

~~SECRET~~

1771

(b)(3)
NatSecAct

the reliability and objectivity of RA analysis. One of Senator Smith's objectives in seeking an intelligence estimate on the issue was to gain an independent IC review of the Russian documents, followed by an independent analysis of the numbers of POWs held by Vietnam. Neither the NIC nor other members of the IC conducted such an independent review and analysis. Instead, they accepted the IC assessment of 1994 as the basis of their review of the Russian documents, and they accepted DPMO's analysis of the numbers of POWs held by Vietnam.

(b)(3) NatSecAct *DPMO Withdraws from Process*

[] DPMO leadership decided that it would not participate formally in the estimate process because of challenges to its ability to produce objective analysis. When the estimate was proposed, the DIA official with responsibility for the issue told the Acting Director, DPMO that DPMO should draft the estimate because DIA did not have the capability. The Acting Director declined, arguing that, if DPMO were to take the lead, the issue would quickly become political. He said DPMO would cooperate by providing information and support as needed; by remaining uninvolved, he argued, DPMO would benefit from an outside, objective review that would test its analysis. Thus, the organization that was the repository for information on POW/MIA matters and had the main corps of analysts dedicated to the issue was removed from the formal NIE process.

(b)(3) NatSecAct

(b)(3) NatSecAct

[] The NIE drafter held a number of meetings with DPMO analysts, both in RA and in JCSD; he received briefings from both groups and collected a considerable amount of data. The meetings began in November 1997 and continued into February 1998, when the initial NIE draft was completed. During these sessions, the drafter encountered and had to deal with []

(b)(1)

(b)(3) NatSecAct

[] the RA belief that JCSD could not be trusted to protect

(b)(1)

classified information []

(b)(3) NatSecAct

[] The drafter experienced this problem first-hand. [] JCSD analyst []

[] insisted that he must report on meetings with the drafter to the commission [] The drafter disagreed, stating that he should not be sharing discussions []

(b)(1)

(b)(3) NatSecAct

~~SECRET~~

~~SECRET~~

1772

(b)(3)

NatSecAct

(b)(3) NatSecAct

before the estimate was finished. The [] analyst indicated that he would figure out a way to discharge his obligations to the commission without compromising sensitive information.

Examining the DO Files

(b)(3) NatSecAct

[] The DO is the CIA component responsible for maintaining records of all clandestine foreign intelligence and counterintelligence activities and operations conducted by the CIA involving human assets. In the early 1990s, in accordance with Executive Order 12812 ("Declassification and Release of Material Pertaining to Prisoners of War and Missing in Action," 22 July 1992) that ordered declassification of POW/MIA records, the DO conducted an unprecedented search of its files. It declassified and released most of the CIA holdings on POW/MIA issues in 1993. []

(b)(1)

(b)(3) NatSecAct

[] These documents were funneled through DPMO to the Library of Congress. []

(b)(1)

(b)(3) NatSecAct

(b)(3) NatSecAct

[] documents were not declassified for a variety of reasons, []

[] The NIE drafter told us that he had reviewed these holdings, but that only a few documents were relevant to the estimate. The DO continued to provide to the drafter reports that had been collected since 1993 []

(b)(1)

(b)(3) NatSecAct

[] According to the DO officers and managers we interviewed, the NIE drafter had access to all DO reporting on the POW/MIA issue. The drafter told us that he is confident he had access to all these documents. We reviewed the available material as well as the material in the drafter's possession at the time the estimate was drafted. We believe that the drafter did have access to the relevant DO documentation.

Other Contributors of Data

(b)(3) NatSecAct

[] In the course of his research, the drafter visited organizations within the Office of the Secretary of Defense, DIA, DPMO, INR, and NSA and interviewed key officials associated with and knowledgeable of

~~SECRET~~

POW/MIA affairs. He also traveled to Hawaii and Southeast Asia, where he held discussions with [redacted] U.S. [redacted] officials [redacted]

REVIEW AND COORDINATION (FEBRUARY-MARCH 1998)

(b)(1)
(b)(3) NatSecAct

First and Second Drafts (6 and 20 February 1998)

(b)(3) NatSecAct

[redacted] The NIE drafter finished the first draft of the estimate in early February 1998. While he indicated that both the NIO/EA and the Chief of the NIC's Analytic Group (AG) had the draft for review, only the latter commented in writing. If the NIO/EA did review the first draft, his views either coincided with those of the Chief, AG or were not factored into the changes made to the second draft. Noting that he had read the draft from "the perspective of a hostile critic," the Chief, AG indicated that, "from that vantage point, there are some points of vulnerability" that should be addressed. These included assessments that appear to be inadequately supported by evidence and judgments that could give rise to suggestions that "we have been unjustifiably credulous" about the motivations behind Vietnamese actions. Each modification to the second draft introduced language that was more skeptical of Vietnam's motives and behavior. For example:

- ◆ Removal of "*humanitarian grounds*" as a driving factor in Hanoi's increasing cooperation with the United States on POW/MIA issues;
- ◆ Introduction of language conveying skepticism about Vietnam's explanations for instances of non-cooperation (e.g., less acceptance of "*sovereignty*" as a valid rationale); and
- ◆ Qualification of judgments. After stating that "our research suggests" that areas where Vietnam refuses to conduct joint field activities are genuine sensitive facilities, the new draft adds, "*We cannot be sure, however.*" Whereas the first draft had stated that, "We think Vietnam has *been fully cooperative* on these cases," the later version reads, "We think Vietnam has, *for the most part, been cooperative* on these cases."

~~SECRET~~

1774

(b)(3)
NatSecAct

(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

[redacted] On 20 February, the NIC sent the revised draft estimate to [redacted]
[redacted] The drafter then
traveled [redacted] holding discussions with relevant officials and
sending comments back to Washington for consideration in the next stage
of drafting. The NIO/EA accompanied him on part of this trip.

Third Draft (17 March 1998)

(b)(3) NatSecAct

[redacted] Numerous changes were made to the next draft. Most were factual additions rather than modifications of data. While many of the changes are difficult to evaluate in terms of their impact on the tone of the NIE, a number served to further reinforce skepticism about Vietnamese cooperation. For example, in the section of the draft dealing with "Instances of Vietnamese Non-Cooperation":

- ◆ The lead sentence had said that "We found *no* instances in which Vietnamese authorities have flatly refused US requests" The new version was changed to, "We found *few* instances . . . "; and
- ◆ Sentences were added to a series of instances dealing with Vietnamese explanations for non-cooperation to the effect that "*We cannot ensure they have provided everything*"; and "*We cannot absolutely verify such claims*"; and "*We cannot verify this information.*"

Some changes tended to strengthen judgments challenging the credibility of the 735 and 1205 documents; the alleged transfers of POWs to the Soviet Union; and the alleged interrogation of POWs by Soviet officials. For example:

- ◆ The 20 February draft stated that, while the documents are probably authentic GRU-collected intelligence reports, "*We nevertheless also concluded that the documents were factually inaccurate.*" The 17 March draft states that they are probably authentic GRU-collected intelligence reports, "*but they are not what they purport to be. We concluded that the documents contain significant inaccuracies and anomalies*";

~~SECRET~~

~~SECRET~~

1775

(b)(3)
NatSecAct

- ◆ The original text stated that, "*In view of . . . contradictions, we cannot definitively conclude that US POWs were not interrogated by Soviets.*" The new language states, "*We doubt that American POWs were directly questioned by Russians*"; and
- ◆ The original text said that, "*we have equally convincing reports that claim US POWs were not transferred out of Vietnam.*" The new language says that, "*we have more convincing reports . . .*"

(b)(3) NatSecAct (b)(1) (b)(3) NatSecAct [redacted] the drafter met with the U.S. Ambassador to discuss the draft. In the section of the draft dealing with Vietnamese refusal to provide Politburo documents, a phrase indicated that Vietnam would not provide such documents, "*any more than foreign governments, such as the United States, would open their sensitive records to Vietnamese officials.*" A handwritten note by the drafter indicates that "the Ambassador wants this emphasized." Not only was the Ambassador's request rejected, the entire phrase eventually was deleted.

(b)(3) NatSecAct [redacted] The NIO/EA showed the 17 March draft to the Acting Director, DPMO on 20 March. The drafter recalls that the Acting Director read the draft, disagreed with language dealing with Vietnamese mistreatment of POWs, and provided written comments. The Acting Director recalls reading part of the draft at the request of the NIO/EA, but told us that he made no comments. The NIO/EA recalls that the Acting Director read part of the draft, but does not recall what his reaction was or whether he provided comments to the drafter. We found neither written comments nor an annotated draft attributable to the Acting Director, DPMO. No changes were made in the text on the subject of Vietnamese mistreatment of POWs.

Fourth Draft (23 March 1998)

(b)(3) NatSecAct [redacted] The changes made to the 23 March version of the estimate are modest and do not move the tone of the draft in any consistent direction. In the "Key Judgments," the comparison of Vietnamese sensitivities to those of the United States (previously mentioned) is removed as is a

~~SECRET~~

NDoc 26, 20024

(b)(3)
000054
NatSecAct

sentence stating that, "*We think US high-level attention to the POW/MIA issue as one component of the overall relationship will be helpful.*" Changes in the "Discussion" section also are minimal:

- ◆ At several points dealing with Vietnamese non-compliance with U.S. requests for documents, a modifying phrase has been added that emphasizes the positive in terms of cooperation: "*Although Vietnam has provided thousands of documents to the US side. . . .*" and "*Vietnam has provided over 28,000 documents to US officials . . .*";
- ◆ In several places, language questioning Vietnamese claims that had been added to the 17 March version has been removed: "*We cannot absolutely verify such claims,*" and "*Again, we cannot absolutely verify this information*";
- ◆ In one area, language has been toughened: rather than "some elements of Vietnam's bureaucracy *fell short of* a desire for full engagement," the text now reads, "some elements . . . *did not favor* full engagement"; and
- ◆ The much-changed language dealing with reports that POWs had not been transferred to the Soviet Union has been changed from, "*we have more convincing reports . . .*" to "*we have credible reports . . .*"

These changes do not provide a clear indication of an effort to shift tone or judgment.

(b)(3) NatSecAct **Outside Readers**

[redacted] The 23 March draft was sent to the IC representatives, with notification that a coordination meeting would be held on 27 March. At the same time, the draft was provided for comment to two outside readers: a former Deputy Chairman of the NIC and East Asia specialist [redacted], and a former National Security Advisor and East Asia specialist [redacted] had been National Security Advisor in 1993, when the original analysis of the Russian documents was undertaken. We found written comments from [redacted] but not from [redacted] in the NIC files.

(b)(3) NatSecAct

(b)(3) NatSecAct

SECRET

1777

NatSecAct

(b)(3) NatSecAct

[redacted] The primary concern expressed by the former Deputy Chairman of the NIC, who provided his comments on 24 March, was that the tone of the "Key Judgments" was "overly rosy." That created two problems, he said. The first was that, before having read the body of the estimate, those readers "who are already doubters will turn off." He said that some of the adjectives could be softened and the NIE would still carry the message that there has been improvement in Hanoi's performance. The second problem was that the draft identifies many cases of non-compliance, thus undercutting the "rosy hue" of the "Key Judgments." He went on to raise several other issues, particularly the degree to which Hanoi's senior leaders have delegated authority for POW/MIA issues. He said that, if true, this is one of the chief changes for the better and should be in the "Key Judgments"; he noted, however, that this judgment rests on the testimony of one listed source. He also recommended that the draft highlight the fact that the principal cause of Vietnamese non-compliance is the regime's wish not to reveal past brutalities.

(b)(1)

(b)(3) NatSecAct

(b)(3) NatSecAct [redacted] In a note [redacted] the NIE drafter referred to the comments of both outside readers. For the most part, he discussed changes to accommodate the recommendations of the former Deputy Chairman, NIC, including changing adjectives throughout to say that Vietnam has become "*more*" cooperative rather than "*increasingly*" cooperative and putting more emphasis on the reasons why the Vietnamese have not cooperated more completely, such as "their sensitivity about the historical record on their handling of POWs." His only specific reference to [redacted] comments was to say that he was concerned that the listing of SRV officials involved in the POW/MIA issue did not include any officials who were not cooperative.

(b)(3) NatSecAct **IC Coordination Meeting**

[redacted] The IC representatives met on 27 and 30 March to coordinate the estimate, working with the 23 March version of the draft. In memoranda to their respective senior management, [redacted] representatives detailed results of the meetings. All reported that there was little disagreement and that no major problems had emerged. They noted that both the outside readers and DIA had argued that, in a few instances, the draft was "too apologetic" to the Vietnamese or "unduly charitable in rating Vietnam's performance." Therefore, a more circumspect, but still basically positive, appraisal had emerged from the coordination sessions. [redacted] representative stated that both outside

(b)(1)

(b)(3) NatSecAct

SECRET

~~SECRET~~

1778

Approved for Release: 2024/12/03 C06898860

(b)(3)

NatSecAct

readers had suggested that modifying the language would "make for a more persuasive paper" and "would not immediately set off critics of Vietnam's record of cooperation on this issue." [redacted] representative indicated that the new language would stress that Vietnam cooperates mainly because to do so is in its larger interest, but that "long-standing secretiveness and suspicion of the United States will continue to limit its cooperation." The NIO/EA sent a note to the drafter on 27 March with two suggested "fixes" to the draft. These changes reflected the suggestions of the former Deputy Chairman of the NIC and the recommendations of the IC representatives; they reinforced skepticism of Vietnam's motives and performance.

(b)(1)

(b)(3) NatSecAct

Fifth Draft (31 March 1998)

(b)(3) NatSecAct

[redacted] The 31 March draft reflected these suggestions. Vietnam's "increasing cooperation" was changed to "more cooperative approach" and showing "increasing" flexibility was changed to showing "more" flexibility. The conclusion that Vietnam's performance on the U.S. POW/MIA issue "has improved significantly" was changed to "has definitely improved." A number of additional, but minor, changes served to further reduce the "overly rosy" tone criticized by the former Deputy Chairman of the NIC.

(b)(1)

(b)(3) NatSecAct

[redacted] This draft was sent to the NFIB principals in preparation for their meeting on 13 April.

MIB AND NFIB MEETINGS (APRIL 1998)

(b)(3) NatSecAct

[redacted] The Director, DIA convenes the MIB to be certain that he is representing the coordinated military intelligence view when he attends an NFIB meeting to approve an estimate. On 26 March, the DIA Associate Director for Estimates suggested that the Director convene a MIB in this instance because of the "politically-charged nature of this particular

~~SECRET~~

Dec 26, 2024

~~SECRET~~

1779

(b)(3)
NatSecAct

estimate." He further recommended that, while DPMO should not be part of the coordination process, a DPMO official might attend the meeting to help "clarify issues" relating to POW/MIA matters. The background paper prepared for the Director, DIA noted that the estimate "will almost certainly be judged inadequate by some SSCI members and staff, Senator Smith, and POW/MIA activists." It also said that a DPMO official would attend the MIB session to address questions "on the POW/MIA issue as a whole, but not issues specifically related to the SNIE [sic]."

(b)(3) NatSecAct

[redacted] When the MIB met on 9 April, the Director, DIA began by mentioning that he had received a call two hours earlier from Senator Smith. The Senator asserted that he wanted the Director to be aware of his concerns, which were significant. Senator Smith charged that the IC had not done a good job of examining all the documents and attendant information on the POW/MIA issue. He claimed that there were 300 to 350 documents available at the SSCI, but that no one had come to review them. If the IC published the NIE without reviewing those documents, Senator Smith said, then "I can't believe in it." In addition, the Director said that he had received a fax from the Executive Director of the National League of Families of American Prisoners and Missing in Southeast Asia, in which she said that she looked "forward to reviewing the results" of the estimate and that the League was relying on him to ensure its "objectivity and thoroughness." The Director said that POW/MIA issues were emotional, but that the important thing was to "deal as objectively as possible with the intelligence facts at hand." The MIB recommended approval of the estimate by the NFIB; all members concurred. The DPMO official said that, while he had not read the estimate, he had no problem with the major judgments as they had been presented. He said that it did seem that the IC was being a little hard on the Vietnamese on the issue of their cooperation with live sighting investigations.

(b)(3) NatSecAct

[redacted] The NFIB, chaired by the DCI, met on 13 April to discuss the estimate. The Chairman of the NIC reported that there were no major substantive differences within the IC on the NIE. The NIO/EA stated that he had removed himself from the process because of accusations that he had "politicized the 1993 [sic] report to which Senator Smith takes exception." He said that the IC had agreed to the main judgments of the estimate and there had been no controversies. After the Deputy Director, DIA raised the issue of Senator Smith and the documents, the DCI directed that a team visit the SSCI to read the documents before the estimate was published.

~~SECRET~~

~~SECRET~~

1780

(b)(3)
NatSecAct

(b)(3) NatSecAct

[] The NFIB members debated language concerning the alleged transfer of POWs to the USSR. The DCI did not like the use of the word "doubt"; he argued that, because the IC does not know whether these events occurred, it should not make the judgment that it doubted this had occurred. It should use language indicating that there are contradictory reports and that the matter requires further investigation. Both the NIO/EA and the drafter argued that evidence that transfers did not occur was persuasive. The principals agreed to change the language to, *"Although we doubt that POWs were transferred to the USSR, we also conclude that the books remain open on this."* The net effect of the debate on these issues, initiated by the DCI, was to further modify the judgment made in the NIE on alleged transfers.

ANOTHER ROUND OF REVIEW

The SSCI Documents

(b)(3) NatSecAct

[] In early December 1997, the SSCI had sent a letter to the CIA, OCA, offering to provide material for the estimate and listing the documents in its possession. In early January 1998, the NIE drafter noted that, while most of the material was already in the possession of the IC, he would like copies of 17 of the documents; this request was passed to the SSCI. That was where this issue stood at the time of Senator Smith's call to the Director, DIA on 9 April and the DCI's directive on 13 April that a team review the SSCI holdings.

(b)(3) NatSecAct

[] The CIA, OCA contacted the SSCI majority staff member holding the documents on 14 April to set up an appointment to review the documents. According to an OCA officer, the staff member asked that the NIE drafter call him personally. When the NIE drafter called, the staff member agreed to give him access to specific documents but not to the entire collection which, he said, was not in a single location. He suggested that the drafter review the list again. After consulting with the DIA representative, the drafter added 18 documents to the original list of 17 he had requested in January 1998. In a memorandum for the record, he explained in detail why more documents had not been selected. On 17 April, the drafter and the DIA representative visited the SSCI to review the additional documents. In reporting back to the DCI on 23 April, the NIO/EA explained that the team had reviewed the documents and found

~~SECRET~~

that the vast majority of the documents in the SSCI files had been seen in other IC archives and that the review "did not uncover any new information bearing on judgments or analysis in the Estimate" (details of the SSCI document issue are discussed in Part IV, *Critical Assessment Charges: Substance*, under "Relevant Documentation").

Two More Outside Readers

(b)(3) NatSecAct

(b)(1)

(b)(3) NatSecAct

[redacted] Following the NFIB meeting, at the direction of the DCI, the NIC provided the draft to two more outside readers, a former Assistant Secretary of Defense for International Security Policy [redacted] and a former DCI [redacted]. Both commended the draft and said they had no major problems with it; each had a few suggestions. [redacted] recommended that the draft provide more quantitative data to demonstrate the improvement in Vietnam's performance; that it emphasize the weaknesses of GRU reporting and sourcing; and that it analyze what it would take to reverse the current positive trend in Vietnamese behavior. In the end, none of these suggestions was taken.

(b)(1)

(b)(3) NatSecAct

[redacted] [redacted] said his suggestions were "intended to strengthen our case against the minority of readers who would be reflexively critical." He recommended that the estimate acknowledge that Vietnam's archival capabilities were probably not good; that the estimate speculate on the origins of the Russian documents and why the Vietnamese prepared them; and that the drafter remedy the fact that the characterization of the Russian documents was different in the text and the annex. Gates said that the above points, if addressed, "would simply strengthen the text against criticism." In the end, the draft was revised to incorporate several of his revisions for clarity.

(b)(3) NatSecAct

[redacted] Neither of these readers made suggestions designed to alter the substance or judgments of the NIE draft. While the former DCI indicated that his comments would help deflect criticism, his suggestions were modest and probably not sufficient to have had an impact on the tone of the estimate or on reaction to it.

~~SECRET~~

1782

(b)(3)
NatSecAct**DCI Input**

(b)(3) NatSecAct

[redacted] In early April, the NIC sent the DCI talking points on the NIE, laying out the key judgments: that the Vietnamese are cooperating to help the United States achieve full accounting of POW/MIAs and that the 735 and 1205 documents are neither accurate nor a good foundation for judging Vietnamese performance on the POW/MIA issue. The talking points indicated that the judgments would be politically controversial because some elements within DPMO believe that Vietnam is withholding material and believe the CIA is part of a U.S. Government cover-up on the POW/MIA issue. Furthermore, the talking points stated, Senator Smith probably will not like the conclusions because he and members of his staff have been strongly critical of U.S. Government handling of the issue.

(b)(3) NatSecAct

[redacted] After seeing a copy of the estimate on 17 April, the DCI indicated that he wanted to delete sentences that included the phrase, "We doubt" He instructed the NIE drafter simply to state what we do and do not know. He also indicated that he wanted to see a revised draft that included the comments of the second set of readers. In his reaction to this note, the NIE drafter stated that, while the DCI was not remembering accurately what had been agreed to at the NFIB about language expressing doubt, it would be best to reword the language to say that "there is no persuasive evidence that POWs were transferred to Russia or other countries."

(b)(3) NatSecAct

[redacted] The NIC sent a revised copy of the draft to the DCI on 23 April, describing the comments made by the additional readers and explaining why most of their suggestions had not been adopted. In his response on 26 April, the DCI indicated that he did not necessarily agree that the suggestions of the outside readers should not be incorporated; he was particularly interested in the recommendations to add quantitative information and more speculation regarding the "inaccurate" Russian documents. In the end, however, he was persuaded that it was not advisable to add either. He did argue strongly and successfully, however, that the order of paragraphs in the "Key Judgments" be shifted; he wanted to put the relevant evidence first, rather than leading with the judgment that Vietnamese cooperation had improved. Neither the Deputy Chairman of the NIC nor the NIO/EA agreed with this change in the ordering, but both recommended accommodating the DCI.

~~SECRET~~

SECRET

(b)(3)
NatSecAct

(b)(3) NatSecAct

[redacted] In the draft that went back to the DCI on 28 April, the evidence was put first, followed by the judgment that the Vietnamese were cooperating. On 29 April, the DCI returned the "Key Judgments" to the NIC with a handwritten comment saying that the paragraph regarding Vietnamese cooperation should be removed because it was "too subjective." The paragraph read:

Consequently, we judge that Vietnam has become more helpful in assisting U.S. efforts to achieve the fullest possible accounting of American personnel missing in action during the Vietnam conflict.

In the end, the DCI was persuaded that, because this paragraph specifically answered one of the two key questions in the TOR and was a key judgment of the estimate, it should remain. The effect of the change recommended by the DCI would have been to further modify the language of the "Key Judgments."

(b)(3) NatSecAct

[redacted] On 1 May 1998, the DCI approved the NIE. Although the date on the NIE is April 1998, it was not published and disseminated until early May. On 21 May, the NIE drafter met with members of the SSCI staff to brief them on the NIE. The SSCI majority staff member challenged the analytic techniques used by the drafter; he particularly wanted to know why the estimate had not analyzed the number of POWs held by the Vietnamese. The drafter responded that this had not been part of the TOR and that the IC does not have the resources or capability to conduct that analysis.

CRITICISM OF ESTIMATE

Senator Smith Meets With NIO/EA (June 1998)

(b)(3) NatSecAct

[redacted] NIE 98-03 was provided to the SSCI and then to Senator Smith's office in mid-May 1998. On 17 June 1998, the Chairman of the NIC and the NIO/EA were invited to speak about the estimate to members of the U.S. side of the U.S.-Russia Joint Commission on POW/MIAs; among the participants was Senator Smith. The Chairman of the NIC outlined the origins of the estimate, describing the NIE as "unconventional" because it looked to the past rather than the future and required a review of archival materials. The NIO/EA then provided a background briefing on the methodology used by the NIE drafter and the IC coordination process.

SECRET

1784

(b)(3)
NatSecAct

(b)(3) NatSecAct

[redacted] Senator Smith directed a series of questions to the NIO/EA, challenging the judgments of the estimate and indicating that it was not a credible intelligence product. He provided his own views, including the question, "so does that not mean that there are still 370 cases of Americans where we do not have evidence that they died in their incident?" As a result, he said, you cannot dismiss the 1205 document based on the numbers as "they are trying to do here in this estimate." He charged that the estimate was "totally misleading and frankly it is an effort to discredit the 1,205 number." Senator Smith went on to say that, "This is a terrible job and not an intelligence estimate at all It is full of erroneous information"

Release of Critical Assessment (November 1998)

(b)(3) NatSecAct

[redacted] Senator Smith issued his *Critical Assessment* in November 1998. He sent the assessment with an accompanying cover letter to members of the MIB and the NFIB, with a request that those boards meet to consider and approve his request that the NIE be retracted. He sent copies to Congressional leaders, with a request that oversight hearings concerning the NIE be conducted. In addition, he sent copies 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 with the admonition that they not rely on the judgments of the estimate for the reasons cited in the *Critical Assessment*.

(b)(3) NatSecAct

[redacted] The *Critical Assessment* took issue with all the major judgments of the estimate. It stated that, because the NIE had failed to distinguish between Vietnam's improved assistance with field operations and its stonewalling in providing full disclosure of documents, the judgment of an overall "good" SRV performance on the POW/MIA problem is not reliable. Moreover, it states:

. . . there are *numerous* [emphasis in original] 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.

The *Critical Assessment* states that:

... the NIE's judgment on the 1205/735 documents cannot be accepted with confidence because it is *replete* [emphasis in original] with inaccurate and misleading statements, and lacks a reasonably thorough and objective 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 [redacted] [redacted] are indeed supported or plausible . . .

(b)(1)
(b)(3)
NatSecAct

Finally, with respect to the politicizing of intelligence, the *Critical Assessment* says that:

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 U.S. policymakers 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.

MIB AND NFIB MEETINGS (JANUARY 1999)

(b)(3) NatSecAct

[redacted] The DCI responded to Senator Smith's letter on 17 December 1998, stating that he had directed that the evaluation of the NIE be put on the NFIB agenda scheduled for January 1999. The MIB met on 15 January, before the NFIB, and recommended that:

- ◆ The IC stand by the NIE and reject the request for retraction;
- ◆ The DCI reject charges of "politicization";
- ◆ The IC avoid point-by-point rebuttals of the *Critical Assessment*; and
- ◆ The IC be prepared for congressional hearings.

All MIB members concurred with the recommendations.¹⁰

(b)(3) NatSecAct

¹⁰ [redacted] The MIB consists of DIA; the Military Departments to include the Marine Corps; the Unified Commands; NSA; the NIMA; the NRO; Joint Staff; Deputy Assistant Secretary of Defense (Intelligence); U.S. Forces Korea; Coast Guard; Associate, DCI for Military Support; and Defense Information Systems Agency.

(b)(3) NatSecAct

[redacted] The NFIB convened on 19 January 1999 to consider Senator Smith's criticism of the estimate and made several decisions:

- ◆ The Board would not engage in a point-by-point rebuttal of the critique;
- ◆ The DCI would respond to Senator Smith on behalf of the IC, stating that the NFIB principals stand firmly behind the NIE. He would acknowledge that there are "unresolved mysteries with respect to the POW/MIA issue and that the Intelligence Community will continue to work to resolve them." Finally, in his letter, the DCI would refute Senator Smith's claim that the NIE reflected "shoddy research" or a "pre-determined strategy to discredit relevant information"; and
- ◆ The Director, DIA, speaking on behalf of the uniformed military, would send a separate letter to Senator Smith in concert with the DCI letter.

(b)(3) NatSecAct

[redacted] In his response to Senator Smith, dated 1 February 1999, the DCI reported that the NFIB had voted unanimously to let the estimate stand. He acknowledged critical gaps in intelligence and assured the Senator that NFIB members would provide any new information collected to those responsible for dealing with the POW/MIA issue. He stated that NFIB members had again commended the analyst who drafted the NIE and the "rigorous interagency process" that made the NIE an IC product, not the work of a single author. He said that he accepted the word of those who worked on the draft and coordinated it that "there was at no time any effort to distort judgments from outside or inside the Community."

PART IV: CRITICAL ASSESSMENT CHARGES: SUBSTANCE

(b)(3) NatSecAct

[REDACTED] We evaluated NIE 98-03 and the *Critical Assessment* using a comparative approach (see Annex C for discussion of the methodology used in this section). The *Critical Assessment* took issue with 51 NIE statements (excluding politicization issues). We examined the criticisms levied against the NIE and grouped them into specific topics for discussion as follows:

- ◆ Relevant Documentation;
- ◆ Vietnamese Cooperation;
- ◆ Mistreatment of POWs;
- ◆ Recovery and Repatriation of Remains;
- ◆ The Saga of the Mortician;
- ◆ Numbers of POW/MIA: the 735 and 1205 Documents;
- ◆ Assessment of Comments by Russian Sources on the 735 and 1205 Documents;

(b)(1)
(b)(3) NatSecAct

- ◆ Separate or Second Prison System; and
- ◆ Alleged Transfers of POWs from Vietnam to the USSR.

In addition to these topics, we reviewed two issues not specifically addressed in either the NIE or the *Critical Assessment*. We evaluated each of the cases of U.S. personnel listed by Senator Smith in 1992 for whom verified remains have not been returned by Vietnam. We undertook this task because, according to Senator Smith's legislative assistant, the Senator had expected the drafter of the NIE to do so and he did not; we agreed with Senator Smith that such a review is relevant to an analysis of the POW/MIA issue and that it should be conducted by independent analysts.

~~SECRET~~

1788

(b)(3)

NatSecAct

In addition, we examined one particular MIA case, that of Captain John T. McDonnell, U.S. Army, to demonstrate both the polarized nature of the MIA issue and the difficulty of making determinations of fate.

(b)(3) NatSecAct

RELEVANT DOCUMENTATION

[redacted] The *Critical Assessment* questions why any NIE:

... would make judgments in areas if there is no sizable body of intelligence reporting within the U.S. Intelligence Community

It goes on to say that:

... based on a listing of documents compiled by my [Senator Smith's] office, scanning [sic] thirty-plus years, there does, in fact, appear to be significant intelligence reporting.

The assessment repeatedly criticizes the NIE drafter for failing to use information made available to the IC and cites several letters that address "a listing of documents" that contain "significant intelligence reporting." We begin our discussion of the use of relevant documentation and the alleged discrediting of relevant information by the NIE drafter with an examination of those letters.

(b)(3) NatSecAct

[redacted] On 2 December 1997, Senator Smith, through his legislative assistant, transferred document holdings to the SSCI as a "complete response to meet his pledge to make any relevant information available to the drafter of the NIE, from his holdings and from the Senate Select Committee, POW/MIA." The next day, the SSCI Chairman and Vice Chairman forwarded a list of those holdings to the drafter of the NIE. That list consisted of 317 line items (the term "line items" is more accurate than the term "documents" since one line item may contain one or more documents) in two parts. The first part included 134 line items held in binders by the JCSD to assist its work in support of the VWWG of the U.S.-Russia Joint Commission. Senator Smith chairs that working group. The second part included 183 line items that represented the contents of the growing files of Senator Smith as held for him by the SSCI as of 3 December. That list of 317 line items represents what the NIE drafter thought was the relevant material held by the SSCI.

~~SECRET~~

(b)(3) NatSecAct

[REDACTED] On 6 February 1998, Senator Smith sent a letter to the Director, DIA, in which he stated:

I believe there are currently over 350 documents on the POW/MIA topic I hope you will not hesitate to ask SSCI to review any of this material that may not already be readily available to DIA.

Senator Smith is referring to an expanded list that included 80 line items passed directly to the NIE drafter by the JCSD during the course of several joint discussions and an additional 84 line items added to the growing Smith files during the period December 1997-January 1998.

(b)(3) NatSecAct

[REDACTED] On 9 April 1998, Senator Smith called the Director, DIA, and referred to "300-350 documents available at the SSCI for people that want to review them." Senator Smith stated that "no one has ever come to review these documents. If the IC published the NIE without having reviewed these documents, I can't believe in it." Senator Smith's call caused the DCI to halt the NIE process and direct the NIE drafter and a DIA representative to visit the SSCI to review documents of concern to Senator Smith.

(b)(3) NatSecAct

[REDACTED] The body of information Senator Smith referred to in his 9 April call differs from the body of information officially made available to the drafter of the NIE. Moreover, the body of information to which Senator Smith referred contained considerable information already reviewed by the drafter well before the Senator's call. By the time of Senator Smith's call, the drafter of the NIE had considered, at a minimum, 97 documents on Senator Smith's new list: the 80 passed to him by JCSD and 17 that he had selected from the list passed to him by the SSCI on 3 December 1997.

(b)(3) NatSecAct

[REDACTED] The *Critical Assessment* refers to a 15 April 1998 letter from Senator Smith to the Director, DIA, in which he refers to the documents held by the SSCI. We have been unable to locate this letter. According to Senator Smith's legislative assistant, there was a 15 April 1998 memorandum from him (the legislative assistant) to the Director, DIA, which a SSCI staff member was to deliver the next day. The legislative assistant gave us a copy of that memorandum. The SSCI staff

member told us that he took the memorandum to DIA on or about 16 April 1998. Neither the Director, DIA's executive correspondence office nor his POW/MIA policy office has a record of any correspondence from Senator Smith or his staff dated 15 April 1998.

(b)(3) NatSecAct

[redacted] The SSCI staff member did hand the updated document list, without a cover memorandum, to the drafter of the NIE and the DIA representative on 16 April 1998, during their document review visit to the SSCI. According to the NIE drafter, "on arrival, the staff assistant handed us a new list of documents in SSCI's possession that he said we should look at." We did not find a copy of the 15 April 1998 cover memorandum in the NIE drafter's files. Further, on 9 September 1999 we showed the drafter a copy of the memorandum and he stated that he had never seen it.

(b)(3) NatSecAct

[redacted] We reviewed the SSCI holdings related to the 3 December 1997 letter. We also reviewed the document holdings of the NIE drafter. The drafter's holdings, coupled with files provided to him by [redacted]

[redacted] far exceeded the SSCI (b)(1) holdings. Moreover, the NIE drafter had extensive folders pertaining to (b)(3) NatSecAct specific topics [redacted]

[redacted] Not only did the drafter have access to relevant intelligence information but he also made multiple visits to DPMO, both RA and the JCSD, to acquire documents held by those two key offices. Further, he had an extensive network of informal sources including academia. We found that the NIE drafter considered relevant intelligence information from 1987 onwards, as specified in the TOR. Based on his reading of previous IC publications, however, he did not specifically review raw data dating from before 1987 (see Annex D for a listing of IC publications reviewed by the estimate drafter).

(b)(3) NatSecAct

[redacted] In our review of CIA, DO files, centrally gathered for the government-wide POW/MIA document declassification effort in the early 1990s, we found that relevant intelligence information concerning the POW/MIA issue prior to that time was available and that the NIE drafter had reviewed those files. Further, the DO manager responsible for those documents told us that he personally assisted the drafter, a process that included a review of the draft report. We also found that the drafter's

boxes of information contained documentation going back to the 1950s. We believe that the NIE drafter considered relevant information but, by design, focused on the decade 1987 through 1997.

(b)(3) NatSecAct

[redacted] Senator Smith's legislative assistant told us that, given the emergence of a re-evaluation of the 735 and 1205 documents as a key question, the TOR obligated the NIE drafter to consider information back to the 1960s. We cannot reconcile these two divergent points of view. We note, however, the delay in the completion of the TOR; the addition of the 735 and 1205 documents to the "Key Questions" of the TOR; and the introduction of a new NIO/EA and a new NIE drafter, neither of whom had been involved in the negotiations of the TOR. Whereas the former NIO/EA had intended to treat the 735 and 1205 documents as a separate project, the new NIO/EA and drafter accepted the final TOR with its expanded focus without changing the time frame on which the research should focus. In conducting this review of the NIE and the *Critical Assessment*, we found it necessary to search as far back as the document trail allowed.

(b)(3) NatSecAct

VIETNAMESE COOPERATION

[redacted] The *Critical Assessment* claims that the NIE did not consider information available to the IC in assessing Vietnamese cooperation on POW/MIA matters. At issue are the NIE statements that "Vietnam has become more helpful in assisting U.S. 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 issue "has been good in recent years." The *Critical Assessment* asserts that the NIE judgment of Vietnam performance as "good" is not reliable and argues that the judgments on cooperation are "factually inaccurate, misleading, incomplete, shallow, and seriously flawed."

(b)(3) NatSecAct

[redacted] For example, one of the key questions in the NIE TOR and "Scope Note" is:

To what extent since 1987 has the leadership of the SRV demonstrated a commitment to cooperating with the United States to achieve the fullest possible accounting of American prisoners missing in action during the Vietnam conflict?

The *Critical Assessment* claims that the NIE makes no mention of SRV leadership intentions, performance and capabilities on the POW/MIA issue between 1987 and the early 1990s, as required by the key question in the TOR. It is a fact that the "Key Judgments" of the NIE address only the period since the early 1990s, stating that, since the early 1990s, there has been evidence of increased Vietnamese cooperation in terms of strengthened staffing, increased responsiveness, and growing professionalism. In its "Discussion" section, however, the NIE addresses the question of Vietnamese cooperation since 1987 in some detail. It includes highlights from the "Key Judgments" of the February 1992 CIA Assessment, "Vietnam: Adjusting Its Strategy on the POW/MIA Issue," that describe Vietnamese cooperative gestures during the period 1987 through 1991.

(b)(3) NatSecAct [redacted] In another criticism dealing with Vietnamese cooperation, the *Critical Assessment* claims that, with the exception of "working level" SRV staff support provided to U.S. officials, the NIE "Key Judgments" do not discuss the capability of Vietnamese leaders to disclose additional documentation that would have a bearing on the POW/MIA issue. The NIE states that "strengthened staffing, increased responsiveness, and growing professionalism" have contributed to the increase in Vietnamese POW/MIA cooperation. The estimate concludes that cooperation regarding the provision of documents is "good," explaining that the Vietnamese cite sovereignty in refusing to make internal Politburo documents accessible and technical problems that make it difficult to locate documents and records. The "Key Judgments" point to shortcomings related to the provision of documentation, suggesting that full disclosure would prove embarrassing to the SRV regime. Finally, the "Key Judgments" state that document retrieval remains an obstacle that requires "close attention by the U.S. Government." Thus, the estimate discusses the issue of the provision of documentation in some detail, but does not specifically focus on the role of the Vietnamese leadership.

(b)(3) NatSecAct [redacted] The *Critical Assessment* argues that the NIE "Key Judgments" "glaringly fails to define what constitutes progress on the POW/MIA issue from Hanoi's standpoint" The Vietnamese define progress on the POW/MIA issue almost solely in terms of progress in improving the political relationship between the United States and Vietnam and the amount of money the United States is investing in Vietnam. While the estimate does not say this in so direct a way, the "Key Judgments" state that ". . . better ties to the United States are in Vietnam's own security and economic development interests and that normalization requires progress

on the POW/MIA issue." The "Discussion" asserts that Vietnam has become more cooperative for a variety of reasons, including a desire for engagement with Washington, particularly since the collapse of the Soviet Union, which had been a key ally of Vietnam. Further, the NIE contends that Vietnam considers cooperation with the United States essential to enhancement of its economic and security objectives, explaining that Vietnamese leaders recognize that Washington will be a key power in the region and that American business is a potential major source of investment. Also, the NIE mentions that the Vietnamese understand that cooperation on POW/MIA issues is likely to foster a better bilateral relationship with Washington.

(b)(3) NatSecAct

[redacted] The *Critical Assessment's* charges with respect to the NIE's treatment of Vietnam's cooperation on POW/MIA issues are not supported by the facts. The assessment asserts that the NIE does not deal with certain issues when it does, albeit not necessarily in the manner or in the terms preferred by the *Critical Assessment*.

A Question of Political Sensitivity

(b)(3) NatSecAct

[redacted] In another area related to Vietnamese cooperation, the *Critical Assessment* disputes the NIE claim that the POW/MIA issue no longer has the political sensitivity that it once had within the Vietnamese leadership. The assessment argues that, if anything, the issue has become more politically sensitive, not less, because of intensified U.S. interest. The *Critical Assessment* indicates that the appointment of General Vessey as the Special Emissary to Hanoi, the establishment of a Senate Select Committee on POW/MIA Affairs, and creation of the 1991 road map to normalization of relations demonstrate intense U.S. interest.

(b)(3) NatSecAct

[redacted] The February 1992 CIA assessment, cited in the NIE, argues that the Vietnamese were wrestling with their foreign policy in the early 1990s. The report states that there was a growing body of evidence that suggested Hanoi's leadership was debating the pace and scope of improving relations with the United States. Using the 1992 CIA assessment as a backdrop, the NIE drafter researched documentation and discussed Vietnamese political sensitivity with both members of the IC and operational entities that work POW/MIA issues [redacted] on a regular basis. [redacted] stated that the President of Vietnam clearly understood that the POW/MIA issue remained a matter of high priority for the United States. At the same time,

(b)(1)

(b)(3) NatSecAct

~~SECRET~~

1794

(b)(3)

NatSecAct

[redacted] as operations became more routine, the Vietnamese became more comfortable with the United States. Thus, over time, a more trusting relationship developed between the two (b)(1) countries and the need for high-level interaction on POW/MIA issues (b)(3) NatSecAct diminished. [redacted] advised the NIE drafter that operational POW/MIA issues are and have long been entrusted to the VNOSMP and the Ministry of Foreign Affairs. [redacted]

[redacted] The drafter of the estimate had sufficient evidence to conclude that the POW/MIA issue no longer has the political sensitivity it once had in the Vietnamese leadership.

(b)(3) NatSecAct

Refusal to Cooperate

[redacted] The *Critical Assessment* takes issue with the NIE regarding additional statements related to cooperation, including the NIE claim that incidents of outright Vietnamese refusal to cooperate with U.S. investigators have decreased and instances wherein the Vietnamese raise objections to POW/MIA activities have diminished. The NIE drafter reviewed DoS documents; the results and impending actions of the Presidential Special Emissary to Vietnam (General Vessey); FBIS reporting; DPMO records; and USPACOM, JTF-FA, CILHI, and Stony Beach documentation. He also (b)(1) conducted interviews with numerous government officials who had (b)(3) NatSecAct knowledge of Vietnamese cooperation on POW/MIA issues. [redacted]

[redacted] Using the time frame mandated in the TOR, the NIE concludes that, even though instances of refusal to cooperate with U.S. investigators have decreased, the Vietnamese continue to object to U.S. POW/MIA activities on occasion. The NIE explains that Vietnam's political system is secretive and distrustful of foreign influences and that Vietnamese officials fear that divulging information could undermine governmental authority. Also, according to the NIE, defending its sovereignty and protecting its secrets might be the major reasons why Vietnam has not been completely forthcoming with respect to POW/MIA issues.

(b)(3) NatSecAct

[redacted] Given that background, the NIE cites several "significant examples" where Vietnam has hindered activities, including refusing requests to see Politburo documents; denying interviews with some senior

~~SECRET~~

retired military officials; and refusing to allow joint field activities in "classified" military areas. Even though several documents reviewed by the NIE drafter and interviews he conducted revealed that significant progress had been made in Vietnamese cooperation, the NIE repeats the conclusion of the February 1992 CIA Intelligence Assessment that, "under the best of circumstances, there are limits to what the United States could expect to achieve."

(b)(3) NatSecAct

(b)(1)

(b)(3) NatSecAct

[redacted] The NIE suggests that much remains to be accomplished in terms of Vietnamese cooperation on the POW/MIA issue. [redacted]

[redacted]

[redacted] We believe that the NIE drafter appropriately used both relevant documentation and interviews with knowledgeable officials in reaching the conclusion that Vietnam's performance in dealing with the POW/MIA issue has been good in recent years and that incidents of refusal to cooperate have declined. That conclusion did not come easily, but, taken in the aggregate and coupled with the chronicle of continuing cases of uncooperative behavior, we believe the overall NIE judgment is sufficiently balanced and cautious, particularly given the caveat that the unresolved areas of Vietnamese cooperation "suggest the need for continued close attention by the U.S. Government."

MISTREATMENT OF POWS

(b)(3) NatSecAct

[redacted] The *Critical Assessment* discussed mistreatment of POWs as part of the record of Vietnamese cooperation; we treat it separately here because of its importance. The assessment claims that the NIE used a poor example of Vietnam's lack of forthrightness on certain POW/MIA issues by stating that Vietnam continues to deny that U.S. POWs were mistreated while in captivity and that full disclosure of that information would prove embarrassing to the regime. The *Critical Assessment* argues that other embarrassing examples, such as "the holding back of any unacknowledged American POWs after Operation Homecoming in 1973," would have been more relevant. Use of the

mistreatment example, according to the assessment, "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."

(b)(3) NatSecAct

[REDACTED] During the 17 June 1998 briefing on the NIE provided to the U.S. side of the U.S.-Russia Joint Commission on POW/MIAs, Senator Smith posed a question to the NIO/EA: if the Vietnamese regime would be embarrassed to provide torture information, he asked, would it not be just as embarrassed to admit that American POWs were held back after the war? The response was "I suppose it would." The two issues are very different in nature, however.

(b)(3) NatSecAct

[REDACTED] There are countless, first-hand accounts of Vietnamese mistreatment of U.S. POWs. Ambassador Peterson, a former POW, told the NIE drafter that during a discussion with a Vietnamese official he had described how he had been dragged around like a dog with a rope around his neck. The Vietnamese official denied that the incident occurred. Congressman Sam Johnson's 1992 book, Captive Warriors, and the 1998 book, Honor Bound – The History of American Prisoners of War in Southeast Asia 1961-1973, prepared at the request of a former Deputy Secretary of Defense, graphically describe POW mistreatment at the hands of Vietnamese captors. The NIE states that Vietnam would never provide documents to the United States that reveal mistreatment of POWs because such disclosure would be extremely embarrassing. The DPMO has never raised the issue of mistreatment of POWs because that office considers the issue particularly sensitive; if the issue were raised, DPMO believes, it would "provoke a counterproductive Vietnamese reaction." The DPMO claims that the subject of mistreatment is irrelevant to "our accounting effort, and we have not requested documents that might bear directly on these matters." While requests for such information may not be relevant to the DPMO, the NIE raises the issue to advise the reader that Vietnam has not been forthcoming because divulgence would prove embarrassing to the regime.

(b)(3) NatSecAct

[REDACTED] While instances of torture are well documented, virtually all studies, dating back to the 1976 report of the House Select Committee on Missing Persons in Southeast Asia, conclude that there is no evidence to indicate that any American POWs from the Indochina conflict

remain alive. The January 1993 Senate Select Committee on POW/MIA Affairs report concluded that there was no proof U.S. POWs had survived in North Vietnam after Operation Homecoming, while acknowledging that there also was no proof that all of those who did not return had died. The committee report indicated that it could not prove a negative, but concluded that there is "no compelling evidence that proves that any American remains alive in captivity in Southeast Asia."

(b)(3) NatSecAct

(b)(1)

(b)(3) NatSecAct

[REDACTED] The NIE indicates that 120 live sighting investigations have been conducted and none has generated any credible evidence of American POWs left in Vietnam. [REDACTED]

Finally, the Senate Select Committee report of 1993 suggests that, if efforts to achieve the fullest possible accounting of Vietnam-era POW/MIAs are to be effective and fair to the families, "they must go forward within the context of reality, not fiction." The reality is that there is no credible evidence that American POWs remained behind in 1973. The alleged holding back of POWs is not an appropriate example of Vietnam's lack of forthrightness on POW/MIA issues.

RECOVERY AND REPATRIATION OF REMAINS

(b)(3) NatSecAct

[REDACTED] As with other topics discussed under cooperation, the *Critical Assessment*, in discussing repatriation, refers to information available to the IC that allegedly was not used. The assessment takes issue with the NIE judgment that Vietnamese cooperation on the recovery and repatriation of remains of U.S. personnel is excellent. Charging that the NIE judgment is based solely on information provided by a non-IC organization, in this case the JTF-FA, the *Critical Assessment* contends that additional evidence was not factored into the judgment. The drafter of the NIE collected documentation on recovery and repatriation of remains and interviewed key officials [REDACTED]

While

(b)(1)

(b)(3) NatSecAct

~~SECRET~~

1798

(b)(3)
NatSecAct

none of these organizations is a member of the IC, each is a consumer of information from the IC. The IC gathers and analyzes information from all sources, including non-intelligence entities to provide comprehensive assessments and judgments to decisionmakers. The JTF-FA and CILHI are the U.S. Government organizations most closely associated with recovery and repatriation of remains and, even though not part of the IC, their expert observations and experiences were of legitimate import to the NIE drafter.

(b)(3) NatSecAct

(b)(1)

[redacted] In December 1997, the drafter of the NIE met with (b)(3) NatSecAct officials [redacted] During those sessions, participants stated that the Vietnamese had approached the issue of repatriation more seriously after 1992. [redacted] judged Vietnamese cooperation in recovery and repatriation of remains since 1992 as excellent. The NIE drafter took those views into consideration, balancing them with document holdings. In addition, he examined numerous publications that addressed recovery and repatriation of remains (see Annex E).

Manipulation of Witnesses

(b)(3) NatSecAct

[redacted] The *Critical Assessment* describes NIE judgments regarding recovery and repatriation of remains as "especially disturbing," because, it says, there is evidence that Vietnam has manipulated witnesses and evidence at crash sites and has recovered remains that have not been repatriated. [redacted] officials told the NIE drafter that, in the past, an unknown number of witnesses had been coached, but that this no longer occurs. The NIE drafter also discussed the issue with [redacted] (b)(1) [redacted] who advised him that the organization was aware of one instance [redacted] (b)(3) NatSecAct [redacted] where a witness was coached. We conferred with [redacted] and learned that, between 1988 and 1992, the team leader for 18 of the first 20 joint field investigations saw no evidence of witness manipulation and did not see tampering with any crash site. The team leader told us that Vietnamese national level officials wanted to know what a witness would say before meeting the Americans because they did not want to be surprised, but in no way did Vietnamese officials interfere with the recovery process. The team leader said that, during early joint investigations, Vietnamese officials were suspicious of U.S. intentions because they believed the investigations were related to intelligence collection activities. After those initial suspicions were allayed, however, they became more supportive.

~~SECRET~~

Repatriation of Remains

(b)(3) NatSecAct

[REDACTED] The NIE states that there is no evidence the Vietnamese "presently are storing remains of American dead." It indicates that the Vietnamese did collect and store remains during the war, but "we do not know how many." The *Critical Assessment* argues that it is misleading to say "categorically that there is no evidence" the Vietnamese are storing remains, citing discrepancies in numbers of collected and stored remains provided by DPMO and CILHI; a "review of evidence available to the IC"; and the testimony of the "mortician."

(b)(3) NatSecAct

[REDACTED] The NIE overstated its case that there is no evidence that the Vietnamese currently are storing the remains of American POWs. The DPMO's 1995 zero-based comprehensive review concluded that there had been some cases indicating that specific remains recovered by the Vietnamese Government had not been turned over. The Deputy Assistant Secretary of Defense for POW/Missing Personnel Affairs report, "Vietnam's Collection and Repatriation of American Remains," published in June 1999 and reviewed by knowledgeable senior analysts in the IC, concludes that, "Based on available information, it is not possible to confirm independently whether Vietnam has repatriated all the American remains it collected." According to the report, Vietnam last repatriated stored remains in September 1990. The 1999 report indicates that there is strong evidence in two cases involving five remains that the remains were collected and taken to Hanoi but not repatriated. Discussions on those cases with the Vietnamese Government continue. Furthermore, the report states that, on two occasions, Vietnamese officials provided information that it had remains that had not been repatriated. While the events cannot be refuted or confirmed, investigation continues.

(b)(3) NatSecAct

[REDACTED] The *Critical Assessment* mentions that, in September 1998 (the NIE is dated April 1998), CILHI reported that approximately 170 U.S. remains repatriated by Hanoi since the end of the war showed signs of storage. The assessment then concludes that, based on the DPMO estimate that "Vietnam collected and stored some 300 remains, vice the 400 to 600 asserted by the 1987 Special National Intelligence Estimate," the resulting discrepancy (170 versus 300) makes the NIE assertion that Vietnam's repatriation record is excellent "extremely inaccurate."

(b)(3) NatSecAct

[REDACTED] CILHI found that 219 remains, returned unilaterally by the Vietnamese, exhibited forensic evidence of storage. As of 1 April 1999, it had identified 172 of those and continued to analyze the others. Independent of the CILHI determination, DPMO identified 274 remains that had signs of storage. Of those, DPMO said that 249 had been identified and that CILHI was analyzing the others. The disparity in numbers is the result of the different criteria and methods used by DPMO and CILHI. While DPMO analyzes documentation, testimony, and other source reporting to reach its findings, CILHI bases its numbers on the examination of remains. In the 1999 remains study, CILHI states that, "the examination of skeletal remains can yield considerable information . . . but not as much as desired. There are real limitations to the data that can be obtained." Further, the CILHI cautions that its judgments on storage are subjective and imprecise because there are no tests, measurements, or means of standardization to arrive at determinations.

(b)(3) NatSecAct

[REDACTED] The estimate mentioned that the DPMO, in conjunction with CILHI, was investigating the question of Vietnamese storage of remains and that further conclusions had to await the results of that investigation. The 1999 remains report, issued more than one year after publication of the estimate, determined that a case-by-case analysis of all remains repatriated revealed that, between 1970 and 1993, Vietnamese central authorities had collected and stored 270 to 280 sets of remains. The report claims the disparity of 20 to 30 between that number and the number estimated to have been collected (300) is smaller than had been thought previously and that "we will continue to seek more data about the extent and limits of Vietnam's effort to collect American remains."

(b)(3) NatSecAct

[REDACTED] The NIE overstated its case on the lack of evidence regarding storage of American remains; it did not factor in the evidence suggesting that remains may not have been repatriated in two cases involving five remains. It did, however, indicate that an in-depth study on the issue was being prepared and that conclusions should await publication of that report.

SECRET

1801

(b)(1)
(b)(3)
NatSecAct

THE SAGA OF THE MORTICIAN

(b)(3) NatSecAct

[redacted] The NIE makes no claim regarding the number of stored remains. It does report that the 1987 SNIE had suggested that there was evidence Vietnam was storing "about 400-600 sets of remains." That judgment was retracted in October 1996 by IC Assessment 96-05, "Vietnamese Storage of Remains of Unaccounted U.S. Personnel." The NIE states that the 1987 judgment was retracted by the 1996 Assessment because it was based on "the unsupported testimony of a single unreliable source," the mortician.

(b)(3) NatSecAct

[redacted] The *Critical Assessment* takes the NIE to task on the subject of the mortician, calling for "an accurate review of evidence available to the IC." The assessment argues that the NIE rationale regarding the 1996 IC Assessment retraction of a judgment made in the September 1987 SNIE about the storage of 400 to 600 sets of remains, is "egregious" and misrepresents the facts. While the NIE correctly cites the 1996 Assessment as the basis for the retraction, we do not agree with the NIE rationale that the retraction was made because the source of the information was unreliable and his testimony insupportable. Our judgment is based on a comprehensive examination of the source of the storage of remains issue, the mortician.

(b)(3) NatSecAct

[redacted] The mortician, an ethnic Chinese, Vietnamese citizen, worked in his family's funeral business in Hanoi. In the late 1950s, the government assigned mortuary personnel to public service and the mortician worked for the Director of Cemeteries, where he was responsible for grave digging as well as preparing and interring remains. Beginning in 1969, he was assigned the duties of preparing skeletal remains of Americans. In 1979, he was arrested and deported to Hong Kong. While residing in a refugee camp in Hong Kong, he attracted the attention of the U.S. Defense Liaison Office by alleging that he personally had inspected the remains of over 400 U.S. military personnel that were in secret storage in Hanoi.

(b)(1)

(b)(3) NatSecAct

[redacted] polygraph [redacted] prior to expediting his resettlement to the United States. [redacted]

(b)(1)

(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

[REDACTED]

[REDACTED] The responses to the following three relevant questions resulted in an indication of deception:

- ◆ Between 1974 and 1977, did you inspect the remains of more than 400 Americans? – Yes;
- ◆ Did you make up the story about the remains of 400 Americans being stored in Hanoi? – No; and
- ◆ Did you personally see three live American soldiers in Hanoi after 1976? – Yes.

(b)(1)
(b)(3) NatSecAct

[REDACTED] adjudicated the results of the polygraph examination and determined that the examiner had made the "correct call." [REDACTED]

(b)(1)
(b)(3) NatSecAct

the mortician was brought to Washington, where he was interviewed [REDACTED] given another polygraph examination, this time administered by a private company [REDACTED]

(b)(1)
(b)(3) NatSecAct

(b)(3) NatSecAct

[REDACTED] We could not determine why a private examiner was hired to perform the second examination, [REDACTED]

(b)(1)
(b)(3) NatSecAct

(b)(3) NatSecAct

[redacted] The responses to the following three relevant questions in the second polygraph examination indicated no deception:

- ◆ When you left Hanoi, Vietnam, were skeletal remains of Americans being kept there?—Yes;
- ◆ At the time you left Vietnam, was the Vietnam Government keeping skeletal remains of U.S. military personnel at Hanoi like you say?—Yes; and
- ◆ Did the Vietnam Government force you to leave Vietnam like you say?—Yes.

(b)(1)

(b)(3) NatSecAct

[redacted] conducted a third polygraph examination of the mortician [redacted] (b)(3) NatSecAct The relevant questions focused on whether the mortician had seen three Americans between 1974 and 1979 in Hanoi. He responded affirmatively and no deception was indicated.

(b)(3) NatSecAct

[redacted] The mortician's claim to have seen three Americans was investigated as a live sighting report. One of the individuals, always seen with a Vietnamese escort, was determined to be Robert Garwood.¹² The other two individuals, seen unescorted, were determined to be either journalists or Russian military advisers.

(b)(1)

(b)(3) NatSecAct

[redacted]	In a 5 January 1984 [redacted]
[redacted]	a statement [redacted]
[redacted]	regarding the inconsistent [redacted]
mortician polygraph examination results.	
[redacted]	[redacted]

(b)(3) NatSecAct

¹² [redacted] Marine Corps PFC Robert Garwood was first listed as a POW by U.S. authorities—but never by the Vietnamese — in 1965. He returned to the United States voluntarily in 1979. He was convicted of collaborating with the enemy.

[redacted] that polygraph examination results (b)(1)
should not have been the sole or primary basis for assessing the (b)(3) NatSecAct
mortician's story. [redacted]

[redacted] concluded that the mortician's story was true. [redacted]

(b)(3) NatSecAct

[redacted] The number of remains of U.S. military personnel stored in Vietnam and the veracity of the mortician's statements remain subjects of continuing debate. During his June 1980 testimony before the House Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, the mortician claimed to have processed "some 400, some 452 of these remains, that 26 were turned over to the United States; that leaves about 400 plus. I have seen them." Between 1980 and 1983, senior U.S. officials used the more than/over 400 figure in public statements. The 13 January 1993 report of the Senate Select Committee on POW/MIA Affairs states that, in 1980, the mortician testified that he had processed 452 sets of remains.

(b)(3) NatSecAct

[redacted] The 1987 SNIE addressed the storage of remains of U.S. military personnel. Without further explanation, it states that, "We estimate that the Vietnamese have already recovered and are warehousing between 400 and 600 remains." The 1996 IC Assessment mentions that IC participants in the 1987 SNIE deferred to the principal drafter on the number of warehoused remains because the drafter's agency (DIA) had the responsibility and expertise for assessing technical aspects of the remains issue. The drafter of the 1987 SNIE, since retired, told us that he could not recall using the 400 to 600 figure. He said that, while he was convinced that storage of remains had occurred, he was not certain there was sufficient evidence to determine the numbers involved. Both the Director and Deputy Director, Special Office for POW/MIA Affairs, DIA at the time, told us that they had no direct knowledge as to the rationale for using the 400 to 600 figure in the 1987 SNIE. Both speculated that the numbers were extrapolated from the mortician's estimate on the number of boxes he believed he saw.

(b)(3) NatSecAct

(b)(3)
NatSecAct

[REDACTED] The 1996 IC Assessment states that the mortician:

... carefully differentiated between the sets of remains he *said* [emphasis in original] he worked on (280 to 310) and what he *believed* [emphasis in original] was the total number of boxes (400). He arrived at a figure of 426 by combining the 400 boxes he estimated in the room (warehouse) in 1977 and two other groups of remains (26 sets) that he worked on that could not have been in the room

These figures coincide with those in the detailed interview DIA conducted with the mortician in November 1979, just prior to the second polygraph examination. The 1996 Assessment concludes that the 1987 SNIE statement regarding warehousing 400 to 600 sets of remains was based on limited direct evidence whose reliability was open to question. It further concludes that the 400 figure was not "a precise point estimate" and the 600 figure was based on "uncorroborated hearsay evidence or . . . the result of questionable extrapolation."

(b)(3) NatSecAct

[REDACTED] The drafter of the 1998 NIE grappled with the differences of opinion on the mortician and discussed those differences at length during IC coordination sessions leading up to formulation of the draft report. IC participants agreed with the language that appeared in the NIE that the storage of 400 to 600 sets of remains was retracted from the 1987 SNIE by the 1996 IC Assessment because the information turned out to have been based on the "unsupported testimony of a single unreliable source." Many factors, including possible mistranslation of testimony and interviews; confusion on the part of the mortician and interviewers and translators; diverse polygraph examination questions; differences in what the mortician actually observed (remains he worked on) and what he speculated; and the drafter's contention that the information provided by the mortician that appeared in the 1987 SNIE was erroneous convinced the NIE drafter that the mortician and his information were unreliable. According to the drafter, the 1998 NIE did not discuss the numbers of warehoused remains because the mortician was considered an unreliable source. The 1996 IC Assessment did not discredit the mortician and his information, however. It claimed that the 1987 SNIE numbers were based on limited direct evidence whose reliability was open to question.

[redacted] In a 30 June 1998 memorandum for the Director, DIA, the DPMO argued that the 1996 Assessment characterized the evidence rather than the source as unreliable, describing the figures (400 to 600) as rough estimates not firm enough to serve as a baseline for U.S. policy. The DPMO found information provided by the mortician reliable, and, "dueling polygraphs aside," estimated that the number of remains collected and stored in Hanoi is "well within the range of acceptable error for the rough firsthand estimates provided by this source." DPMO analysts explained that the "range of acceptable error" was the 280 to 310 figure detailed in the 1996 Assessment. Those were the numbers that the mortician processed or worked on rather than the more than 400 he perceived or believed to have been stored. The DPMO concludes that Vietnam collected and stored some 300 U.S. remains rather than the 400 to 600 described in the 1987 SNIE.

(b)(3) NatSecAct

[redacted] We believe that the NIE language reflects misunderstanding of the meaning of the 1996 IC Assessment. That assessment outlined the rationale behind the decision to judge the 1987 SNIE statement that Hanoi had warehoused 400 to 600 sets of remains as based on "limited direct evidence whose reliability was open to question." We believe that the mortician was truthful in explaining his knowledge of warehoused remains, but that his information regarding the numbers of remains was not accurate. The second polygraph examination, in-depth interviews, a comprehensive post-polygraph investigation, and the (b)(1) January 1984 memorandum [redacted] for (b)(3) NatSecAct mortician truthfulness provide ample evidence and justification for our position. Had the DPMO been involved in coordinating the 1998 NIE, the "unreliable" and "unsupported" language might have been challenged and the statement on the mortician might have been explained more fully.

(b)(3) NatSecAct

(b)(1)
(b)(3) NatSecAct

[redacted] We cannot explain why [redacted] contracted for two private commercial polygraph examinations of the mortician [redacted]

[redacted] We also cannot explain why [redacted] believed additional polygraph examinations of the mortician were necessary, [redacted]

(b)(1)
(b)(3) NatSecAct

We are confident that the [redacted] 1984 acceptance of [redacted] (b)(1) [redacted] comprehensive post-polygraph investigation of the (b)(3) NatSecAct mortician are sufficient justification to conclude that he was truthful, but not completely accurate in his assessment of the number of remains in

(b)(1)
(b)(3) NatSecAct

question. We agree with the 1996 IC Assessment claim that the mortician "carefully differentiated between the sets of remains he *said* he worked on and what he *believed* was the total number of boxes."

(b)(3) NatSecAct

[redacted] The NIE incorrectly claimed that the 1996 IC Assessment retracted the statement in the 1987 SNIE that Vietnam was storing 400 to 600 sets of remains because the information was based on the unsupported testimony of a single unreliable source, the mortician. The misreading of the 1996 IC Assessment on the mortician does not change the basic thrust or key judgments of the NIE nor does the misread make the NIE statement regarding the source of stored remains an "egregious and unsupported misrepresentation of facts . . ." as claimed by the *Critical Assessment*.

NUMBERS OF POW/MIA: THE 735 AND 1205 DOCUMENTS

(b)(3) NatSecAct

Two Distinct Methodologies

[redacted] On the issue of numbers of American POWs in Vietnam, the *Critical Assessment* claims that the IC has not reviewed all relevant documentation. In addition, it asserts that, "It is simply unacceptable that a detailed analysis of the numbers is not presented in the NIE." Before we address the issue of the numbers specifically, it is important to understand that two different accounting methodologies have been used to support arguments that there either are or are not U.S. MIAs still alive in Southeast Asia. Since Operation Homecoming in 1973, the U.S. Government has based its accounting on the cases of individuals who were expected to be repatriated, but were not. Over the years, these have been termed discrepancy or priority cases. The Senate Select Committee summarized 135 of those as the "Vessey Discrepancy Cases." The 35-year, DoD accounting history has focused on these discrepancy cases in the remains recovery effort; as of August 1999, the cases DoD considered to be still unresolved had been reduced to 43.

(b)(3) NatSecAct

[redacted] The alternate methodology, which has run parallel to the DoD accounting system in at least rudimentary form since Operation Homecoming, considers all MIA, regardless of sub-category (e.g., Killed in

Action-Body not Recovered (KIA-BNR),¹³ over water, non-hostile) to be potentially alive, unless "fullest possible accounting" has occurred. Fullest possible accounting is defined as either verified repatriation of remains or return of a live person. Based on that approach there remain over 2,000 persons not accounted for, all potentially live MIA. Supporters of this methodology do, however, tend to accept the U.S. Government's KIA-BNR accounting. Accepting KIA-BNR reduces the number of potential MIA to 1,172 as of December 1992.

(b)(3) NatSecAct

[REDACTED] The 1993 Senate Select Committee POW/MIA report stated that Senator Smith had compiled a list of "compelling" cases, reducing the number of MIA from 1,172 to "324 still unaccounted for U.S. personnel from the Vietnam conflict." Senator Smith did not describe his methodology but did say that he considered his list "a working document" and "at best conservative." Based on verified remains returned of those on his list of 324, the list has been reduced to 289 names.

(b)(3) NatSecAct

[REDACTED] The dichotomy between the two methodologies was not resolved during the work of the Senate Select Committee, POW/MIA Affairs. In its final report, the Committee created an "Appendix of Case Summaries," and simply reported two lists of cases, the government's discrepancy list and Senator Smith's list of compelling cases.

(b)(3) NatSecAct

[REDACTED] The U. S. Government's case methodology factors out both those cases that the DoD determined to be KIA-BNR and those cases in which there was evidence of death. The methodology also factors out cases that are considered to be over water or off-the-scope.¹⁴ The total number is reduced as remains are recovered and identified or when individuals are released.¹⁵ The methodology considers only the remaining cases to be MIA. There is no POW category in this methodology because the U.S. Government believes there are no remaining POWs.

(b)(3) NatSecAct

¹³ [REDACTED] KIA-BNR refers to persons known to have been killed in action, but body or remains not recovered by U.S. forces, e.g., an aircraft exploding in midair or crashing, or a person with unquestionably terminal wounds and not recovered due to enemy action, or being lost at sea.

¹⁴ [REDACTED] Off-the-scope is a term used to refer to aircraft losses in Southeast Asia, primarily in Laos, where the aircraft loss occurred outside of radar coverage and the location is unknown.

¹⁵ [REDACTED] Since 1973, only one U.S. military member, Robert Garwood, has returned alive from Vietnam.

(b)(3) NatSecAct

(b)(3) NatSecAct

[REDACTED] The alternate methodology considers the above methodology to be flawed and bases its accounting on total numbers. While it also factors out KIA-BNR, returnees, and remains recovered and identified, it includes cases in which there is evidence of death, over water cases, and off-the-scope cases. The methodology considers all remaining cases to be potential POW as well as MIA and uses the terminology POW/MIA.

(b)(3) NatSecAct

[REDACTED] Apart from consistent treatment of KIA-BNR and remains recovered and identified, the two methodologies have different evidentiary bases. The discrepancy-based methodology relies on real-time incident reporting, results of search and rescue efforts, chain-of-command actions, the presumptive finding of death (Military Services and DoD) process,¹⁶ and the on-going work of JTF-FA. It is driven by operational reporting.

(b)(3) NatSecAct

[REDACTED] The total numbers-based methodology is also based on real-time incident reporting and results of search and rescue efforts. It discounts chain-of-command actions and Presumptive Finding of Death (PFOD) determinations, however. It is driven by single-source intelligence, interviews, and other one-time reports. In order to account for its numbers of missing personnel, it hypothesizes a second prison system and the transfer of individuals to the former Soviet Union. Since the work of the Senate Select Committee in 1992, it has relied heavily on the two Russian archival documents, the 735 and 1205 documents, which were acquired after the Select Committee finished its work.

(b)(3) NatSecAct

[REDACTED] We opted neither to compare the two methodologies further nor to accept one over the other. Instead, we went back to an

(b)(3) NatSecAct

¹⁶ [REDACTED] PFOD is an administrative finding by the appropriate Military Service Secretary, after statutory review procedures, that there is no current evidence to indicate that a person previously listed as MIA or POW could still be alive.

unfinished thread in the 1994 IC report, "Recent Reports on American POWs in Indochina: An Assessment." That assessment contained the following statement, without amplification:

Finally, analysts noted that the "735 Document" and the "1205 Document" are inconsistent with each other by any accounting. To have had 1,205 US pilots in captivity by late 1972, Hanoi would have to have held far more than 735 by early 1971.

That incomplete analysis, combined with the Senate Select Committee's decision not to take a position on the two methodologies, persuaded us to evaluate those sections of the 735 and 1205 documents dealing with numbers of U.S. POWs.

The Documents

(b)(3) NatSecAct

[REDACTED] We compared the 735 and 1205 documents to each other using the Fulbright/Kennedy and Vessey lists as a basis (the lists will be described as discussed). We focused on those sections of the documents that address the number of POWs held by the Vietnamese because it is those sections that are relevant to the POW/MIA issue. This methodology allowed us to proceed without questioning either the authenticity of the documents or the accuracy of those sections in each document that are not relevant to the POW issue. This approach precludes questions concerning the *bona fides* of either purported author, his location and position at the time of each report, or the intended audience. It also sets aside consideration of South Vietnam, Laos or Cambodia and focuses solely on the North Vietnamese prison system. A close examination of the portions of the 735 and 1205 documents that address the POW issue reveals that both cannot be true; they are mutually exclusive—as the 1994 IC assessment concluded. The relevant portion of at least one of the two documents, if not both, is demonstrably false.

(b)(3) NatSecAct ***Historical Setting of the 735 Document***

[REDACTED] On 22 December 1970, a U.S. official representing Senators William Fulbright and Edward Kennedy was handed a list: "Hanoi, November 15, 1970." The cover sheet was headed, Ministry of National Defense, Democratic Republic of Vietnam, and titled, "US Pilots

Captured in the Democratic Republic of Vietnam from August 5, 1964, to November 15, 1970." The list totaled 368 names: 339 in the North Vietnamese prison system, 20 deceased and nine released.

(b)(3) NatSecAct

[REDACTED] We can assume that senior Vietnamese officials familiar with the issue would have been aware of both the numbers provided to the United States in the Fulbright/Kennedy list and the breakdown of those numbers (i.e., 339 living POWs and 29 individuals who had died or had been released). Both the 735 and the 1205 documents are attributed to senior Vietnamese officials. Both documents, in referring to the number of living American POWs that the Vietnamese had "acknowledged" to be in captivity, used the number 368. This was not the true number of live POWs, and these officials would have known it.

(b)(3) NatSecAct

[REDACTED] In late 1970 or early 1971, Hoang Anh, a Vietnamese agricultural official purportedly authored a primarily agricultural report that was found in Soviet Military Intelligence (GRU) archives in the summer of 1993. That report became known as the 735 document. The GRU-acquired document indicates that Anh briefly addressed the POW issue twice in the report. In a section titled "Situation in the Vietnamese Workers' Party," the report states that, "... we published the names of 368 American pilots who were shot down and taken captive in the territory of the D.R.V." Later, in a section titled, "Situation in South Vietnam, Laos, and Cambodia," the report states that:

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.

If Anh (or any other senior Vietnamese official) had been in a position to give an authoritative report on this subject and to use the number 368, he also would have known that 29 of the men whose names were on the published list could not be returned to the United States because they had either been released previously or died in captivity. The acknowledged number of live POWs who could have been returned was 339.

SECRET

1812

NatSecAct

(b)(3) NatSecAct

[redacted] In the meantime, however, U.S. officials were unintentionally institutionalizing the incorrect number. On 2 September 1971, then-Secretary of Defense Melvin Laird forwarded the Fulbright/Kennedy list in a memorandum, "December 1970 PW List from NVN" to the Secretaries of the Military Departments. In the text Secretary Laird referred to "a list of 368 servicemen who are or have been prisoners of war." In his 1995 book, Imprisoned or Missing in Vietnam, Lewis M. Stern, commenting on the 735 document stated, "The document, which stated that Vietnam held 735 U.S. aviators as POWs in 1971 instead of the 368 whose names the Vietnamese had publicly released" Stern has been involved with DoD policymaking on the POW/MIA issue since September 1989 and accompanied General Vessey to Hanoi five times. Currently he is the Director for Indochina, Thailand and Burma, International Security Affairs, Office of the Secretary of Defense. He did not question the 368 figure in the 735 document when we interviewed him.

(b)(3) NatSecAct

[redacted] On the other hand, the figure cited by the Vietnamese in 1970 has been accurately reported, implicitly if not explicitly, at least five times: twice in the POW/MIA literature, twice by Senator Smith, and once by the IC. In his 1976 book, P.O.W., A Definitive History of the American Prisoner-of-War Experience in Vietnam, 1964-1973, John G. Hubbell stated, "In mid-December, 1970, members of Hanoi's delegation to the Paris peace talks handed over to representatives of Senators William Fulbright and Edward Kennedy a list of 339 American POWs in North Vietnam." In his 1993 book, M.I.A. or Mythmaking in America, (expanded and updated edition) H. Bruce Franklin stated that, "The following month [December] North Vietnam . . . provided what it officially certified as the 'full and complete' list of all 339 prisoners it held"

(b)(3) NatSecAct

[redacted] Senator Smith has accurately referred to the number of living POWs cited in the Fulbright/Kennedy document on two occasions. In his 21 July 1993, "An Interim Analysis of the 1972 Translation of [the 1205 document]," he stated, "On December 22, 1970, the North Vietnamese delegate to the Paris Peace talks, Mai Van Bo, released to representatives of U.S. Senators Kennedy and Fulbright a list of the names of 368 POWs, 20 of whom were listed as having died, and nine of whom had previously been released." Senator Smith repeated that same information later in his analysis.

SECRET

NDoc 26, 2024

(b)(3)

NatSecAct

000518

~~SECRET~~ // UNCON, NOFORN, NOCONTRACT // XI

1813

(b)(3) NatSecAct

[redacted] In the *Critical Assessment*, Senator Smith stated, "The 368 list itself consisted of 339 Air Force and Navy pilots and crew members currently in captivity, 9 such personnel previously released, and 20 such personnel listed as dead." He went on to say that, "The status of the 339 men listed as captives was already known to the Pentagon . . . , although this was the first 'official' acknowledgment of their status by Hanoi." He repeated the information again in a *Critical Assessment* footnote (180), over 100 pages later.

(b)(3) NatSecAct

[redacted] In the *Critical Assessment*, Senator Smith hypothesized that only one of two conclusions could be drawn; either the Vietnamese had made a full accounting or they had decided not to make a full accounting, as the 735 document alleges. Senator Smith referred back to then-Secretary of Defense Laird's memorandum stating that, "I do not accept it [the 368 list] as a complete list of all the prisoners held in North Vietnam."

(b)(3) NatSecAct

[redacted] In 1993, the IC was on the verge of focusing on the Vietnamese figure of 339 living POWs and the implications of that number, but missed the opportunity. In a 13 September 1993 DoS memorandum, "Vietnam-INR Comment on the '735' Document," the Acting Chief, INR stated:

The report says Hanoi had 'published the names of 368 fliers shot down and captured on the territory of the DRV' and that these would be returned 'as a start' when the US 'agreed' to withdraw. There . . . are inconsistencies in this statement. True, in December 1970, Hanoi passed to Senators Fulbright and Kennedy a list—the first ever—of 368 names purporting to be all the airmen captured over Vietnam. But only 339 were still living prisoners—20 were deceased, and 9 had been released years earlier. [The author's] purported statement that once the US had agreed to withdraw 'we will, as a start, return to them these 368 people' is curious since only 339 prisoners remained.

(b)(3) NatSecAct

[redacted] Finally, handwritten notes taken during an IC discussion (DoS, DIA, Task Force Russia, CIA, NIO) after the surfacing of the 735 document contain two illuminating comments. First, "INR—. . . Number is peculiar," and second, "DIA—. . . Numbers 735 and 1205 can't both be right." There is no evidence that these INR and DIA comments were ever pursued. Neither the drafter of the 1994 IC assessment nor the drafter of NIE 98-03 picked up on this discrepancy.

~~SECRET~~

Approved for Release: 2024/12/03 C06898860

1814

(b)(3)
NatSecAct**Accounting of U.S. Military Personnel Lost in Southeast Asia****1 January 1971-September 1972**

[redacted] Two sets of statistics provide comprehensive lists of U.S. military personnel lost in Southeast Asia by date of loss. One is a chronological name list that was maintained by the Assistant Secretary of Defense (Comptroller), based on information provided by the military services. The other is a chronological reference document maintained by DPMO. The January 1975 Comptroller's list and the May 1997 DPMO list provide a range of all possible U.S. losses in Southeast Asia between the dates of the 735 and 1205 documents, the end of December 1970 and 15 September 1972 respectively. The Comptroller's list is limited to military personnel unaccounted for in specific categories, such as KIA-BNR, while the DPMO list accounts for every loss regardless of category and includes returnees. We deleted foreign nationals and U.S. civilians from the DPMO list to maintain consistency with both the Comptroller's list and the contents of the 735 and 1205 documents.

[redacted] The January 1975 Comptroller list includes 131 military personnel who were either captured or missing in Southeast Asia during the period from 1 January 1971 through 15 September 1972. Based on these figures, the 735 and 1205 documents cannot both be accurate; the addition of 131 names is far less than the 470 difference between the 735 and the 1205 numbers.

[redacted] A higher figure is provided in the May 1997 DPMO list which includes 455 military personnel whose date of incident/loss occurred during the period from 1 January 1971 to 15 September 1972. Assuming that the 735 document is accurate and given the impossibility that all 455 personnel became POWs,¹⁷ the highest possible POW total at the time of the 1205 document would have been 1190. Conversely, assuming that the 1205 document is accurate, the lowest possible total at the time of the 735 document would have been 750.

¹⁷ [redacted] The United States unilaterally recovered the bodies of 16 personnel, 11 of those in 1972.

~~SECRET~~

NDoc 26, 2024

(b)(3) NatSecAct

[REDACTED] The 368 figure cited in the second relevant section of the 735 document cannot be an informed North Vietnamese statement. For internal consumption, the figure had to be 339 because the Vietnamese knew that 29 of the 368 servicemen they were referring to had either died or been released. For external consumption, the figure could accurately have been no more than 359 (368 less the nine known by the world to have been released). Based on the actual makeup of the "368" list as known to both the U.S. and North Vietnamese Governments in December 1970, the second paragraph in the 735 document relating to American POWs provides a false number.

(b)(3) NatSecAct

Historical Setting of the 1205 Document

[REDACTED] On 31 March 1968, a U.S. bombing halt north of the 20th parallel went into effect. On 31 October 1968, a complete bombing halt was ordered. That halt, excepting sporadic retaliatory strikes in 1969 and 1970 and again from February to September 1971, remained in effect until authorization was given for attacks on southern North Vietnam MiG bases on 7-8 November 1971. Operation Linebacker, including mining of North Vietnamese ports, began on 8 May 1972 and lasted until October 1972. Thus, opportunities for the U.S. pilot population in the North Vietnam prison system to grow were limited between the release of the 368 list in December 1970 and the purported 15 September 1972 date of the 1205 report.

(b)(3) NatSecAct

[REDACTED] The U.S. Government, just prior to the surfacing of the 1205 document in February 1993, acknowledged the detailed makeup of the 368 names on the Fulbright/Kennedy list and its relationship to what the United States knew. In its final report, released in January 1993, the Senate Select Committee on POW/MIA Affairs stated that:

By September 1970, the number of confirmed American prisoners had risen to 335 [three months before the 735 speech]. On December 22, 1970, North Vietnam provided Senator Edward Kennedy with a list of 368 In mid-1972, the [Japanese news Agency] released a list of 390 U.S. POWs. DIA analysis found that 339 of the names on this list had been acknowledged previously as POWs by the DRV, 9 were individuals already released, 20 were servicemen the DRV had reported earlier as dead, and 22 were new names, all airmen lost over North Vietnam

SECRET

1816

(b)(3)

NatSecAct

between December 1970 and May 1972 By the fall of 1972 [the time of the 1205 document], the list of confirmed U.S. POWs held by North Vietnam had risen to more than 400.

(b)(3) NatSecAct

[redacted] The Vessey documents are germane at this point. The Vietnamese provided General Vessey seven documents in 1993. Two of those documents are lists of American prisoners. The first of these is a copy of a handwritten spreadsheet in the Vietnamese language that accounts for American accessions into the North Vietnamese prison system since the capture of Lieutenant Everett Alvarez, U.S. Navy, who was shot down over North Vietnam in August 1964 and became the first entry on the list. The second document is a listing in English that is probably a continuation of the list of 368 names provided to Senators Fulbright and Kennedy in December 1970. The Vessey documents provide a way to extrapolate the number of Americans in the North Vietnamese prison system relevant to the 1205 document, as shown in Table 1.

(b)(3) NatSecAct

[redacted] **Table 1. Status of U.S. Personnel Once in the North Vietnamese Prison System**

Category	December 1970	December 1971	September 1972
POW	339	345	404
Deceased	20	20	22
Released	9	9	12
Total	368	374	438

Source: Fulbright/Kennedy list of December 1970 and Vessey Documents

(b)(3) NatSecAct

[redacted] The list of 368 Americans who the North Vietnamese claimed had entered their prison system remained static until December 1971, when six additional U.S. prisoners entered the system. Beginning on 16 February 1972, the list increased rapidly, reaching a figure of 438 by the date of the 1205 document. During that time, however, three more prisoners were released and two more died. Therefore, the figure relevant to the 1205 document of U.S. prisoners in the North Vietnam prison system was 404 (438 minus 22 deceased and 12 returnees), not 368. That is the figure that knowledgeable North Vietnamese would have used for internal consumption.

SECRET

Dec 26, 2024

(b)(3)

000095
NatSecAct

000522

(b)(3) NatSecAct

Concerning the number 368, the 1205 document states:

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.

As discussed earlier, the figure of living U.S. POWs cited by a senior Vietnamese official to his leadership at this time should have been either 339 for consistency with the 735 document or 404 to be consistent with the numbers in the Vessey documents—because at least 29 POWs had either died or been released. Therefore, the reference in the 1205 document to 368 POWs is inaccurate. The 1205 document also notes that, "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." If that is true, then the Politburo would have been aware of the increases and attrition cited previously.

(b)(3) NatSecAct

Further, the 1205 document states, "We have captured 624 aviators in North Vietnam." That figure directly contradicts the 735 figure in the Anh document. By September 1972, the 735 figure would have increased to at least 805 (735 plus the 70-name increase to the 368 list, including deceased and released names). In sum, the 1205 document does not track with the 735 document, and it perpetuates a static 368 figure that knowledgeable Vietnamese would have known was inaccurate. Therefore, in our judgment, the POW/MIA section of the 1205 document is also false.

(b)(3) NatSecAct

The Russian position on the numbers in the 1205 document has been communicated to the U.S.-Russia Joint Commission on at least two occasions. In a 30 June 1994 letter to Senator Smith, the then-Chief of the GRU, General Ladygin, stated, "We cannot confirm the correctness of the number of American prisoners (1205) mentioned in the report, inasmuch as this data was not relevant for us and was not rechecked." On 1 July 1997, Ladygin's successor, General Korabelnikov, repeated that statement to Senators Smith and Shelby and Representative Johnson during a Joint Commission meeting at the Russian Ministry of Defense. Korabelnikov concluded by saying, "I do not have anything more to add concerning what General Ladygin said."

(b)(3) NatSecAct

[redacted] A DoS analysis of the 1205 document in April 1993 raised two additional points that should have been addressed by the author of the 1205 document but were not. DoS argued that the document should have referred to a decision made two weeks earlier by the Vietnamese to release three additional pilots whose families were due in Hanoi on 16 September 1972. Secondly, DoS noted that the 1205 document did not address the increased number of prisoners as a result of the heavy U.S. bombing campaign of May-October 1972 and the resultant Vietnamese propaganda exploitation of POWs.

(b)(3) NatSecAct

[redacted] The JCSD files support the assessment that Vietnamese leaders would have been accurately informed about the numbers of American POWs being held. Those files contain a TFR (JCSD's predecessor) undated assessment, "Vis-a-vis the Russians: Analysis of the 1205 Document." In reference to the author of the 1205 document, the TFR document states that, "Quang cited the continued interest of the Politburo in the question of American prisoners of war." His speech strongly suggested on-going discussion and debate within the Politburo regarding the disposition of American POWs. Therefore, updated information on the number and disposition of POWs must have been discussed by the Vietnamese Politburo within the time frame of the 1205 document. The TFR analysis also states that:

Given the many inconsistencies and contradictions of the 1205 document, this type of analysis will allow the burden of proof to be placed on those who are holding back information, i.e., the Russians and Vietnamese. This may alleviate the need for the U.S. Government to derive a definitive truth from a partial piece of evidence—we do not have enough information to know what the 1205 document really means.

(b)(3) NatSecAct

[redacted] The *Critical Assessment* supports the view that accurate information would have been provided to the Vietnamese Politburo by senior Vietnamese officials. In addressing the NIE statement that "none of the Russians claimed that the figure of 1205 POWs was accurate," the assessment cites a GRU officer (as of October 1977) as stating during an interview that:

... the Vietnamese would not have deceived themselves at a closed Politburo session; they might have provided inaccurate information in

press releases on their negotiations with the Americans, but they would have no reason to do so within closed sessions of their political leadership.

A Point of Logic

(b)(3) NatSecAct

[REDACTED] It does not matter whether the 735 and 1205 documents are genuine GRU documents or whether the contents not dealing with POW numbers are accurate. An analysis of the statements in the *Critical Assessment* devoted to proving that, because the documents are genuine and elsewhere accurate, the sections about POW matters are accurate as well is not warranted. It does not necessarily follow that because a document is genuine and two of its three parts are plausible that the third part is also plausible. Conversely, because one of three parts of a document is not plausible does not necessarily mean that the other two parts are also not plausible or that the document itself is not genuine.

(b)(3) NatSecAct

[REDACTED] Much effort has been expended to prove the *bona fides* of the 735 and 1205 documents and their respective authors. The pursuit thus far has been fruitless. As one member of the JCSD team conducting interviews with Russians on the documents told us, "the process is more important than the results because there are no results." Nor does it matter. We accept the authenticity of the two documents, and we accept the accuracy of some of the contents of the documents. We do not accept references in the documents to the numbers of POWs held by the Vietnamese.

(b)(3) NatSecAct

[REDACTED] Nevertheless, because so much has been made of the testimony of and interviews with Russian sources, we reviewed the statements of Russian sources who have been interviewed by JCSD, including those mentioned in both the NIE and the *Critical Assessment*, to determine their opinions of the 735 and 1205 documents.

(b)(3) NatSecAct

ASSESSMENT OF COMMENTS BY RUSSIAN SOURCES ON THE 735 AND 1205 DOCUMENTS

[REDACTED] The NIE uses the results of five Russian interviews in its discussion of the IC's assessment of the 735 and 1205 documents. Based in part on those interviews, which the NIE categorizes as "new information,"

the NIE concludes that "none of the new information helps to confirm the accuracy of the 1205 report" and that the IC assessment of the 735 and 1205 documents released in January 1994 "remains valid."

(b)(3) NatSecAct

[redacted] A large portion of the *Critical Assessment* is a detailed analysis of the NIE's assessment of the 735 and 1205 documents. The *Critical Assessment* refers to four of the five Russian sources cited in the NIE and concludes that:

... the NIE's judgment on the 1205/735 documents cannot be accepted with confidence because it is **replete** [emphasis in original] with inaccurate and misleading statements and lacks a reasonably thorough and objective analytical foundation on which to base its judgment.

(b)(3) NatSecAct

Our Approach

[redacted] Both the NIE and the *Critical Assessment* refer to Russian sources, but cite them differently. We reviewed statements of 31 Russians made during interviews with JCSD analysts or in meetings with U.S. personnel [redacted]

(b)(1)

(b)(3) NatSecAct

[redacted] To assess the statements, we first defined the level of access that each individual had. We established three levels of access based on the individual's level of responsibility and the nature of his assignments as follows:

- ◆ High—Reasonable expectation that the official had knowledge of policy and could have had access to documentation;
- ◆ Medium—Some expectation that the official had knowledge of policy and could have had access to documentation; and
- ◆ Low—Limited or no expectation that the official had knowledge of policy and could have had access to documentation.

(b)(3) NatSecAct

[redacted] We next reviewed the statements to establish how each Russian source rated the validity of the 735 and 1205 documents as genuine GRU acquisitions and the credibility of the information in each document concerning POW numbers.

Validity and Credibility

(b)(3) NatSecAct

[redacted] Thirteen of the 31 Russian sources (42 percent) considered the documents valid. Further, when only medium and high access levels are considered, 13 of 21 (62 percent) considered the documents valid. None of the Russian sources considered them not valid, and some had no opinion.

(b)(3) NatSecAct

[redacted] Five of the 31 Russian sources (16 percent) considered the documents credible. Three (10 percent) considered them not credible. Thus, 23 of 31 (74 percent) made no judgment. Only two of 12 individuals with a high level of access believed that the information in the 735 and 1205 documents was credible. One individual served in the 1970s as a Central Committee Secretary. He based his judgment on his belief that the GRU had the means to collect such information—not on validation of the information by other means. The other [redacted]

(b)(1)

(b)(3) NatSecAct

[redacted] said that, if the Vietnamese claimed they held 735 American POWs, that was more than the Soviets had estimated. Three of nine individuals with medium access thought the information was credible. One, a Captain First Rank in the GRU who had no direct knowledge of the 735 and 1205 documents, stated that the numbers cited in them could not be confirmed; he believed that Russia had no interest in having these numbers confirmed. The second individual, a 32-year veteran of the KGB's First Chief Directorate, had no direct knowledge of the documentation and said he never saw any information indicating POWs were detained after the Vietnam War. The third individual, the sole KGB representative to the Soviet Embassy in Hanoi between 1975 and 1979, commented that the documents confirmed his personal opinion that not all POWs were released. Not one of the five Russians who found the information credible had any independent means of verification.

(b)(3) NatSecAct

[redacted] Two Russian sources with high access believed the information was not credible. The Russian Ambassador in Hanoi between 1974 and 1986 questioned the credibility of the information because at no time during his tenure as Ambassador did he learn of any American POWs being held after the war. Another highly placed diplomat who worked on political issues concerning Vietnam at the Central Committee between 1963 and 1986 never saw or was made aware of the existence of the 735 and 1205 documents. One source with medium access who served in the

Russian Embassy in Hanoi when the two documents surfaced stated that the 1205 document could be in error due to inaccurate GRU reporting, translation errors, or mistakes by the purported author and his staff.

(b)(3) NatSecAct

Previously, we stated that we accept that the 735 and 1205 documents were genuine acquisitions. Statements made by Russian sources reinforce that acceptance. Furthermore, we found that one section of the 735 document and the section of the 1205 document pertaining to POW numbers were both false. Based on the statements made by 31 Russian sources, that finding stands. No estimate of credibility concerning numbers of U.S. POWs cited in the 735 and 1205 documents can be made based on the 31 Russian sources.

(b)(3) NatSecAct

The *Critical Assessment* claims that the NIE statement that the new information from the Russian interviews does not help to confirm the accuracy of the 735 and 1205 documents is "factually inaccurate." The assessment indicates that the information provided by GRU Captain First Rank Sivets, and two Chiefs of the GRU, Generals Ladygin and Korabelnikov, helps to confirm that the 1205 document was "an accurate representation of the political military situation in North Vietnam in 1972." Further, the assessment states that, "since 1994, the GRU has expressed its confidence in both the authenticity and the reliability of the information in the 1205 report." We reviewed the statements made by the GRU officials and found that none of them supports the POW-related contents of the 1205 document.

(b)(1)

(b)(3) NatSecAct

(b)(3) NatSecAct

Captain First Rank Sivets claimed that the GRU had no interest in the POW issue nor did it perform an analysis of the 1205 document. In his opinion, the only value in the 735 and 1205 documents was the description of North Vietnam's internal political situation.

(b)(1)

(b)(3) NatSecAct

the Soviet POW figure was far short of the purported figure in the 1205 document." JCSD concluded that, "the Soviet assessment supports the POW-related content of neither the 735 nor the 1205 document." General Ladygin, a former Chief of the GRU, said that the GRU could not confirm the accuracy of the

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.

(b)(1)
(b)(3) NatSecAct

(b)(1)

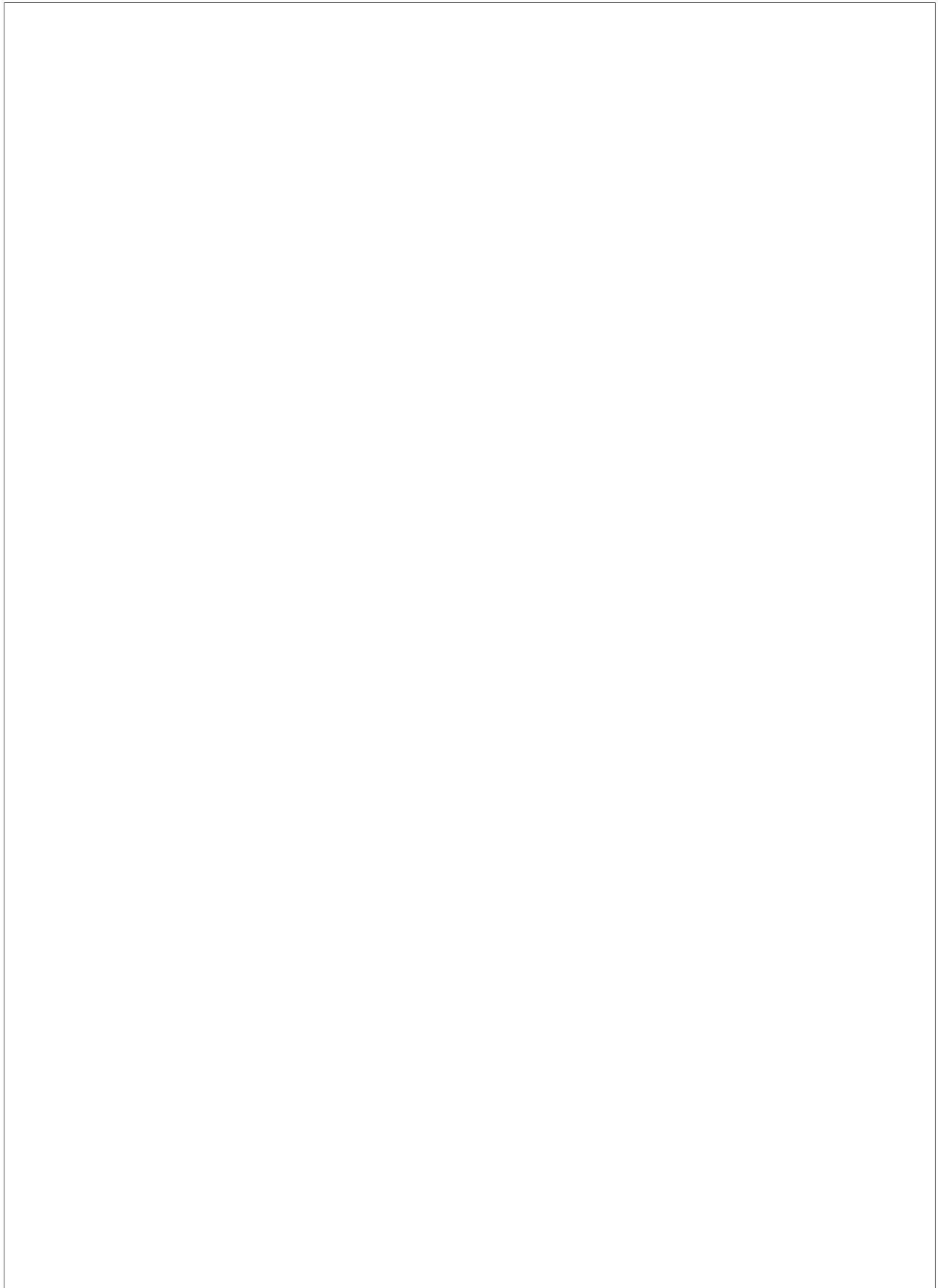
(b)(3) NatSecAct

~~SECRET~~

1824

(b)(3)

NatSecAct



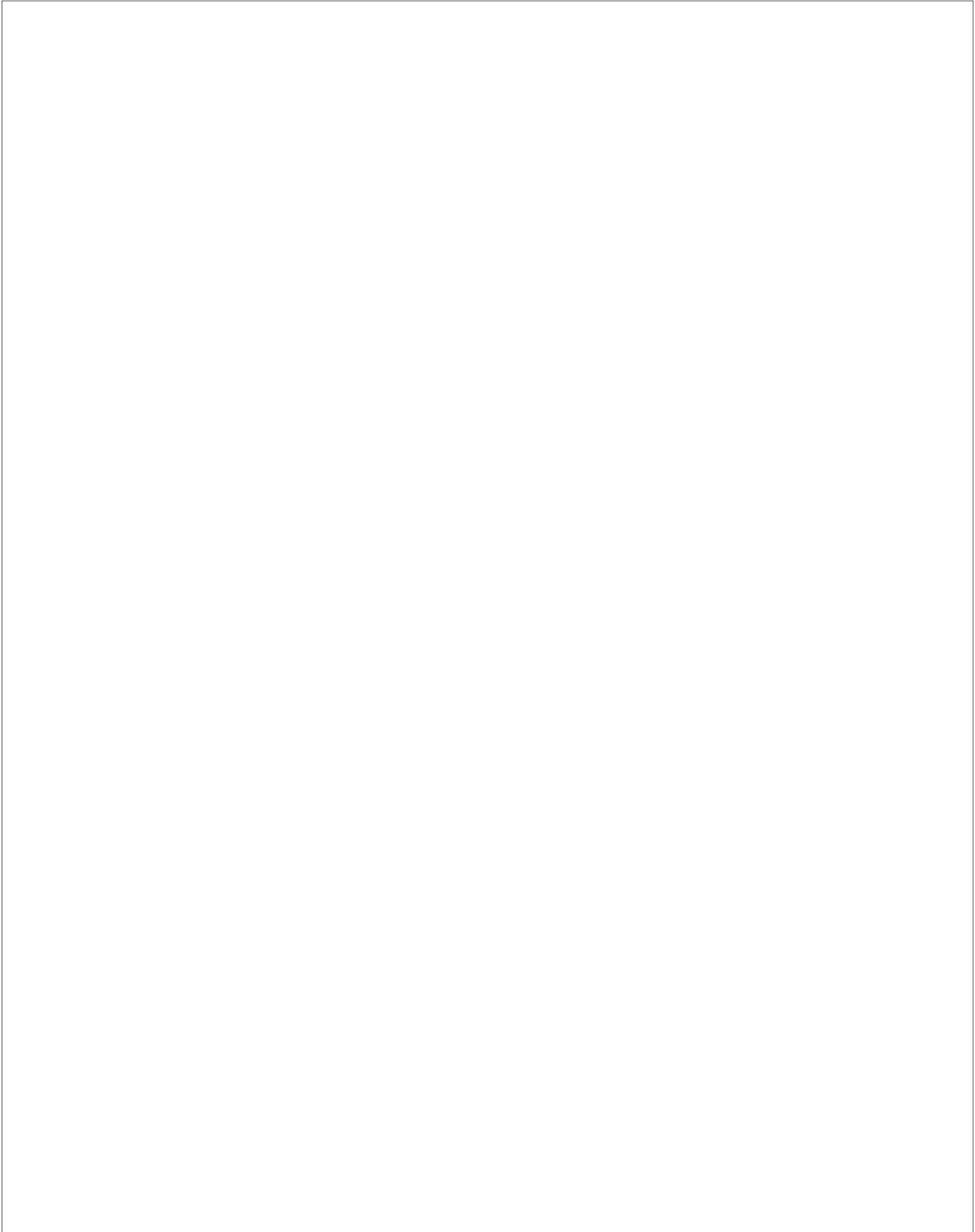
~~SECRET~~

1825

NatSecAct

(b)(1)

(b)(3) NatSecAct



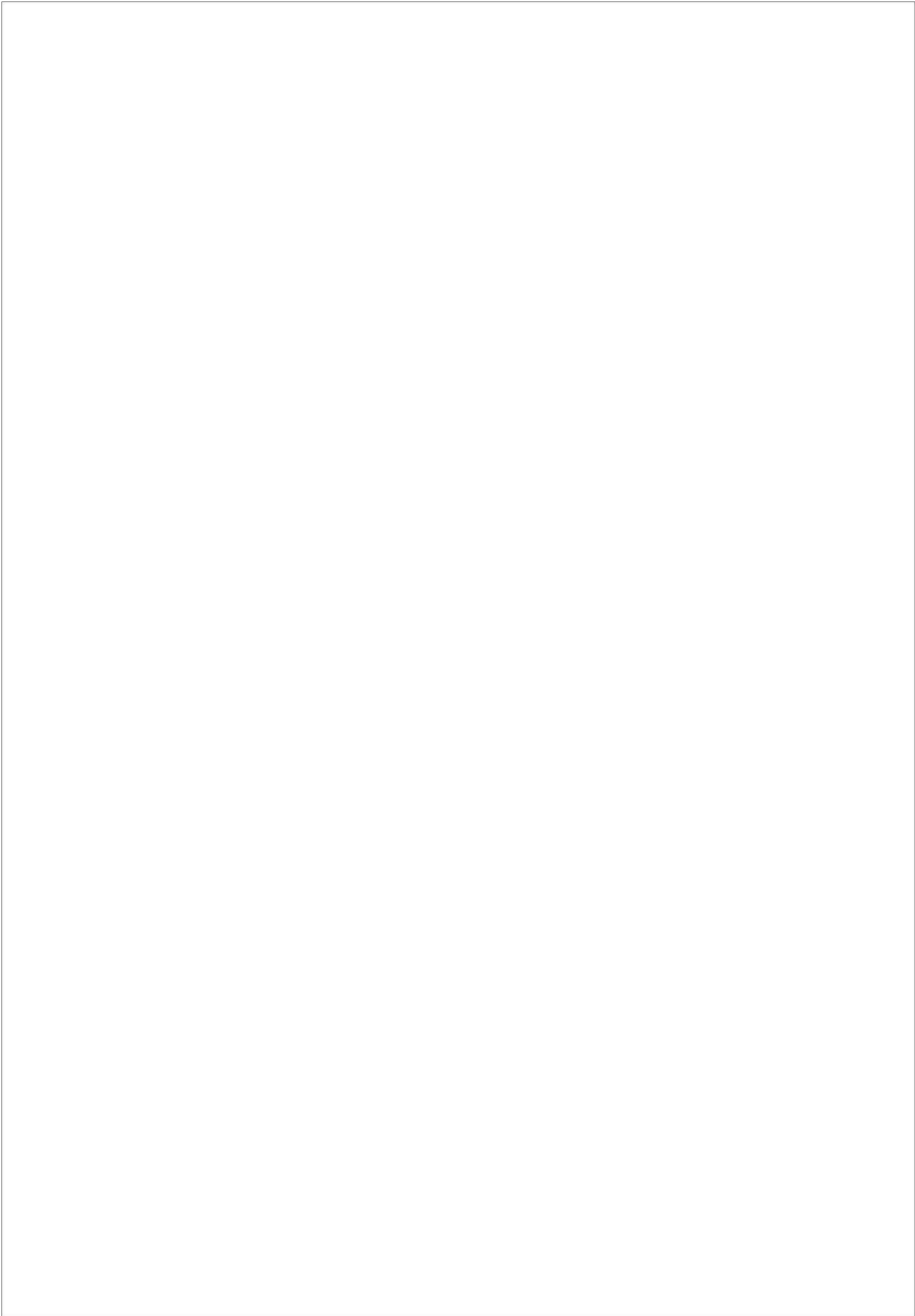
~~SECRET~~

Dec 26, 2024

(b)(3)

NatSecAct

000531



(b)(1)

~~SECRET~~

(b)(3)

(b)(3) NatSecAct

NatSecAct



SECRET

Approved for Release: 2024/12/03 C06898860

Page 58 of 80 PageID# 1828

(b)(3)

(b)(1)

(b)(3) NatSecAct

NatSecAct



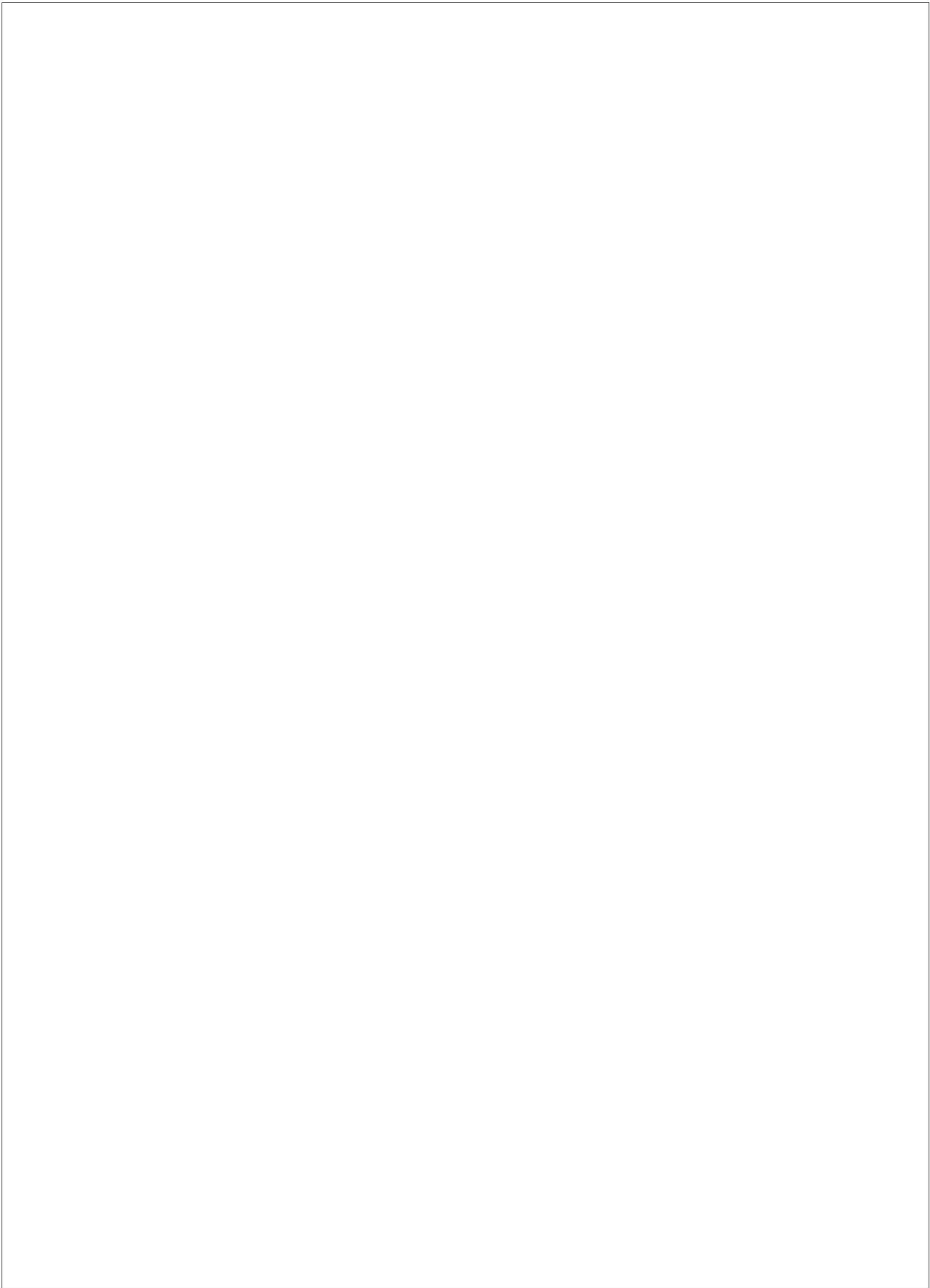
SECRET

Approved for Release: 2024/12/03 C06898860

~~SECRET~~

(b)(1)
(b)(3) NatSecAct

(b)(3)
NatSecAct



~~SECRET~~

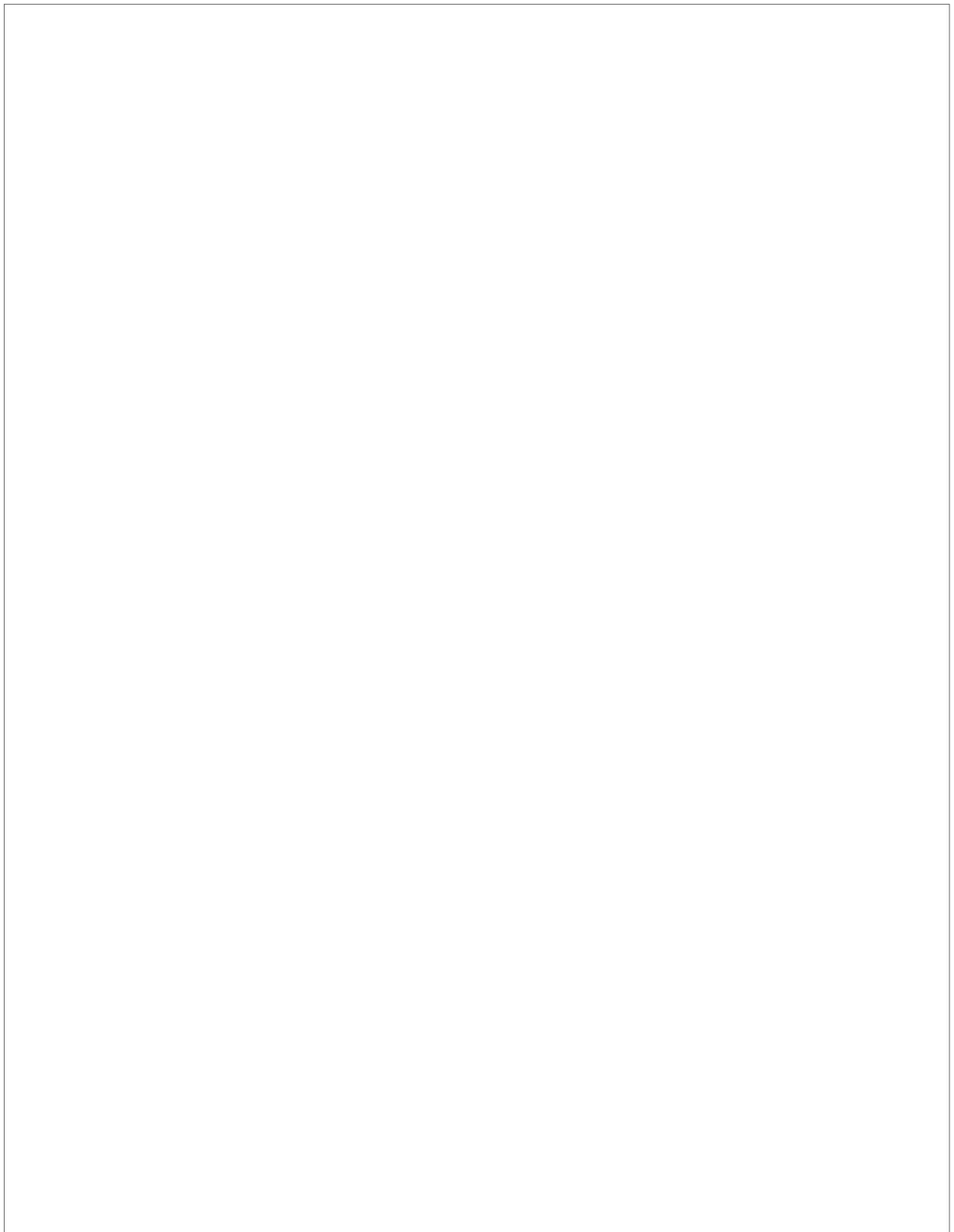
1830

(b)(3)

NatSecAct

(b)(1)

(b)(3) NatSecAct



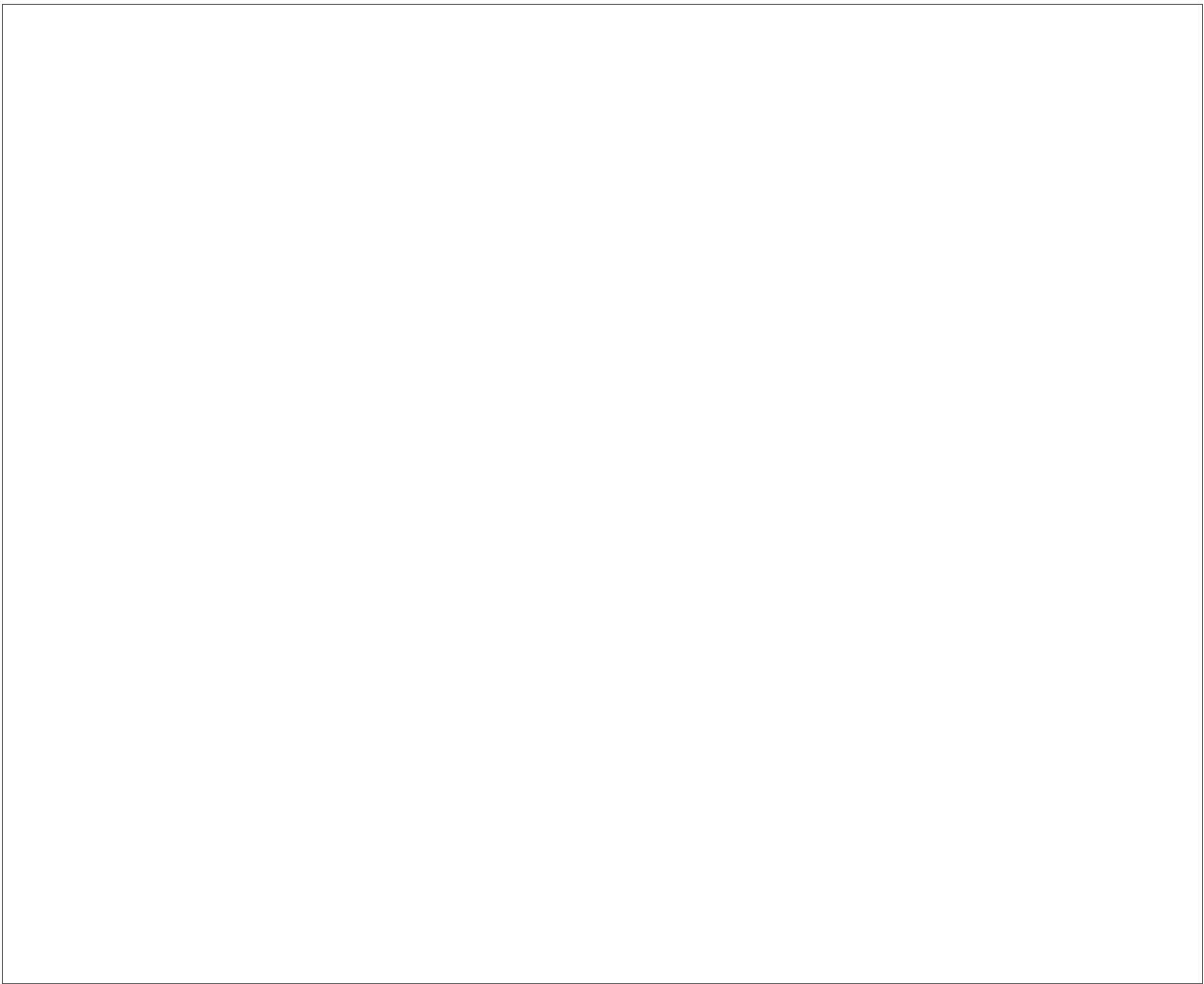
~~SECRET~~

Dec 26, 2024

(b)(3)

000109
NatSecAct

000536



SEPARATE OR SECOND PRISON SYSTEM

(b)(3) NatSecAct

[redacted] 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."

(b)(3) NatSecAct

[redacted] 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

POWs not repatriated had to have been held in a separate or second prison system. Included in the evidence cited in the *Critical Assessment* is a reference to a CIA study in early 1976 that concluded, "the possibility of a second prison system for the detention of American POWs in North Vietnam cannot be disregarded."

(b)(3) NatSecAct

[redacted] A more expansive quotation from the so-called CIA study appeared in a 1998 book, Code-Name Bright Light, The Untold Story of U.S. POW Rescue Efforts During the Vietnam War, by George Veith:

An analysis of 19 camps not known to have contained Americans revealed inconsistencies in the various camps' reaction to the Son Tay raid Some camps reacted defensively to the raid, others did not Only selected camps reacted initially to the raid The reason for this inconsistency in the various camps' reactions to the raid is not known. Because of this inconsistency . . . the possibility of a second prison system for the detention of American POWs cannot be disregarded.

In an end note, Veith sourced his quote to the:

Senate *Congressional Record*, January 26, 1994, p. S-163, Senator Bob Smith of New Hampshire is quoting from a just-declassified CIA photographic study of selected prison facilities in North Vietnam. The study was done in 1976.

(b)(3) NatSecAct

[redacted] We obtained a copy of the CIA prison camp study referred to by the *Critical Assessment* from the SSCI's holdings. The "study" is an untitled, undated, handwritten draft, apparently contained in a file folder titled "CIA PW Camp Study." The draft somehow survived the archival process and was included as a line item on page 119 of a 130-page transmittal record dated 4 May 1984, forwarded by the DIA POW/MIA Office to the Federal Archives and Records Center. An extract of the transmittal record and a copy of the handwritten draft were forwarded to Senator Smith on 12 November 1993 by the Acting Deputy Director, DPMO.

(b)(3) NatSecAct

SECRET

1833

NatSecAct

[redacted] We located a second copy of the handwritten draft in the archives of the DIA Special Office for POW/MIA Affairs. Included with that undated draft marked "Working Paper" was a six-page, undated DIA informal review of the draft. The DIA conclusion was that:

None of the finding [sic] presented in this study provide [sic] any evidence to support the presence of U.S. PWs in the 'Other Camps' or that a second prison system was maintained in North Vietnam for the purpose of holding U.S. PWs not released at Homecoming.

(b)(3) NatSecAct

[redacted] DPMO analysts told us that, in the 1980s, DIA pursued the possibility of a second prison system, ruling out the possibility for three reasons:

- ◆ Returned POWs did not describe a system of collection and evacuation that would split a segment of the POW flow from the North Vietnamese prison system;
- ◆ Extensive source reporting in the 1970s and 1980s did not validate a second prison system; and
- ◆ Reporting from former South Vietnamese commando returnees asked about contact with or observation of American POWs in the prison system in which they were held. There was no such contact or observation.

(b)(3) NatSecAct

(b)(1)

(b)(3) NatSecAct

[redacted] We found work relevant to the draft "study" in the [redacted] CIA, DO-held POW/MIA-related information. Two folders in that collection contained documents associated with the search for POW camp information. None of the documents we reviewed drew a conclusion about the presence of American POWs at a particular camp based on imagery alone. For example, a typical document entry was, "Imagery alone cannot determine camp schedules, patterns of activity and nationality and dress of prisoners and guards." Positive identification of the presence of American POWs was made only when HUMINT information was also factored in. Typically, the IMINT analytical

conclusion was either, "there is no sign of any activity indicating [that] the buildings are being used to house American POWs," or "There is no sign of any activity that could be associated with a POW detention camp."

(b)(3) NatSecAct

[redacted] The DO documents revealed that CIA, Office of Imagery Analysis (OIA) had systematically searched for POW camp information since at least 12 September 1966. Beginning in at least 1966, a formal standing requirement was levied each year, worded, "Identification of Installations in Southeast Asia Which May Contain American Prisoners."

(b)(3) NatSecAct

[redacted] Relevant work for the CIA prison camp study mentioned in the *Critical Assessment* was done by three individuals whose signatures were on several project-related memoranda. We interviewed the action officer for the study; he verified that he was the author of the handwritten draft that survived the archival process. He could not confirm which draft (first, second, final) had been archived because his practice had been to rewrite by hand each draft after management review. He said the task had been based on the premise that we "knew about the 'known camps'," (i.e., the camps that held Americans) and had identified a number of detention facilities not known to hold Americans. The requirement was to determine, using imagery, additional camps that might hold Americans. The methodology was to use the aftermath of the November 1970 Son Tay raid to determine what changes in security had taken place at the camps not known to hold Americans. Having determined those changes, the analytical question became, "could we use that change to provide evidence of American presence?" Although he drafted the wording quoted by the *Critical Assessment*, the action officer said that:

there was no way I could prove it; the change as determined from imagery was in itself not proof. There were no other sources of information.

(b)(3) NatSecAct

[redacted] The Director, OIA provided a status report on the study in a late December 1976 memorandum to the CIA, Deputy Director for Intelligence, that stated:

... we have performed a study of 25 prisons/POW Camps in northern Vietnam in an attempt to identify some method of analysis or signature to indicate the presence of U.S. POWs. Our study consisted of a

comparative analysis of six confirmed American POW camps and 19 other prisons using photography dated prior to and after the 21 November 1970 raid on Son Tay. We found that all six of the known POW camps and 14 of the 19 prisons had new defenses added between November 1970 and December 1972. Although this may be a possible indicator, it is not conclusive evidence of an American presence.

(b)(3) NatSecAct

[redacted] The Chief, Land Forces Division signed the completed study as a CIA internal memorandum on 7 February 1977. The study was based solely on IMINT and focused primarily on the presence or absence of defensive positions. The handwritten draft which the *Critical Assessment* cited contained the following statement, in context:

This inconsistency [different patterns of post-reaction to the Son Tay raid] and the fact that several reports have been received recently stating that Americans are still being held in North Vietnam, the possibility of a second prison system for the detention of American POWs cannot be disregarded.

That statement did not survive the CIA review process. The final assessment made in the CIA internal memorandum was:

Although these may be possible indicators, it is not conclusive evidence of an American presence. We searched the official DoD files on the 19 prisons to correlate any reporting of an American presence with our photographic analysis. No correlation could be made.

In other words, the CIA, OIA, in the aggregate, followed the same logic it had used for individual camp assessments. Imagery alone (without all-source reporting, in this case the addition of HUMINT) cannot be used as a determinant.

(b)(3) NatSecAct

[redacted] In critiquing the original language, the Deputy Division Chief, OIA asked the imagery analyst if he was trying to sway the reader to a certain conclusion, perhaps not supported by the evidence. The analyst told us that, "maybe I wanted to find some new camps," and in consultation with the supervisor he recalled that perhaps he had not been "standing back and taking an unbiased look." He said he was a junior analyst at the time and might have been off the analytical track. He summarized by saying that, "I will have to say that [his] work, based solely

~~SECRET~~

Approved for Release: 2024/12/03 C06898860

1836

(b)(3)

NatSecAct

on IMINT, is even today, inconclusive." With one exception he never saw anything in his entire career that supported the statement he had made in the draft of the memorandum. The one exception was that he thought at one time there "might be something" at a camp called Dong Ha that he recalled was in the Haiphong area. Nothing was ever substantiated. The imagery analyst was shown the signed internal memorandum; he said it accurately reflected his unbiased analysis.

(b)(3) NatSecAct

[redacted] We interviewed the CIA, DO counterintelligence analyst responsible for evaluation of the North Vietnamese security services and the North Vietnamese prison system. He held that analytical account continuously from 1965 to 1992, the first seven of those years working for the Chief of Station in Saigon. He stated that he was constantly attuned to the thesis that there might be a separate or second prison system, and he continuously looked for such a system. He never found any evidence of the existence of such a system.

(b)(3) NatSecAct

[redacted] In sum, there never was an all-source CIA "Prison Camp Study." Instead, the CIA, OIA provided an internal, IMINT-based assessment to the DO. The coordination of a handwritten draft of that assessment with DIA resulted in the archiving of the handwritten draft by the DoD. That archived draft was assumed, erroneously, by researchers in the 1990s to be an IC product. It was neither an IC product nor a CIA product; it was the preliminary work of a junior imagery analyst that stated that the evidence from imagery was inconclusive.

ALLEGED TRANSFERS OF POWs FROM VIETNAM TO THE USSR

(b)(3) NatSecAct

[redacted] On the issue of the alleged transfers of POWs to Russia or elsewhere, the *Critical Assessment* states 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

The assessment differs with the NIE, particularly with respect to statements made by the late Russian General D. A. Volkogonov, who served as a military advisor to President Yeltsin and was the Co-Chairman of the

~~SECRET~~

Dec 26, 2024

000542

(b)(3)
NatSecAct

Russian side of the U.S.-Russia Joint Commission on POW/MIAs, and K. F. Katushev, a former USSR Central Committee Secretary. The *Critical Assessment* claims that the NIE accounts of information provided by the two officials are "inaccurate or lacking in important detail." We reviewed the statements made by Volkogonov and Katushev and other Russian officials, and we examined evidence associated with the possible existence of a second prison camp system. We agree with the NIE assertion that, because of a lack of conclusive evidence disproving transfers, the "books should remain open" on the issue. To date, however, most, if not all, reporting avenues have been explored with negative results. Our review of the transfer issue, with particular emphasis on Volkogonov and Katushev, follows.

General D. A. Volkogonov

(b)(3) NatSecAct

[redacted] The NIE states that General Volkogonov told the U.S.-Russia Joint Commission on POW/MIA Affairs that his delegation had uncovered no evidence that U.S. prisoners had been transported from Vietnam to the USSR. The *Critical Assessment* argues that the fact that Volkogonov did not uncover evidence of transfer does not constitute proof that such an event did not occur. The assessment cites as evidence a statement Volkogonov made to the Senate Select Committee on POW/MIA Affairs on 11 November 1992, in which he said, "Hypothetically, we cannot dismiss the possibility that several individual American servicemen were taken to the Soviet Union from Vietnam." The *Critical Assessment* does not mention, however, that, in concluding that thought, Volkogonov said, "But, again, we have no precise information about such cases. It can only be called a possibility and I believe not a very strong possibility." In the same testimony, Volkogonov claimed that there were no archives in Russia that he did not have access to and added:

No U.S. citizens are currently being detained within the territory of the former USSR. The conclusion is based on a thorough analysis of all archival documents, interviews with witnesses, and on-site inspections of possible American housing sites.

(b)(3) NatSecAct

[redacted] We examined several documents issued prior to Volkogonov's testimony that support his statement that no U.S. citizens were being detained. On 3 December 1991, the Interrepublic Security Service, successor to the former KGB Second Chief Directorate, [redacted]

(b)(1)
(b)(3)
NatSecAct

SECRET

(b)(1)
(b)(3) NatSecAct(b)(3)
NatSecAct

[redacted] had undertaken "an exhaustive search of available information and resources, and had come up with no indication of such presence in the USSR past or present." On 6 December 1991, the Interrepublic Security Service advised [redacted] that, "On our part, we also do not have any information about American military personnel located on the territory of the USSR who were missing in action during the course of military activities in Indochina." Finally, in a 20 May 1992 letter to President Yeltsin, the Russian Minister of Security said that:

The Security Ministry, the Foreign Intelligence Service, the Ministry of Internal Affairs, and the Russian Communist Party Archive do not have materials about the retention of American POWs on the territory of the former USSR. An analogous response was received from the Ministry of Defense and the GRU of the General Staff, OVS (Unified Armed Forces), SNG (Commonwealth of Independent States).

(b)(3) NatSecAct

[redacted] In spite of that, when asked in a 16 June 1992 "Dateline" interview about rumors that American POWs from the Vietnam War were transferred to the former Soviet Union, President Yeltsin responded that:

Our archives have shown that this is true. Some of them were transferred to the former Soviet Union and were kept in labor camps. We don't have complete data and can only surmise that some of them may still be alive. That is why our investigations are continuing. Some of them may have ended up in psychiatric asylums.

President Yeltsin's statement contradicts information provided to him by his Minister of Security barely one month prior to his "Dateline" interview. In late June 1992, the U.S. Co-Chairman of the U.S.-Russia Joint Commission said that President Yeltsin "misspoke" when he said U.S. POWs might still be in the former Soviet Union. And, on 30 June 1992, following a meeting with President Bush, the Co-Chairman said that he had found no evidence in Moscow that any living American POW was being held against his will in the former Soviet Union.

(b)(3) NatSecAct

[redacted] In a July 1992 interview with the Russian newspaper, Nezavisimaya Gazeta, General Volkogonov said that President Yeltsin had been mistaken and that archives showed no sign of any such prisoners

SECRET

000544

Dec 26, 2024

(b)(3)
000117
NatSecAct

ever being held in the former Soviet Union. During November 1992 hearings before the Senate Select Committee on POW/MIA Affairs, a letter signed by President Yeltsin was entered into the record. The letter mentions evidence of Americans "staying in camps and prisoners of the former USSR," and says that some had been executed by the Stalin regime (1924-1953) and that others may still reside in the former Soviet Union. Yeltsin concluded that there were no Americans being held against their will in Russia. The IC has no information to support the claim made by President Yeltsin that U.S. POWs from the Vietnam War were held in Soviet prison camps; certainly, none was executed during the regime of Stalin, who died in 1953.

(b)(3) NatSecAct

[REDACTED] The *Critical Assessment* asserts that, after his November 1992 testimony before the Senate Select Committee, Volkogonov said in an August 1994 autobiographical sketch that he had received a "very serious indication" that a transfer of U.S. POWs to the USSR may have taken place in the late 1960s. The *Critical Assessment* does not mention, however, that Volkogonov goes on to say that, after discovering the "sensational document" about such a transfer, he immediately brought it to the attention of the Director of Foreign Intelligence. The Director's staff searched for any indication that the plan referred to in the document had been implemented. Volkogonov then said, "As I expected, they did not find the indications. They said the mission was not carried out." The Volkogonov autobiographical sketch concludes by stating, "The regime (Soviet) was such at the time that it was possible to contemplate the wildest scenarios."

K.F. Katushev

(b)(3) NatSecAct

[REDACTED] The NIE uses K. F. Katushev, a former Central Committee Secretary for Maintaining Ties with Other Socialist Countries, as an example of an official who served in Vietnam during the war and would have reason to know whether U.S. POWs were transferred to the USSR. The NIE reports that Katushev served in Vietnam and told interviewers that he would have known if transfers had occurred; he believed no such transfers had taken place.

SECRET

Approved for Release: 2024/12/03 C06898860

1840

(b)(3)

NatSecAct

(b)(3) NatSecAct

[redacted] The *Critical Assessment* asserts that, although Katushev traveled to Hanoi once to negotiate an agreement with North Vietnam, he did not serve in Vietnam. We found no information suggesting that Katushev served in Vietnam. The *Critical Assessment* also states that the U.S. side of the U.S.-Russia Joint Commission frequently hears the claim, "I would have known" during routine interviews with former Soviet officials who display an inflated view of their importance. We agree. We found several statements by former Soviet officials who claimed to be in a position to know about certain events, but whose claims we cannot prove or disprove without more evidence.

(b)(3) NatSecAct

[redacted] The NIE used the Katushev interview to point out that certain former Soviet officials did not believe that transfers of POWs to the USSR had occurred. Katushev was just one of several possible examples. The NIE "Methodology Annex" [redacted]

(b)(1)

(b)(3) NatSecAct

(b)(3) NatSecAct

(b)(1)

(b)(1)

(b)(3) NatSecAct

(b)(3) NatSecAct

[redacted] The NIE could have used a better example than Katushev. [redacted] for example, served in Vietnam from 1960-1962 and again from 1977-1983, when he was an advisor to the Soviet Ambassador; he worked for the Central Committee of the Communist Party of the Soviet Union in the International Department dealing exclusively with Vietnamese issues from 1962-1977. In a March 1997 interview, [redacted] stated that such transfers would not have taken place without the Politburo's knowledge and consent, and that if such a decision had been made, he would have known about it. The NIE also could have cited [redacted] a career GRU officer who served in Hanoi from 1968-1972. During a December 1996 interview, [redacted], commenting on the credibility of reports of transfers, said, "I will tell you quite frankly that the staff of the military attaché was not involved in such a thing. I do not know of a single incident." He added, "I never heard of this during my four years there. I also knew people in other services, and they would have told me."

(b)(1)

(b)(3) NatSecAct

SECRET

Dec 26, 2024

(b)(3) NatSecAct

000546

000119

SECRET

(b)(3) NatSecAct

(b)(3) NatSecAct

[redacted] Despite the [redacted] statements which the NIE drafter might have cited, the lack of conclusive evidence disproving transfers led to the NIE's conclusion that "the books should remain open on this issue" and, that "until some of the reporting . . . is clarified, we cannot say definitively that no POWs were transferred from Vietnam." The 17 June 1996 "Comprehensive Report of the U.S. Side of the U.S.-Russia Joint Commission on POW/MIAs" bolsters the argument that while the "books should remain open" on the issue, most, if not all, avenues have been explored with negative results. The report states that:

(b)(1)
(b)(3)
NatSecAct

A four-year investigation into the activities of Soviet officials in Southeast Asia during the years of the Vietnam War has found no first-hand, substantiated evidence that American prisoners of war were taken from Southeast Asia to the Former Soviet Union.

The 1996 report reveals that the American side of the commission had been told "in definitive terms" that the Soviets "did not at any time" transfer American POWs to the Soviet Union. The report went on to state that the commission had interviewed more than 200 Soviets who had served in Southeast Asia during the war and that:

. . . every witness, without exception, stated that he had not known or heard of any operation to transport American prisoners to the Soviet Union.

According to the report, every senior Soviet official interviewed said that, if transfers had occurred, he "would have known about it." The report also mentions that, during debriefings of the nearly 600 returned POWs, none suggested that American POWs were transferred to the Soviet Union. Finally, among the documents collected by the commission, none contained information on transfers of American POWs to the Soviet Union.

CASE ASSESSMENTS

(b)(3) NatSecAct

[redacted] The final TOR for NIE 98-03 stipulated that:

. . . if the intelligence community judges these documents [the 735 and 1205 documents] to be accurate . . . in their characterization of the number of American POWs held by North Vietnam, then it should

SECRET

Dec 26, 2024

000547

(b)(3)
000120
NatSecAct

answer the following question: "What is the likely range of numbers of American POWs under the control of the communist side when the Paris Peace Accords were signed in January 1973?"

The IC determined that the 735 and 1205 documents were not accurate in their characterization of the number of POWs held by North Vietnam and therefore did not pursue the issue of numbers of POWs held by North Vietnam at the time of Operation Homecoming. Senator Smith and staff members of the SSCI had anticipated that NIE 98-03 would address the issue of the number of POWs held by the Vietnamese at the time of Operation Homecoming and that it would look at the related issue of MIAs still unaccounted for from the war in Southeast Asia. It did not do so.

(b)(3) NatSecAct

[REDACTED] The 1993 report of the Senate Select Committee on POW/MIA Affairs left the issue of the discrepancy cases unresolved. Senator Smith had continuing questions about the cases and developed a listing of 324 names which he titled, "U.S. POW/MIAs Who May Have Survived in Captivity," dated 1 December 1992. Repatriated remains reduced the number of names to 289 as of our review. In the 1995 time frame, DPMO prepared case assessments (two- to four-page summaries) of each missing person file.

(b)(3) NatSecAct

[REDACTED] Senator Smith's legislative assistant told us he had expected that the drafter of the NIE would review the case assessments pertaining to Senator Smith's compelling cases. No one reviewed those cases. DPMO confirmed that the drafter of the NIE did not review the case assessments and no one—other than DPMO—has validated or attempted to validate Senator Smith's list. We obtained from DPMO the case assessments for the 289 cases on Senator Smith's list of 324 names for which verified remains have not been returned. We undertook the task of reviewing these cases, and we have provided a framework that others can use to assess them (see Annex G for a discussion of our case assessment methodology).

Our Methodology

(b)(3) NatSecAct

[REDACTED] We believe that these cases are at the heart of the controversy over POWs in Vietnam and that an effort to evaluate them is essential. We therefore conducted our own assessment of the cases in a manner that can be replicated. Each member of our three-person review

team independently evaluated the 289 cases without consultation or collaboration. The team was unconstrained in the time required to make an informed assessment and score each of the cases (see Annex H for results of our compelling case review). The six factors evaluated were:

- ◆ Is there evidence the individual survived the incident?
- ◆ Is there evidence the individual could have been taken captive?
- ◆ Is there evidence the individual entered a prison system?
- ◆ Can any of three governments (Vietnam, Laos, and Cambodia) account for the individual?
- ◆ Was the case compelling prior to December 1992 (date of Senator Smith list) based on information available at that time?
- ◆ Is the case compelling today based on information received since December 1992?

Other than to simply make "yes," "no" or "inconclusive" entries in each of the six columns for each case, no further scoring was done until the three individual assessments were completed. We judged "compelling" twice, because the files available to us contained updated information since the publication of Senator Smith's list in December 1992. The word "compelling" needs to be clarified because it was undefined by Senator Smith. We accepted the term as being similar to the term "discrepancy" as used in the Vessey cases.¹⁸ For our purposes, compelling meant that there was something more to be known about the fate of the individual.

(b)(3) NatSecAct

¹⁸ [] General Vessey's discrepancy cases are those POWs who were expected to be repatriated but were not. In August 1992, that number was 135; as of August 1999, the cases still not resolved had been reduced to 43. Senator Smith's list of cases has been referred to as "compelling" by Advocacy and Intelligence Index for Prisoners of War-Missing in Action (AII POW-MIA), and we use it here to distinguish it from the Vessey list. Based on verified remains recovery, the compelling case list had been reduced to 289 names at the time of our review.

(b)(3) NatSecAct

[REDACTED] We decided to present the data in a way that provides the strongest possible support for Senator Smith's list of U.S. POWs who may have survived in captivity. We extended the range of each of the six factors listed above by scoring the data as follows:

- ◆ If all three reviewers scored a factor "yes" for a given case, we counted that as a unanimous group response; and
- ◆ If one reviewer scored a factor "yes" and at least one other reviewer scored that same factor either "yes" or "inconclusive" we counted that as a consensus group response.

Based on that two-fold scoring, the results for the first four factors of our independent review of 289 cases listed as compelling by Senator Smith are:

- ◆ At least 40 and as many as 91 of the 289 individuals could have survived the incident of loss;
- ◆ At least 13 and as many as 34 of those individuals could have been captured;
- ◆ At least six and as many as nine of those individuals could have entered a prison system; and
- ◆ One of the current Southeast Asia governments may be able to account for at least 25 and as many as 114 of the 289 individuals.

(b)(3) NatSecAct

[REDACTED] Further, concerning the "compelling" factor both in 1992 and today, the results of our independent review of the 289 cases are:

- ◆ At least one and as many as 19 of the 289 cases was compelling based on information available in late 1992; and
- ◆ At most, three cases are compelling today, none unanimously. None of these losses occurred in Cambodia, Laos, or North Vietnam; all occurred in South Vietnam.

Each member of the review team evaluated the files for each of these cases and made independent evaluations. These evaluations are intuitive, but

the methodology can be replicated by others. We describe one particular case, that of Captain John McDonnell, that illustrates the difficulty of making such evaluations.

The McDonnell Case

(b)(3) NatSecAct

[REDACTED] The case of U.S. Army Captain John T. McDonnell (Case 1402) is complicated and has been reviewed repeatedly since his helicopter went down in 1969. The case reflects the polarization that exists concerning the MIA issue. A detailed discussion of our rationale for selecting the case and the steps we took to understand it is in Annex I.

(b)(3) NatSecAct

[REDACTED] The 1993 Senate Select Committee POW/MIA report portrayed the McDonnell case as follows:

On March 6, 1969, Captain McDonnell was the pilot [sic] of an AH-1G Cobra helicopter hit and downed by hostile fire in Thua Thien Province. His crew member, a First Lieutenant, was rescued alive on March 7, but was unable to provide any information on the fate of Captain McDonnell. A search mission was also unsuccessful.

Captain McDonnell was declared missing and, in February 1977, was declared dead/body not recovered. Returning U.S. POWs were unable to shed any light on his fate.

U.S. investigators in Vietnam during January 1991 interviewed witnesses who described the capture of an American pilot in the area where Captain McDonnell disappeared. They reported he had a broken and bleeding arm when taken prisoner and brought to a People's Army of Vietnam regimental headquarters which received instructions to transport him to the Tri Thien Hue Military Region Headquarters. He died en route, was buried, and the U.S. field team was shown his purported burial site. The site was excavated but no remains were located.

(b)(3) NatSecAct

[REDACTED] A different story was contained in a 12 September 1999 posting on the Internet by the Advocacy and Intelligence Index for Prisoners

of War-Missing in Action (AII POW-MIA). An article entitled, "Captain John T. McDonnell United States Army, ONE OF THE MEN WE LEFT BEHIND," began:

The next time someone asks you to name one American serviceman left behind in Southeast Asia, name just one Look them straight in the eye and say Capt. John T. McDonnell, United States Army, last known duty station Vietnamese Prison Camp Location Ba To, Quang Ngai Province, South Vietnam. Last seen in mid to late February 1973.

(b)(3) NatSecAct

[REDACTED] The AII POW-MIA analysis observed that:

- ◆ Examination of the downed helicopter revealed that Capt. [sic] McDonnell's seat belt and harness were open and placed neatly on the seat;
- ◆ On 16 February 1973 a North Vietnamese rallier reported that he observed two U.S. Prisoners of War with the North Vietnamese Army in Laos on three different occasions, between May and July of 1971;
- ◆ On 10 April 1973 a North Vietnamese defector reported that in 1972 he saw an American Captain at the MR-5 PW Camp who was "a captured American artillery officer"; and
- ◆ A Project X study concluded there is a possibility that as many as 57 Americans could be alive. Captain McDonnell is included among the 57.

(b)(3) NatSecAct **Facts**

[REDACTED] There are only two verifiable facts concerning this case. First, Captain McDonnell was last seen alive on 6 March 1969 entering aircraft 845, a Cobra AH-IG helicopter. Second, on 17 May 1992, Captain McDonnell's military identification card was located in the Hue Military Museum. All other information related to determining his fate is contained in the results of interviews. No intelligence information or other official reporting factually correlates to Captain McDonnell.

Circumstances of Loss

(b)(3) NatSecAct

[REDACTED] Sworn testimony taken by a Missing Person Board convened shortly after the loss revealed that Captain McDonnell was the team leader of a flight of two helicopter gunships, the Aircraft Commander of his gunship, and sat in the gunner's position on the day of his incident. He was not the pilot that day. His pilot executed a rocket run from which he could not recover and the gunship crashed into the side of a mountain. There was initial confusion as to whether the loss was due to hostile fire. The pilot of the other gunship reported no hostile fire. In an unsigned statement, Captain McDonnell's pilot reported hostile fire.

(b)(3) NatSecAct

[REDACTED] According to a certified extract of the Official Log, 1st Battalion, 327th Infantry, 101st Airborne Division (Airmobile), the wreckage was found on 8 March 1969 and appeared not to have been disturbed. The front seat and safety harness were intact. An officer of the ground troops conducting the search reported that the wreckage had not been disturbed by the enemy. The position of the seat belts and safety harness indicated that the gunner [McDonnell] unbuckled himself and left the wreckage.

(b)(3) NatSecAct

[REDACTED] Additional sworn testimony taken by the board indicated that Captain McDonnell's commanding officer thoroughly searched the wreckage and the immediate area. The gunner's compartment was completely open with no evidence of damage to the seat. (According to the 1969 edition of Jane's All The World's Aircraft, the gunner's position of an AH-1G Cobra helicopter is located in the front, lower compartment. The aircraft is flyable from both positions, however). The shoulder harness was not broken and the seat belt was unlatched. The commanding officer said that:

... it was not possible to establish that the helicopter had been hit by ground fire. Although portions of the tail boom and main body showed no evidence of being penetrated, so much damage was inflicted by the crash that a positive determination could not be made.

(b)(3) NatSecAct *The Vietnamese Account*

[REDACTED] JTF-FA reports of interviews with Vietnamese indicate that Captain McDonnell survived the crash and, while attempting to evade

the enemy, was shot in the arm and captured. He was taken to the command post of the People's Army of Vietnam 4th Regiment. The regiment contacted the region headquarters for instructions and was directed to evacuate Captain McDonnell to the region hospital. Captain McDonnell did not survive the evacuation. The regimental commander forwarded Captain McDonnell's identification card to higher headquarters with a report concerning his capture and death. A senior district party official received the report and the identification card and forwarded them to province authorities. A Hue museum curator stated that Captain McDonnell's identification card was turned over to him by the senior district party official sometime after 30 April 1975.

(b)(3) NatSecAct *Captain McDonnell's Status Changes*

[redacted] Initially, the Missing Person Board determined that Captain McDonnell was missing, not missing in action. The board apparently did not consider the helicopter pilot's unsigned statement about hostile fire persuasive. In a later signed statement, the pilot said that:

I broke left, we received fire and simultaneously entered the low clouds. The cyclic went limp and I could not turn the helicopter. I remember pulling pitch, then awoke laying [sic] on the ground on my chest protector.

Based on that statement, Captain McDonnell's status was changed from missing to missing in action.

(b)(3) NatSecAct

[redacted] In late 1976, Captain McDonnell's next of kin petitioned the Department of the Army to issue a death certificate. On 18 February 1977, the Army's Adjutant General found Captain McDonnell "to be dead." On 6 June 1994, a flag/general officer-level review convened by the Deputy Assistant Secretary of Defense for POW/MIA Affairs, assisted by two DPMO analysts and the Intelligence Officer, JTF-FA, voted 3-0 for a "confirmation of fate." The Deputy Assistant Secretary of Defense voted for the confirmation, despite advice from DPMO analysts to the contrary, and the case was removed from the discrepancy list.

SECRET

1849

(b)(3) NatSecAct

Three Times a Discrepancy Case

[redacted] The 1994 removal of Captain McDonnell from the discrepancy list culminated a near 20-year history of that case having been singled out three times as unresolved.

- ◆ **PROJECT X:** PROJECT X was a study initiated in August 1975 by the Commanding Officer, JCRC to "evaluate the possibility of any of the unaccounted for being alive." Captain McDonnell was included in the resultant list of 57 individuals. The Commanding Officer concluded that, "There is a possibility that as many as 57 Americans could be alive, although it is highly probable that the number is much smaller, possibly zero";
- ◆ **Discrepancy Case:** Because Captain McDonnell was last seen alive—sworn testimony included in the Missing Person Board review confirmed that he entered the gunship the day of the incident—his case became a discrepancy case, consistent with the U.S. Government's methodology; and
- ◆ **Compelling Case:** Because Captain McDonnell was allegedly correlated to two separate live sighting intelligence reports, his case became a compelling case, consistent with the full accounting methodology.

(b)(1)

(b)(3) CIAAct

(b)(3) NatSecAct

Our Assessment

[redacted] Viet Cong policy, based on U.S. POW returnee experience and information in CIA [redacted] files, was that any American who survived his immediate capture and transport would have entered the prison system or, if wounded, the hospital system. The report of the evacuation of Captain McDonnell is consistent with that policy. Intelligence reports from at least 1966 consistently state that Viet Cong policy concerning American captives was to evacuate them expeditiously to higher headquarters. While an evacuation of Captain McDonnell was ordered, he was never seen in the Vietnamese detention system.

[redacted] AII POW-MIA argues that two live sighting reports—one filed with a JCRC tag line that "records indicate the source probably observed CAPT John T. McDonnell, USA,"—document Captain

SECRET

Dec 26, 2024

000555

(b)(3)
000128
NatSecAct

McDonnell's status as POW/MIA. The other report was possibly correlated to Captain McDonnell or one other individual but no JCRC determination was made. There is no reason to link either of the two reports to Captain McDonnell. Both reports describe an American in collaborative circumstances. None of the files we reviewed suggests that Captain McDonnell was a collaborator. He was a multiple-tour, decorated Vietnam veteran, *post-facto* promoted to the rank of Major.

(b)(3) NatSecAct

[REDACTED] We believe there is no factual information to support the contention that Captain McDonnell was left behind alive in Southeast Asia. There is, however, circumstantial evidence of his fate (see Annex I). Because that evidence is circumstantial, the case is likely to remain controversial—a continuing example of the polarization that has consumed the POW/MIA issue. The DoD believes that all POWs are accounted for. All POW-MIA does not.

(b)(3) NatSecAct

[REDACTED] The McDonnell case is typical of several that we reviewed. Despite 30 years of continuous effort, there is no independently verifiable evidence of Captain McDonnell's fate. The information that has been collected, however, supports the conclusion that Captain McDonnell died in Vietnam after his capture.