issue.

Dear comrades! The American POW issue is very complex. The peoples of the world [world opinion] and the peoples of our fraternal socialist nations [allied popular opinion] as well as our [people] want to know the exact number of POWs located in North Vietnam. Allow me to inform you specifically on this matter. We have captured a very large number of American POWs on the fronts of Indochina since the time that the US introduced their troops into Vietnam, escalated the air war against North Vietnam, and expanded the total scope of their aggression by spreading this aggression onto the territories of Laos and Cambodia. At first, the number of American POWs was not large and world public opinion paid little attention to them. The number of American POWs in North Vietnam grew day by day after 5 Aug 64 when the US imperialists started massive air bombing and off-shore bombardment by the 7th fleet of the territory of North Vietnam, and after having expanded their aggression onto the territories of Laos and Cambodia. The number of American POWs in the DRV has not been made public to this day. We have kept this figure secret. At today's Politburo session, I will report to you, Comrades, the exact number of American POWs.

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The total number of American POWs captured to date on the fronts of Indochina, i.e. in North Vietnam, South Vietnam, Laos and Cambodia, comprises 1205 people. Of them, 671 people were captured in North Vietnam and 143 aviators [were captured] in South Vietnam. This means the total number of aviators, and diversionists [special operations] (American advisors on diversionary ships and divers), captured on the territories of North and South Vietnam comprises 814 people. In addition, from other categories of American servicemen in Indochina, we have captured 391 people, including: 283 in South Vietnam, 65 in Cambodia and 43 in Laos; 814 and 391 comprise 1205 people.

Here is more data on the 1205 POWs.

We have captured 624 American aviators in North Vietnam, to include 7 colonels, 85 lieutenant colonels, 183 majors, i.e. the total number of senior US Air Force and Navy officers comprises 275 people. The 624 American aviators include 3 astronauts, i.e. three people who have completed the necessary training for space flight, for instance, Jim Katlo, who was captured in the vicinity of Hanoi. This figure also includes 15 US Air Force aces having more than 4000 flight hours each: Norman Klarvisto, Karmet, Jim Intist Shasht and others. This is the specific data on American aviators captured in North Vietnam.

Among the other 47 prisoners captured in North Vietnam, there are 36 advisors of diversionary detachments who were inserted in the border region between the DRV and Laos; lone diversionists who were conducting reconnaissance of our main transportation routes from helicopters and reconnaissance ships; and several seamen who abandoned their ships that we damaged and whom we picked up. Therefore the figures 624 and 47 add up to 671.

In South Vietnam we have captured 143 US aircrew members, mainly helicopter aviators and some jet aviators.

Among the 391 American POWs captured in South Vietnam, Laos and Cambodia, we have 9 colonels, 19 lieutenant colonels and 52 majors. The remaining officers are captain and below,

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as well as American enlisted soldiers.

Thus in summary, I want to remind you again that the 1205 American POWs presently in prisons of North Vietnam include:

- 624 aviators captured in North Vietnam;

- 143 aviators captured in South Vietnam;

- 47 diversionists and other American servicemen captured in North Vietnam;

- 391 American servicemen of other categories, which includes 283 captured in South Vietnam, 65 in Cambodia, and 43 in Laos.

All of them are presently in prisons in North Vietnam. Currently we have 11 prisons where American POWs are held. We used to have 4 large prisons, however after the American attempt to free their POWs from Ha Tay [Son Tay] we expanded this number to 11. Each prison holds approximately 100 POWs.

Seven Air Force colonels captured in North Vietnam and nine colonels of various branches of service captured in South Vietnam, Laos and Cambodia (16 officers in all) are being held together; through them, we are attempting to gain an understanding of the current situation which has developed in the American Army, extract the material and information we need, and determine our position toward them.

We are also holding 104 American lieutenant colonels in one location and are attempting to extract information - secret information about troop dispositions and information concerning the US Defense Department from them.

We have 235 majors concentrated in two locations.

Thus we have dedicated special prisons for senior officers of the American Army: one for colonels, one for lieutenant colonels and two for majors. The rest of the POWs, captains and below, were placed in other prisons.

A few words about the political views and attitudes of American POWs.

There are 368 POWs who have progressive attitudes.

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They understand very well that this war is unjust and unpopular on their part. They condemn the American administration and express a strong protest against this war. We will be able to release these 368 POWs first, if as a result of the struggle of the progressive peoples of the world, including the American people, a favorable international environment will develop, forcing Nixon to move toward a resolution of the political issue. We are carrying out work with this category of POWs to explain to them the aggressive nature of the war being conducted by the Nixon administration and the nature of the Nguyen Van Thieu regime, and also to make them understand the unjust character of this war which is inflicting great damage on the American people. One can assert that this group of POWs is progressive in their political views.

There are 372 of the POWs who hold neutral views, i.e. their political outlook is not fully progressive, yet not too reactionary. We plainly see that they still do not clearly understand the role of the American administration in unleashing the aggressive war in Indochina.

The remainder of the POWs hold reactionary views. In spite of the work carried on to explain to them the real state of things, they have not changed their reactionary views.

The following is a summation:

-- 368 POWs holding progressive views can be released first;

-- 372 POWs hold neutral positions;

-- 465 POWs hold reactionary views.

All the POWs among the senior officers hold reactionary views, i.e. they do not condemn Nixon, they do not protest his policies, and they distort our course of action. We understand that these officers come from rich families. Their reactionary views are precisely a result of this.

We well understand that the American POW issue has great significance for the resolution of the South Vietnamese problem. We must continue propagandistic and educational work with the American POWs, leading to their understanding

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of the nature of the aggressive war which the US is carrying out in Vietnam, as well as the senseless obstinateness of Nixon, which only delays the release of POWs and their return to their homeland. Soon we will free several POWs in order to put pressure on the Nixon administration, observe his reaction and the reaction of the American public, as well as to demonstrate our good intentions in this matter.

Thus, the 1205 American POWs captured on the fronts of Indochina (in North and South Vietnam, Laos and Cambodia), presently kept in prisons in North Vietnam represent a significant force in the American army, a basic part of which is made up of American aviators.

The large number of American aviators imprisoned during the time of Johnson and Nixon inflicted huge damage on the US Air Force. This should cause the US government and Nixon himself to reflect. We intend to resolve the American POW issue in the following manner:

1. The US government must demonstrate compliance, i.e. a cease fire and the removal of Nguyen Van Thieu, and then both sides can begin discussing the matter of returning POWs to the Nixon government.

2. While the American side is resolving the above-mentioned problems, we can free several more aviators from the number who are progressively inclined. Nixon should not hinder the return of these aviators to their homeland and not undertake any disciplinary measures toward them.

3. Nixon must compensate North Vietnam for the great damage inflicted on it by this destructive war.

Here then are the principles on the basis of which we may resolve the American POW issue. However, Nixon continues to resist resolving the Vietnamese question, thereby delaying the resolution of the American POW issue.

I have reported these specific figures and fundamental aspects of the American POW issue to the Politburo. But we also have these comrades who do not understand this problem correctly.

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It is necessary to resolve this issue taking into account settling the military and the political aspects of the Vietnamese problem. If we take a path of concession toward Americans and release POWs, then we would lose much. That is why our point of view on this issue remains the same: this issue must be resolved on the basis of military and political aspects of settlement.

Holding 1205 POWs creates certain difficulties for us, but more importantly, the loss of 1205 POWs, particularly aviators, is a great detriment to the American Army, particularly the US Air Force. At the same time, we were able to collect data about American weapons and also valuable scientific materials about the US Army, for instance, material on how to use different types of weaponry, tactical/technical characteristics of aircraft, Air Force directives, as well as materials about other types of armament of the US Army. We have been able to uncover US intentions in the international arena and on a number of other issues which are related to war in Indochina.

That is why we are convinced that our position concerning POWs has and continues to be correct. If we could successfully resolve the POW issue, then the other issues would not exert any influence on our policy toward the US. That is why we are now concentrating on the successful resolution of this problem on the collection and study of materials from interrogations of American aviators who were shot down over North Vietnam and American scientists captured in this war, particularly Air Force specialists, as well as scientists in other technical areas. Their loss is a major liability for the American Army, because in no other war have there been so many captured Americans as there are in this war of aggression.

The 1205 American POWs kept in the prisons of North Vietnam represent a large number. For now, we have officially published a list of only 368 POWs. The rest are not acknowledged. The US government is aware of this, but they do not know the exact number of POWs, or they perhaps only assume an approximate number based on their losses. Therefore in accordance with the instructions from the Politburo, we are keeping the number of POWs secret.

We continue to collect and study materials from interrogations

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of POWs in order to have a basis in specific circumstances to expose US designs in the Indochina war of aggression as well as in other matters. Collection and study of these materials has provided us great assistance in studying the scientific discoveries of the US, in developing methods to counter contemporary weapons, including chemical, which have inflicted great harm upon us in this war.

I reported to the Politburo several fundamental aspects related to the matter of American POWs, namely: concerning the policy we are implementing on this matter, I gave the specific number of American POWs seized in North Vietnam, South Vietnam, Cambodia and Laos.

We still have among us Comrades who think: why do we keep these POWs and not take advantage of the Nixon proposals? Do we really want to resolve this matter after all? It needs to be noted that such a point of view is profoundly mistaken. This is not political bargaining but rather a key condition and serious argument for successful resolution of the Vietnam problem. That is why the matter of the American POWs has great significance in exposing Nixon's designs in this aggressive war in Vietnam. We are completely unanimous in this matter and condemn individualistic mistaken views current among us on this matter. We firmly hold to our position -- when the American government resolves the political and military issues on all three fronts of Indochina, we will set free all American POWs. We consider this a very correct course.

Dear Comrades!

I have reported the following matters to Politburo sessions: the course of our party on the general offensive conducted in South Vietnam from March 30th to the present; our errors and deficiencies in the offensive and summing up results of the offensive in South Vietnam, Laos and Cambodia; positive and negative aspects of the offensive; immediate plans of the enemy and our operations; analysis of errors permitted in strategic and tactical leadership; our contacts with political figures of South

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Vietnam from the Saigon regime; the matter of American POWs, captured on the three fronts of Indochina.

Today on assignment of the Supreme Command, the State Defense Council and the Military Committee of the Politburo, I reported to you on these matters so that the Politburo could study these problems, could express its opinion on them, and set forth forms and methods for their resolution. Soon the State Defense Council, together with the Supreme Command will study matters related to carrying out new operations at the front. The State Defense Council assigned the Supreme Command, and the latter in turn the General Staff, to address matters related to the development of new military plans for the year 1973. At the present time these plans are being worked out with the goal of preparing the necessary forces for their implementation. We are occupied with matters of mobilization and training of reinforcements for all three Indochinese fronts. We should mobilize 250,000 men, 200,000 of which would be sent to South Vietnam and 50,000 to Laos and Cambodia.

Summing up this report it is necessary to say that I have touched on the fundamental features of the situation which has developed in South Vietnam, on our difficulties and successes, and also on the difficulties existing for the enemy. I set out our plans and our course, and also illuminated a series of matters which the Politburo assigned to the State Defense Council and Supreme Command. At the next Politburo session, I shall set forth matters touching upon the present situation in Laos and Cambodia and views on its development.

Presently, the situation is turning out quite favorably. The peoples of South Vietnam, Laos and Cambodia have decisively frustrated the plan for "Vietnamization" of the war and identical plans being implemented in Laos and Cambodia. We hold high the invincible banner of Marxism-Leninism!

We are carrying out the precepts of Ho Chi Minh. The war of resistance against American imperialists for the salvation of the Fatherland will yet be stubborn and hard, yet we will definitely grasp victory. We will decisively frustrate the plans of Nixon or anyone who takes his place and continues the aggressive war!

The course of our party is assuredly correct. Our people are heroic

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people. Our forces are heroic forces!

The three countries of Indochina, closely united one with another, will fight to the last drop of blood for the freedom and independence of their Fatherlands. The Vietnamese people will fully carry out its international duty toward the fraternal peoples of Laos and Cambodia!

To the current session of the Politburo I wish successful work. I have completed the presentation of the report.

The brochure contains 24 pages of text RKSS/I 2235-24. II.72, Title page and cover order № 00/817

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Attachment to Plaintiffs' Exhibit A

735 Document—Armed Forces General Staff of the U.S.S.R. Central Intelligence Administration of the U.S.S.R. Report by Hoang Anya, Central Committee Secretary, Vietnamese Workers Party At 20th Plenary Session of the Central Committee, VWP End of December 1970, Early January 1971

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ARMED FORCES GENERAL STAFF OF THE U.S.S.R
CENTRAL INTELLIGENCE ADMINISTRATION [GRU]

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REPORT

by Hoang Anya, Central Committee Secretary,
Vietnamese Workers Party
at
20th Plenary Session of the Central Committee, VWP
End of December 1970, Early January 1971

(Translation from Vietnamese)

Moscow - 1971

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Comrades!

Today, at the 20th Plenary Session of the Central Committee of our Party, in the name of the Politburo and Secretariat of the Central Committee, I am reporting to you regarding the basic features of our activities in 1970, over the period that extends from the 18th Plenary Session of the Central Committee of the Vietnamese Workers Party [CC VWP] until now.

At this Plenary Session an assessment will be given of our victories in 1970. The past year was of enormous historical significance for our country, both in the North and in the South.[1] The Politburo met several times at the end of last year in order to analyze the situation over the preceding period. At these sessions it was noted that all our successes are the result of a correct Party policy. At the 18th, 19th, and now at the 20th Plenary Sessions of the CC VWP repeated emphasis was placed on the guiding role of the Party in the life and struggle of our people. Our people developed a patriotic spirit in 1970, continuing with great enthusiasm to carry out

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the socialist revolution in South Vietnam, Laos and Cambodia. The major victories achieved in all these theaters of military action are a service of our Party, our people. Over the past year we have achieved great successes in economics and other areas.

Along with this, at the 20th Plenary Session it will be necessary for us to discuss important issues related to our long-term activities, and reach decisions on these issues. As before, the main item of our activity must be carrying out revolution in both parts of our country. At the same time, a great deal of attention must be given to the revolutions in Cambodia and Laos. In my report I will deal with problems such as

- the situation in the party
- the situation in South Vietnam, Laos and Cambodia
- preparation for the next, Fourth VWP Congress.

1. SITUATION IN THE VIETNAMESE WORKERS' PARTY

In 1970 we attained many glorious victories and achieved significant successes in issues related to administering the building of socialism in the North, and carrying out revolution in the South. The issue related to the guiding role and activity of the Party in current conditions was one of the central ones during the past year. Much attention was given to it at the 18th and 19th Plenary Sessions of the CC VWP. It must be noted that a series of important issues in this plan was decided in previous Plenary Sessions, but some issues remained unresolved. At this Plenary Session we are continuing the discussion of all questions relating to the tasks and role of the Party in the current stage of revolutionary development in the North and South of our country. At this Plenary Session it will also be necessary for us to plan measures directed toward strengthening the guiding role of the Party, increasing its authority among the people, developing plans for long-term economic reconstruction in the D.R.V. and evolving the revolutionary struggle in South Vietnam.

In the past year of our Party it was necessary to decide complex issues of an economic, political and military nature. After Comrade Ho Chi Minh's death, many difficult problems demanding resolution presented themselves to our party's leadership. Demonstrating collective leadership, our comrades from the Politburo directed their efforts at solving these problems.

In 1970 we carried out very large-scale and important work, politically, militarily and diplomatically. In this regard the solidification of our Party's cadres was given particular attention, since this is a pledge and necessary condition for working out a correct policy and putting it into practice at the appropriate time. Overall in the past year we were successful in giving comprehensive attention to all party organizations,

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indicating deficiencies to them in a timely way. This resulted in a qualitative improvement in party ranks. There was significant strengthening in the ranks of our cadre workers who boldly carried the Party's ideas to the masses.

Along with this, it must be mentioned that of late in many Party organizations, Party cells and even in the central apparatus, we observe, as before, disorder and lack of unity, although to a certain extent these have diminished. In 1971 we will have to give considerable effort to restoring full unity in the Party. In order to achieve this, it must be our constant concern to increase the vigilance of all Party members. The unity issue in the Party, as before, will be one of the most important in the activities of all Party organizations. Without this unity, we will not have the strength to resolve any of the issues before us. If there is no unity in the central organs, then there will be no unity locally. And vice versa: the situation in lower-level Party organizations will have an influence on the central apparatus.

The contradictions that we have had from as far back as the 18th Plenary Session of the CC VWP have been manifested in a great variety of ways, and have a negative effect on our economic, political and military courses. Even at the 18th Plenary Session of the CC VWP, many comrades were not in agreement with the policy of our Party, and some of them continue to hold to their own positions. Therefore, at this Plenary Session it will be necessary for us to take active measures to eliminate all contradictions that still exist.

It is all the more necessary that we eliminate existing contradictions in that during its forty-year history our party has always been united, and this unity was what secured all our victories. If we wish to continue to be victorious and achieve still further successes, we must restore full unity in the Party.

Today, at the 20th Plenary Session of the CC VWP, the matter of Party unity is before us with particular urgency. We must resolve it in Leninist fashion. In order to eliminate conflicting opinions, it is essential to strengthen the collective leadership. Our Party is the ruling party and it possesses all the conditions to inculcate a single correct course. We are moving along the path of building socialism in the North and carrying out revolution in the South. Therefore, I must again repeat that the Party unity issue is an issue of first importance.

A number of comrades even in previous Plenary Sessions expressed disagreement with our policy on various issues: the role of the Party, forms and methods of Party work, and so on. However, under current conditions the issue of the Party's leading role cannot and ought not be discussed. From now on we should direct our efforts toward increasing the Party's

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authority among the masses. This will also serve the cause of strengthening unity within the Party.

In 1970 we had some major victories in military, political and diplomatic relations. We significantly strengthened Party ranks from the bottom upwards. Our line in the area of ideological development is the correct one, and it fully accords with the decisions made at the 3rd Congress. We may make bold to say that the 20th Plenary Session of the CC VWP is being conducted in a situation where our Party has been significantly strengthened in qualitative and organizational terms.

Along with this, there still exist forces that are bringing dissent into our ranks, attempting to deflect the Party from the true path. We must wage a decisive fight against them, increasing discipline and vigilance by every possible means in the Party, and increasing communist self-knowledge. We must root out any growths of opportunism, and destroy this harmful ideology in our Party. Restoration of Party unity will in large measure depend on eliminating all opportunistic tendencies. We have made good studies of examples of the fight against opportunism, since in every Party there is a stage at which opportunistic forces appear. These forces strive to break the unity in the Party, and force it to depart from the correct path. We have comrades who do not see opportunism as anything that threatens the Party. They consider that this is normal diversity of opinion, characteristic of any Party. This is a very superficial and dangerous point of view which can cause us to deviate seriously if it is not headed off in time. In short, we must purge the Party of everything that interferes with its carrying out its duties.

At present, the industrialization of the economy is a large and important task that is before us. If we achieve a restoration of Party unity, then we will carry out this task. We must determine in specific terms who is straying in regard to what, who is not in agreement with our general line regarding what, in order to determine the correct measures to combat all the deviations. We must know exactly who is daring to criticize our line, and decisively rebuff these individuals.

Along with this, we should check on how those who constantly subject our line to criticism are dealing with their own direct responsibilities. How are they providing leadership in the areas of economics, politics, and on the diplomatic front? Do they have sufficient grounds for the criticism directed at us? Are they acting in accord with the principles of Marxism-Leninism?

While rebuffing those that heap criticism on us, it is necessary to emphasize that our basic policy is correct. However, we, like all people, may permit mistakes. But these mistakes must be analyzed and eliminated, and we must not just occupy ourselves with criticizing them. These mistakes are not

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so major that they could have an effect on the entirety of our course. They are of a private nature, they are natural. For example, we permitted a series of errors in administering agricultural cooperatives. But overall, the cooperative movement in the country is developing normally; certain successes have been achieved in agriculture. We noted the mistakes in time and planned a specific path toward eliminating them. Thus, we make note of permissible errors and strive to prevent their repetition. Why do some comrades say that we are pursuing an incorrect policy in agriculture?

Marxism teaches that agricultural collectivization is an extremely important condition for development of a socialist economy. In any country where this issue is given little attention, there will be great difficulties in the economy. And in our country, where colonialists left us a heritage of a backward economy, this matter is particularly important. With all our effort we must develop agriculture, placing it on a collective basis. It will be necessary to develop a strong network of cooperatives in the entire territory of South Vietnam.

The cooperatives need to be provided with technology, which will ensure they will develop successfully. Our leadership is giving a great deal of attention to issues of cooperative farming, and is continuing to seek ways to boost agriculture. At the present time, cooperatives have been created in 78.8% of the farming regions of the DRV.

Agriculture has enormous significance in our country, because it supplies food to the North Vietnamese population and to the patriotic forces of South Vietnam. In addition, we must do our international duty by helping patriotic forces in Laos and Cambodia, which also implies large expenditures. Therefore, administration of agriculture on the part of the Party must be precise, logical and comprehensive.

Many comrades do not understand this, and criticize our policy in the area of agriculture. They criticize us in general terms, and do not get specific about what mistakes have been permitted and how they are to be corrected. I wish once again to repeat that no one is insured against making mistakes. In a number of instances we permitted failures, and in some areas not everything is working out favorably with cooperative farming. We know about the mistakes that have been allowed to happen, and we are taking measures to correct them in a timely way. We have been occupied with agricultural cooperatives for a long time. A lot of attention was devoted to them at the 15th, 16th and 17th Plenary Sessions of the CC VWP. The D.R.V. is a major rear-echelon area for South Vietnam; therefore, development of agriculture in the North will do much to promote our successes in the South.

We would have had even more difficulties if it were not for

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the help from brotherly socialist countries, which permits us successfully to restore agriculture.

The Politburo and Secretariat are unflagging in their efforts to monitor the work of all the organizations that relate to agriculture. They have given instructions to scientific organizations to actively participate in boosting agriculture.

Once again I wish to emphasize that the administration of the Party by the Politburo and Central Committee is correct. Our Party is a Marxist one, and therefore we are capable of noting, analyzing, admitting and correcting our mistakes. We do not fear our errors; we fear something else: division in the Party. At present there is a dispute about whether our Party's course is correct or not.

Overall we are providing correct guidance to the economy, and are correctly conducting external and internal policy. But our comrades still have deficiencies in their working methods, which creates certain difficulties for us. These difficulties, however, are not insurmountable. The mistakes, in the main, are not crucial ones. The matter of mistakes and inadequacies is very important, and we must discuss it in detail, in order to select the correct path toward eliminating all deficiencies.

For a long time many comrades have been speaking out against our basic policy in agriculture. As a result of this, a struggle is going on constantly in our Party leadership. This started as far back as the 17th Plenary Session, continued in the 18th, and reached its height in the 19th Plenary Session of the CC VWP.

Of those present here, many comrades are not in agreement with our policy. What do they want? What route do they wish to go? How to resolve the growing problems? We consider that this is factional, revisionist activity.

In the forty years of our Party's history, there have never been such strong disagreements. We are the ruling party, and in order to carry out our functions in administering the national masses, we must above all be united.

In 1970 the Politburo undertook the major task of combating opportunism and other deviations, against all the opponents of our economic and military policy. We feel that our military policy in South Vietnam is absolutely correct. Our course in Laos and Cambodia is also correct.

This conclusion is based on an analysis of conditions. If we conduct a fight only in South Vietnam, we will encounter great difficulties. The more than one-million-man-strong army of the American aggressors and their stooges is a large force, and dealing with it will not be all that easy. All the more since all of this force is concentrated in one place - South

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Vietnam. We are experiencing great difficulties at the fronts, and opportunism in the military leadership is going to compound those difficulties.

Revolution in South Vietnam is currently entering its final stage, the stage of military victory. We must not overestimate the enemy's forces, but we have no right to underestimate them. The enemy's forces are very large and in a military sense we are weaker than they. Therefore we must carry out a people's war strategy. Our military forces are not large; we have insufficient modern weapons to fight a war effectively. Meanwhile, the U.S.A. has enormous military and economic potential. Therefore, we must not fight open battles against the enemy's strong army. However, we are achieving victories, and these victories are the result of a struggle by the entire people.

Along with this, in order to achieve victory at the front, we must accompany our armed struggle with a diplomatic struggle. We must recall the words of Ho Chi Minh: "We must achieve complete victory over the American aggressors." This precept of our leader can be carried out only when there is unity in the party. Therefore, we severely judge all opportunists who interfere with our moving toward victory.

We severely judge those who intend to solve the Vietnamese problem only militarily, who wish to invade South Vietnam with an army 2,000,000 strong and fight there without interruption. Do we have enough human resources? Yes, but we do not have a necessity to create such large-scale military forces in order to solve the Vietnamese problem militarily.

We need to remember that we have already borne significant personnel losses, and that we are constantly losing people. Therefore, we ask all those who are criticizing our policy: do you want still greater personnel losses?

We are obligated to, and we must, carry out Ho Chi Minh's precept. But we will have to do this not in an unthinking manner, and not allowing huge personnel losses. We must consider three forms of struggle: military, political and diplomatic.

Of course, in South Vietnam we do have the option of concentrating a large number of divisions in more important sectors and surrounding the enemy in those areas. But does it make sense to do this, when the enemy has enormous firepower? No. The lives of our warriors are dear to us. We must analyze with the greatest care and weigh every step. Once again I emphasize that our military policy is correct.

But what do the opportunists want? They wish to introduce foreign troops onto our territory[2] and move along with them to occupy Laos and free South Vietnam. But we cannot and we ought

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not to go this route, as this policy will result in unheard-of losses for us.

Our victories are great ones. But we must not forget that these victories cost us a great deal. The military aspect of the struggle is very important. But we will be on an incorrect course if we overestimate it, resulting in renewed personnel losses. If you recall, during the Tet offensive and the general uprising in January-February 1968, we lost about 100,000 people. And if we organize such offensives twice each year, then how many people will we lose?

Therefore, we must not try to break the enemy with a single blow. It is necessary to conduct a lengthy conflict, exhausting the enemy's forces, destroying him piece by piece. Simultaneous with this, we are required to activate a struggle on the political and diplomatic fronts.

Such is our point of view on the military issue. If we are not united on this matter, then we will not be victorious. Can it be that our military policy is not understandable to some comrades? In that case, we ask them to think over this policy once again, and they will understand that our military policy is correct. We can be proud that we are carrying out such a policy.

Despite the fact that we did not mount any major offensives in 1970, we did succeed in achieving large victories, destroying significant numbers of the enemy. Along with this, we avoided large losses on our side. This is also a great victory for our strategic policy.

Now, another matter. When we published the names of 368 American pilots who were shot down and taken captive in the territory of the D.R.V., the opportunists began saying that this was a concession to the Americans. This is not so. This was no concession, but rather a blow to Nixon in the political sense. By this means we achieved a lot. The opportunists also say that we are moving toward concessions to the Americans and toward negotiations in Paris. This is also not true. Our course in the negotiations is the right one.

Thus, overall we are pursuing the correct line, although we have permitted some mistakes to be made. But the opportunistic political faction is grasping at these small mistakes in order to show that the whole policy of our Party is erroneous. Its members say that we fear difficulties and losses. This is not so. We do not fear difficulties and losses, but one other thing must be allowed for - our people already have been conducting continuous armed conflict for 25 years. During that time, very many people have perished. If we truly feared difficulties and losses, as the opportunists maintain, we would not have started an armed conflict against the Americans. But one must see the connection between the victories and the losses, and objectively

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assess the situation.

Naturally, we have had mistakes in military policies in South Vietnam, Laos and Cambodia, in policies of economic development in the D.R.V., in policies related to boosting the well-being of the populace. We are particularly concerned about improving the people's living conditions. One must allow for the fact that our options are limited in this area, and therefore this problem has not yet been solved. But along with all other factors, it is the opportunists who interfere with our solving it.

We clearly see all the errors of the opportunistic faction, and at this Plenary Session, having analyzed their views with the greatest care, we are doing decisive battle with them. We leave them the right and option to recognize their mistakes and correct them. Then they again will be able to serve the Party and the people.

Comrades! In the past year the Politburo and Secretariat of the CC VWP have done major work in administering the Party as regards building socialism in the North and conducting a struggle for liberation in the South. By our victories we are obligated to the creative leadership on the part of the Politburo. With this leadership and our determination to chase the American aggressors out of Vietnam, we are sure to achieve still more major victories.

It will be necessary for us to direct still greater efforts at the long-term development of socialism in the D.R.V., and developing revolution in South Vietnam, Laos and Cambodia. Along with this, it is necessary to fight decisively against all manifestations of opportunism in the Party, and achieve full unity in it. This is our main task for the period directly ahead.

2. SITUATION IN SOUTH VIETNAM, LAOS AND CAMBODIA

In 1970 we continued the military successes achieved in 1968 and 1969 in all theaters of military action. Along with this, in 1970 an aggravation of the situation in Indochina was noted, resulting in a revolution in Cambodia and an incursion of American and Saigonese forces into its territory.

The situation was tense in South Vietnam in 1970. By their actions the Americans showed that the U.S.A. does not intend to leave South Vietnam. However, pressured by public opinion, the Nixon administration was forced to remove part of their forces from there. Several other countries who are participating in the war against us were also forced to act in this way.

During the past year, the Americans were busy with making their "Vietnamization" plan a reality. This consisted of transferring to the puppet forces the task of fighting against

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patriotic forces. Thus the Americans have put into practice the principle of "using Vietnamese to kill Vietnamese," "using Asians to kill Asians."

The U.S.A. began "Vietnamization" with the Mekong River Valley. There they intend to create a base for developing "Vietnamization" in other areas. It was not by chance that the Mekong River Valley was chosen. This area is rich in rice, feeding all of South Vietnam with this basic product. If the Americans and their puppets do not have a strong base in the Mekong River Valley, they will encounter great economic difficulties, which will be reflected in the course of military operations. Therefore, they have concentrated great forces in this region to hold it firmly.

We, for our part, have undertaken significant efforts to thwart Abrams's intentions, and overall we were successful in this. The Americans and their puppets suffered large losses in the Mekong River Valley, and were not able to put their "Vietnamization" plans into effect. In addition, in 1970 the Americans were forced to disperse their forces and move a part of their troops into Cambodia, thus creating additional difficulties for themselves.

Overall, the Americans suffered a defeat in inculcating their plans to "Vietnamize" the war.

The main efforts of our troops in 1970 were concentrated in the Mekong River Valley, in the Saigon area and in the northern part of South Vietnam. In all these areas we inflicted significant losses on the enemy.

Along with this, in 1970 we encountered significant difficulties. These difficulties mainly resulted from the incursion of American and Saigonese forces into Cambodia. The enemy succeeded in seriously disrupting our transportation system on Cambodian territory, which affected the supplying of our troops in South Vietnam.

At present, Abrams is developing new plans to conduct military operations against us during the dry season of 1971, and also for further "Vietnamization." But these plans of the enemy will also meet defeat, since we are strong. As before, we must direct our efforts at defeating the plans for "Vietnamization" of the war, and inflicting maximum losses on the enemy in live forces and military supplies.

The South Vietnamese theater of military actions continues to remain the basic one. We must give it our main attention. Therefore, in South Vietnam we intend to concentrate large-scale forces and direct powerful strikes at the enemy. Comrade Chan Van Kuang will report to you in greater detail regarding our plans in South Vietnam.

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I wish only to say a few words regarding the Americans. Abrams made a big mistake by making an incursion into Cambodia. He soon realized this, and the Americans were forced to pull their troops out of there, leaving puppet troops in Cambodia. Since the Americans and the puppets are using significant forces in Cambodia, favorable conditions have been created for us in South Vietnam. Later on even the Americans, including some prominent military figures, expressed the opinion that introducing U.S. forces into Cambodia was a mistake, and that the Americans in South Vietnam suffered a defeat. We have spoiled the Americans' plans to "Vietnamize" the war. Now it is appropriate to make efforts to consolidate and further develop the successes achieved. At the present time, the situation is moving into a favorable direction for us. The enemy is experiencing significant difficulties, militarily, politically and diplomatically.

1970 was a year in which we undertook large-scale military offensives. It was still another evidence that our Party is providing correct leadership in regard to solving the Indochina problem. It is necessary to note, however, that in South Vietnam in 1970 we had serious failures. In certain areas we suffered large losses in manpower. Over 10 years of armed conflict in South Vietnam, we have lost 410,000 people, including 230,000 killed or missing in action.[3] In 1970 we lost 100,000 people. The majority of personnel losses were suffered as a result of bombing and artillery fire of the enemy.

In 1970 we met with serious difficulties in supplying our troops with weapons, ammunition and food, since the enemy conducted continuous bombings of our transport lines in Laos, Cambodia and South Vietnam. Not having the option of using previously built transport routes, in 1970 we opened a new supply route in the area of the Chiong Shon Mountains.[4] By this means we can carry out deployments of personnel, weapons and food to all theaters of military action in Laos, Cambodia and South Vietnam.

In 1970 the enemy continuously inflicted blows on our home supply bases, fearing an offensive by us toward the sites of highest priority to us. His assumption that we have large-scale concentrations of troops in rear-echelon bases was correct. We do in fact have large potential possibilities to strike blows at enemy sites. But the enemy's attacks on our home supply bases did significant harm to personnel and equipment, and complicated our offensive efforts.

Supplying our troops in 1970 was additionally made difficult by the fact that earlier we could use the sea route, while after the uprising in Cambodia, we were deprived of this option.[5] In addition, we intended to carry out a part of our deployments by air, using airfields in Cambodia for this. But for now we have not decided to do this, fearing that our aircraft will be attacked and shot down by American aviation.

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Therefore, at present, as before, we continue to deploy on land through Laos. And right now we still have significant difficulties in deploying personnel, weapons, ammunition and food.

In 1970 the amount of weapons, ammunition, military hardware and food deployed to the fronts in South Vietnam, Cambodia and Laos came to 273,000 tons, while in 1971 we are continuing to deploy more than 300,000 tons of loads just to South Vietnam. This volume is very great, and in order to convert our estimates into real life, we are going to have to labor strenuously and seriously. We must mobilize significant forces to carry out this assignment.

If we succeed in 1971 in spoiling the enemy's plans for "Vietnamization" of the war and "pacification" of the South Vietnamese populace, we shall consider that we have scored a huge victory. Overall, all our successes in 1971 will depend on solving supply problems. Reports on that matter will be given by comrades from the CC Military Division and the Vietnamese People's Army [VPA] command in South Vietnam.

Along with solving the problem of home-base supplying of our troops in South Vietnam, we must discuss the issue of the quantitative makeup of VPA troops assigned for use in the South. At the present time, eight divisions of our regular troops (overall total of 110,000 men) are in South Vietnam, participating directly in military actions. In 1971 we expect to increase the number of our regular troops there to 200,000 men. Allowing for this, the overall number of People's Liberation Forces in South Vietnam is 430,000 men. In order to send 200,000 more men to South Vietnam, we are going to have to do an additional mobilization. But in that case we will have to reckon that if the U.S.A. resumes bombing of the D.R.V., we will have to have a sufficient quantity of troops in North Vietnam to deflect these blows.

Thus, we must be able to ensure the South's needs for troops, and the North's needs for defense. If we can be sure that the Americans will not resume bombing of the D.R.V., then we can direct all our efforts at carrying out revolution in South Vietnam. At the moment, however, we have no such assurances, since the enemy periodically carries out bombing raids in several areas of the D.R.V.

To conduct the fight successfully in the South, we must answer two questions: regarding the numbers of our troops used there, and supplying them. The Politburo and Central Committee of our Party is giving a very great amount of attention to these two issues, in order to decide them in the shortest time possible. However, as I have already said, we are encountering great difficulties. To overcome these difficulties we must apply a very great effort. We must recall that 1971 for us will be a year of decisive victories. It will be a difficult year.

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We know very well that the enemy has major advantages over us: aviation, modern weapons and military technology. We must counteract him with our ability to conduct a people's war. As I have already told you, Comrade Chan Van Kuang will report to you on this in detail, on behalf of the CC VWP Military Section and the VPA Command in South Vietnam.

In addition, the enemy has available large-scale diversionary forces which constantly strike blows at our home-supply bases in South Vietnam, and also are active in the D.R.V. These forces represent a great danger to us; their activities bring great harm militarily and politically. We must devote the most serious attention to rebuffing the enemy's diversionary forces.

To conduct a long-term revolutionary struggle in South Vietnam, we must enlarge our material and personnel resources. Therefore, it will be necessary to carry out an additional mobilization among the North Vietnamese population.

Thus, the basic problems in South Vietnam are deployment and the human resources issue. We must do everything to solve these two largest problems. It is from this that is derived the need to increase rear-echelon defenses and, most importantly, the major supply rear: North Vietnam. The Americans and their puppets are making greater and greater efforts to destroy our home bases, depriving us of material and human resources. Abrams understands very well that if he succeeds in inflicting a knockout blow to our home-base rear, he will achieve an enormous advantage in the theater of military operations.

Our losses from enemy aircraft are great. But nonetheless, the enemy does not have the strength using only aviation to cause us sufficient harm to have ruinous consequences for us. But if the enemy, using his diversionary forces (as well as other troops) should undertake an offensive into the North, we will suffer great loss. Therefore, we must increase our vigilance, and rebuff all the aggressor's machinations. In our opinion, the enemy could undertake such an incursion by land-based forces and marines with powerful support by aviation and the navy. We imagine that the enemy will not try to invade the entire territory of North Vietnam, but only those areas where important transport routes run that lead to Laos, Cambodia and South Vietnam. Along with achieving his military goals, the enemy reckons that the incursion will apply political pressure on us, demoralize the people, and force them to refuse to fight for the liberation of the South.

Now I wish to devote some time to yet another issue: the captured American pilots. The overall number of American pilots imprisoned in the D.R.V. is 735. As I already stated, we published the names of 368 pilots. This is our diplomatic move. If the Americans agree to withdraw their troops from South Vietnam, as a start we will return these 368 men to them. And

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if the Americans do withdraw their troops, we will turn over the remaining ones to them. The matter of imprisoned American pilots, in view of what was said earlier, is of very great significance for us.

Overall, speaking of the situation in South Vietnam, I wish to emphasize that it is very favorable for us, although we are encountering significant difficulties. We try to do everything that depends on us to achieve even greater successes in South Vietnam.

After the reactionary revolt of March 18, 1970 in Cambodia, and the incursion of American and Saigonese forces into its territory on April 30, 1970, the situation became more complicated for us. At the present time, we have more than three divisions of our troops on Cambodian soil. The enemy in Cambodia is strong and we must exert significant efforts in order to attain an advantage there. Cambodia for us is a very important region, and the development of events in South Vietnam depends in large measure on the situation in Cambodia.

The enemy has no intention of yielding the initiative to us in Cambodia. The Americans have concentrated significant contingents of puppet South Vietnamese troops there. Following its policy of "Vietnamization" of the war, the American high command wishes to ensure itself of success in this area. Therefore, it is doing all it can not to allow penetration of our troops into South Vietnam. A particularly dense covering force made up of puppet troops has been created along the entire border between South Vietnam and Cambodia, where more than 50 battalions of Saigonese troops are concentrated. That is a great force.

On the other hand, it must be noted that the Americans and their puppets, having started the aggression in Cambodia, have gotten bogged down there. The American high command, after a series of defeats, was forced to remove its troops from Cambodia, but for now they have allowed South Vietnamese troops to remain there. In our view, at the present time the Americans have no opportunity to expand aggression once more in Cambodia. If they attempt to do this, they will bog down even deeper in war.

According to the Americans' calculations, the task of puppet South Vietnamese troops in Cambodia is to ensure the success of "Vietnamization" of the war, and also to help Lon Nol to fortify the reactionary regime in the country.

At the present time Lon Nol is in control of only some of the cities. As for the farming areas and the strategically significant roads, they are under our control. We have succeeded in isolating Pnom Penh from other areas of the country, and have cut Route 4 from Pnom Penh to Sihanoukville. This road is very important to the Lon Nol government; the

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Cambodian capital is supplied via it.

As a result of our decisive actions in the Pnom Penh area, a threatening situation has been created for the enemy. The enemy tried to mount a counterattack on Routes 3, 6 and 7, but we did not allow them an opportunity to do this. The large-scale operation begun by Lon Nol's forces in the fall of 1970 came to naught, and Lon Nol was forced to withdraw his forces from Pnom Penh.

Presently Lon Nol is preparing to go on the counterattack and seize a number of important strategic areas that are under our control. However, the enemy is encountering significant difficulties in implementing his plans. These difficulties were not eliminated even after the Americans thrust in Saigonese puppet troops to aid Lon Nol. The enemy's situation in Cambodia is deteriorating with each passing day.

Our base areas in Cambodia have been considerably strengthened and enlarged of late. Here we have a strong concentration of our troops, more than three divisions, as I already said. These forces suffice to carry out successful military actions.

We must devote great attention to Cambodia, since in large measure our successes in South Vietnam will depend on how effectively we operate in Cambodia.

We feel that the main efforts should be concentrated on surrounding Pnom Penh and isolating it from other areas of the country. Capturing Pnom Penh, as was intended earlier, is not appropriate. It is sufficient to surround it and mobilize the masses of the people to revolt and overthrow Lon Nol's regime.

The matter of Cambodia is very important. To resolve it successfully, we must increase our military efforts and our material aid to local patriotic forces. Just as in South Vietnam, what will ensure successes in Cambodia is uninterrupted supplying of troops. If we have defective deployments, we will encounter very great difficulties.

We must strengthen the revolutionary base in Cambodia and lead this country along the road to socialism. That is our Party's policy.

The situation in Cambodia favors us. The Americans are experiencing defeats. We must do our duty and help the Khmer people to throw off their puppets. For this, we must increase the number of our troops on Cambodian soil to 70,000. Along with patriotic Cambodian forces, the overall number of the liberation forces will amount to 140,000 men. These forces will be fully sufficient to defeat Lon Nol's army of slightly more than 100,000. We must achieve victory over Lon Nol, because all of our failures in Cambodia will have a negative impact on

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military operations in South Vietnam.

Overall I can report to the Plenary Session that we have achieved significant successes in Cambodia. Not long ago I met with the leaders of the patriotic Cambodian forces. They highly value our assistance and welcome all measures that we undertake for the purpose of overthrowing the puppet regime of Lon Nol.

Expanding the scale of military actions in Cambodia, the Americans hoped that we would no longer be able to operate successfully in South Vietnam, deprived of base areas on Cambodian soil. But their calculations turned out to be unjustified. In addition, the Americans themselves encountered great difficulties and were forced to remove their troops from Cambodia, back to South Vietnam.

Thus I can say that militarily and politically we have a great advantage over the enemy in Cambodia.

In Laos, the situation becomes more complicated each day. Souvanna Phouma has gone over completely to the pro-American position. The Americans are concentrating efforts with the purpose of attacking liberated areas and capturing key positions. Following a series of successful operations by us in 1970, the Americans are concerned about the fate of their puppets. They were forced to yield Saravan, Attope and several other important regions to us. They strengthened Vientiane's defenses, fearing that we might capture it. The Americans increased air strikes directed at our rear-echelon bases, so as to deprive us of a chance to attack. They concentrated a large aviation force in Thailand (including B-52 bombers), using which they expect to inflict powerful blows. These are far-reaching plans, but, in our opinion, the Americans will not be able to carry them out.

One very important region, both for us and the Americans, is Sieng Kuang, and therefore the situation in that area will constantly remain tense.

At the start of 1970 we had about 50,000 men in Laos. But after the incursion of American and Saigonese forces into Cambodia, we were forced to redeploy some of our forces there. However, despite the fact that our forces in Laos were reduced, we succeeded in achieving a series of convincing victories over the enemy.

At the present time we are experiencing significant difficulties in Laos. But it is essential that we attain victory there over the enemy, which will reflect positively on the situation in Cambodia and South Vietnam. As in South Vietnam and Cambodia, in Laos we are having great difficulties in ensuring deployment of troops and supply items. If we solve this problem, we can carry out effective military actions on Laotian soil.

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Thus, the situation on all fronts is favorable for us, but along with that we are experiencing considerable difficulties everywhere. In part they are caused by objective conditions, and in part they are the fault of certain military leaders who allowed serious mistakes to be made in their operations. For example, many comrades are expressing disagreement with our policy in Laos. They feel that it is necessary to solve the Laotian problem militarily as quickly as possible. This is an incorrect point of view. The problem of Laos is very complex and the need is to approach its solution rationally, without haste.

Not long ago we had a three-sided meeting with Cambodian and Laotian leaders. At this meeting we discussed measures for long-term coordination of efforts in the battle against the American aggressors and their puppets. We came to the general conclusion that the situation in Indochina is developing to our benefit, and that we are capable of fighting successfully against the enemy.

That conclusion refutes the viewpoint of the opportunists who call for a summons for help from foreign governments. Why drag foreign troops into Indochina? Our opinion is that there is no need for it. We feel that introduction of foreign troops, and their participation in military operations in any of the countries in Indochina will only complicate the situation, bringing us no benefit. We ourselves must deal with the enemy. For that it is essential to improve the management of troops, regulate supplies, increase the responsibility of every communist for the business entrusted to him, try to eliminate the consequences of old errors, and not permit new ones to be made.

We must adjust the close interaction between theaters of military action in South Vietnam, Laos and Cambodia. This will bring us success. We must strengthen and further develop the successes achieved, and achieve new victories.

3. PREPARATION FOR THE 4TH VWP CONGRESS AND INTERNAL PARTY TASKS

Recently the Politburo of the CC VWP issued a directive to the Secretariat to create an organizational committee whose job is to prepare for the 4th Congress of our Party. At the recent expanded Secretariat meeting we discussed issues related to preparation for the Congress.

Today, on behalf of the Politburo and CC VWP Secretariat, I shall report to the Plenary Session on the process of preparation for the Congress.

Ten years have passed since the 3rd Congress of our Party took place. Under wartime conditions we did not have any opportunity to hold the next Party Congress. Now, in our

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opinion, the time has come to hold a Party Congress. To ensure its success, it will be necessary to complete major work in lower-level party organizations. Now I will devote some time to details of issues of preparing for the Congress.

The Politburo has made a decision to create an organizational committee for preparation for the Congress with the following makeup:

1. Le Zuan - committee chairman
2. Chiong Tin - deputy chairman
3. Pham Van Dong - deputy chairman
4. Pham Hung - deputy chairman
5. Le Duc Tho - committee member
6. To Hiu - committee member
7. Hoang An - committee member
8. Suang Thui - committee member
9. Le Van Liong - committee member
10. Chan Van Kuang - committee member

If the proposed candidates are approved at today's Plenary Session, then the organizational committee will commence its work at once.

We assume that at today's Plenary Session it will be necessary for us to examine those issues which will be included for discussion at the Congress. This issues include the following:

First, the matter of the account report at the Congress. We believe that this report will be ready by March 1971. Comrade Le Zuan will compile the report.

Second, changing several articles in the charter of the VWP. This is a very important matter, and it must be discussed very thoroughly.

Third, regarding the activity of the Communist Party in South Vietnam. We regard it as appropriate to announce openly in the press that the two Parties have merged, the VWP and the Party in South Vietnam.[6]

Fourth, regarding unity of action of the three Indochina Parties: the Vietnamese, Laotian and Cambodian ones.

And finally, issues regarding the foreign policy course of our Party, and elections of Party leadership.

After all these matters have been discussed at the Plenary Session and specific decisions have been made on them, the Politburo will determine when the Congress will be held.

The issue of holding the 4th Congress is extremely important, and we must prepare with the greatest care for it. Every issue must be studied and discussed thoroughly. If we do not think through each issue properly, this will have a negative impact on the efforts of the Congress.

But before the Congress it is critically essential that we settle the matter of some comrades' opportunistic activities.

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This is a very important matter. All the victories we have achieved are the result of correct policy on the part of the leadership of our Party, with the decisions of the 3rd VWP Congress having been translated into real life creatively and consistently.

Of late in our Party there have arisen opportunists who are interfering with our going along the path indicated. There are not many of them, but they are dangerous. The opportunist faction does great harm to our Party. I have already reported to the Plenary Session that there is disunity between us and the opportunists. Opportunists speak out against our agrarian policies, our military policy, and the foreign policy line of our Party.

We feel that the foreign policy of our Party is correct. Our Party is independent. It depends on no one, neither on large nor small parties of other nations. We have our own program, our own way that we are going, holding high the Marxist-Leninist banner. There is nothing unclear in our foreign policy.

Because the U.S.A. has undertaken aggression against us, we are forced to request aid from brotherly nations and parties, in order to fight still more successfully against the American invaders. We have some disagreements with other brotherly parties, mainly relating to Marxist-Leninist theory issues. In numerous meetings with representatives of those parties with whom we have disagreements, we have presented to them our point of view on many issues of Marxism-Leninism. The goal of foreign policy efforts at the present time is to promote reestablishment of unity in the international communist and workers' movement.

Many comrades do not understand our policy and criticize us for our position in relations with China and the Soviet Union and on other issues. In particular, we do not feel that the present leaders of the Soviet Union are revisionists, or that they threaten the unity of the international communist and workers' movement. As for China, we agree on the need to carry out a "great proletarian cultural revolution," but are not in agreement with the methods of carrying it out. Some comrades also criticize us for this disagreement.

One needs to consider that if, under present conditions, we do not have, and will not have, a united viewpoint, we will encounter great difficulties. Therefore, I wish to repeat what matters it is on which we have disagreements.

First of all, regarding the collectivization of agriculture. What route to take? Take the route we have already chosen, or another route? We feel that the route selected is the correct one. If we do not demonstrate flexibility in solving problems of cooperation, we will not be able to revitalize agriculture. This ought not to raise doubts.

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But if we go the route of creating large cooperative enterprises, we will not solve the problems facing us. In order to create large enterprises, technology and mechanization are needed. But at the present time we cannot provide cooperatives with large-scale agricultural technology. Big cooperatives need electrification, and right now we cannot supply electric power to all of the cooperatives.

We are following the path of peasant collectivization. But this needs to be done skillfully, having beneath one's feet a solid base and appropriate conditions.

But for now we do not have these conditions. We must still do much work in order to create a solid base for collectivization of agriculture and creating of large-scale cooperatives.

Secondly, regarding the matter of relations with Cambodia, China and other brotherly parties such as those of Rumania and Poland: Comrade Le Van Lyong will report to you in greater detail on this.

But I in my report wish once more to emphasize that the existence of opportunistic tendencies in our Party will do us much harm. The opportunists speak out against our policy. We feel that before the Congress it will be essential to work with comrades who do not understand our policy, and explain their mistakes to them, so that they will realize and correct them.

We feel that it will be necessary to decide the issue of contradictions in the Party on the basis of principle. In connection with that, at this Plenary Session we must discuss the following four questions: regarding the reasons why deviations arose; regarding ideological battle against opportunists; the results already achieved in this struggle; and regarding several organizational measures directed toward re-establishing unity in the Party.

Disharmony in our Party plays into the hands of the enemy. It is an urgent priority for us to eliminate the existing contradictions and carry out a decisive campaign against the opportunists; otherwise a threatening situation will be created in the Party.

I can cite many examples which show the harm caused to us by the opportunists. For one, many of the senior military leaders that belong to the opportunist faction do not carry out orders by their superiors, which has a negative impact on the conduct of military operations. For example, after the American and Saigonese forces invaded Cambodia, the Politburo decided to use large-scale forces to strike a blow against the enemy in the Tay Ninh area, in order to protect our troops that were operating in Cambodia. But the military leaders in that region held differing opinions, and their actions, which contradicted

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those of the Politburo, created significant difficulties for us and lowered the effectiveness of our armed forces' actions. We subjected these comrades to severe but just criticism; but a favorable moment was allowed to slip away. This is a very obvious example of what serious consequences can result from such actions.

At present 16 members of the CC VWP are numbered in the opportunist faction. They constantly criticize our Party's policy. Some of them distribute published works in which they expound their opportunistic views. This does great harm to the Party. In addition to criticizing us, they do not carry out instructions and directives of higher authority.

The Politburo and Secretariat of the CC VWP has exerted much effort to get these comrades to understand and admit their mistakes. As far back as before the 18th Plenary Session of the VWP, we held many discussions with these comrades, showing them their errors; some of them admitted they had been wrong. However, many continued to defend their erroneous views at the 18th Plenary Session. They spoke out against Plenary Session decisions, and by their actions they continued to cause harm to the Party. With each passing day they made new mistakes, moving along a path of factional activity and by doing so violating the unity of our Party.

At the 19th Plenary Session, the factional activity in the Party reached its height. The opportunists continued to speak out against our policy. In particular, Le Liem and a number of others spoke out against the policy of the Party in the sphere of culture. We feel that the creativity of those among us who produce literature and art should reflect the heroism of present days, the self-sacrificing struggle of the Vietnamese people against the aggressors and the splendid work at the front of agricultural reconstruction. It should dramatize our successes and summon us to overcome difficulties. But not everything is done as it ought to be, and many comrades feel that in literature and art all is well.

We must subject these comrades to the severest possible criticism, because under present conditions literature and art play an enormous propagandistic and educational role. If we are not timely in showing these comrades their errors, then they will go even further in their delusions.

Thus, we are faced with some large assignments in combating all deviations, and all opportunistic tendencies. We must carry on the fight not only in the central apparatus, but locally as well. We consider it to be appropriate that all the CC secretaries be assigned to regions for which they are responsible. Then we will be able to increase control of all party organization activities.

Overall I must note that at the present time we are faced

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with great difficulties that must be overcome. There are many unresolved issues related to principle in the internal life of the Party. Therefore, we ought to strive to have every communist, every leading worker increase his responsibility for the work entrusted to him, exerting all his efforts to do his revolutionary duty.

Under present-day conditions, internal Party work has greater significance with every passing day. Each Party cell, each Party organization, Party committee, must be permeated with the high revolutionary spirit, clarifying to themselves our course and actively converting the Party's policy into real life.

Any individual who disagrees with us on something may openly express his opinion. We will hear him out, discuss his point of view and accept it if it turns out to be correct, or else show that comrade how he has erred.

We must exert every effort to obtain victory over the enemy throughout the entire Indochina peninsula. We must strike blows against the Americans until they withdraw all their troops from this region. We must destroy the puppet forces of South Vietnam, Laos and Cambodia. The peoples of Indochina must be free and in close friendship. Having closed ranks, we will commence the building of a new life. And for this, I repeat again, it is essential that there be unity in the Party. We must restore it, or otherwise we not only cannot complete our tasks; we will suffer great harm.

We must follow the precepts of Ho Chi Minh, operating in Marxist fashion. We must restore unity in the Party based on principle. It is essential that we eliminate all the consequences of errors and obviate the chance they will be repeated or that new failures will be permitted. We must conduct a battle on all fronts - military, political, diplomatic, and ideological - against the enemy and against opportunist elements within the Party. This will require very great force, but we will achieve success.

Once again we must talk with the 16 comrades who do not agree with us on any issues and show them their errors. If we do not work out this disharmony in time, it will emerge into the open and become accessible to wide-spread publicity. A few days from now these 16 comrades must present to us written explanations of their positions and then we will decide how to deal with them.

The following comrades belong to this group: Le Liem, Nguyen Khan Toan[8], Ha Hui Zuap[9], Bui Cong Ching[10], Nguyen Van Vin[11], Song Hao[12], and a number of others. They all affirm that our Party's policy is incorrect. Naturally, any member of the Party may freely express his opinion, but their behavior passes all boundaries of free expression.

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At this 20th Plenary Session we will not move toward compromise with them, as was done at the 19th. We will engage them in decisive combat.

We simply must achieve full unity in the Party and leadership. It is particularly important to eliminate disharmony right now, when we are intending to issue a summons to a 4th Congress of our Party. We must come to the Congress with unified opinions on all basic matters.

I think that we certainly will achieve successes, both in restoring Party unity and in battling against the American aggressors and their puppets.

In the brochure there are 29 pages of text RRSS/I-268, a title page and cover order no. 00/119.

FOOTNOTES

1. What is meant are the D.R.V. and South Vietnam [note by GRU].

2. Probably what is meant are Chinese troops. The possibility of bringing them into the D.R.V. was discussed numerous times [note by GRU].

3. According to American data, People's Army losses in South Vietnam from 1961 to 1971 totaled about 700,000 killed [note by GRU].

4. The Chiong Son Mountains are located in the central area of South Vietnam [note by GRU].

5. Before the revolution in Cambodia, the D.R.V. used the port of Sihanoukville [note by GRU].

6. It is apparent that what is meant is the People's Revolutionary Party of South Vietnam, which in effect is the South Vietnamese branch of the VWP and manages the activities of the NFO [note by GRU].

7. Candidate for membership in the CC VWP, assistant minister of education [note by GRU].

8. Candidate for membership in the CC VWP, director of the Academy of Social Sciences of the D.R.V. [note by GRU].

9. Member of CC VWP [note by GRU].

10. Candidate for membership in the CC VWP [note by GRU].

11. Candidate for membership in the CC VWP, lieutenant general, chairman of the committee for unification of the country [note by GRU].

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12. Member of the CC VWP, lieutenant general, head of the Main Political Administration of the Ministry of National Defense of the D.R.V. [note by GRU].

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