

12-17-92

DECLASSIFICATION

[This initial staff draft has not been reviewed by the Committee or any member thereof. Any conclusions contained herein are initial staff conclusions only and do not necessarily represent the views of the Committee or any member thereof.]

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OVERVIEW

From its inception in August 1991, the SSC determined to leave no stone unturned in its search for answers to fundamental questions raised by the POW/MIA issue. The SSC recognized that it would not suffice to merely search for and obtain answers -- it would be necessary to place before the American people the actual documents which contain many of the answers to questions raised by the POW/MIA issue. As part of this process, the SSC had to identify and obtain all relevant POW/MIA information and it had to find ways to expeditiously declassify and release to the public as much of that information as possible consistent with national security interests.

The enormity of these tasks is evidenced by the fact that the SSC issued over 450 letters requesting information from various sources, interviewed scores of individuals; took testimony from over 100 witnesses and obtained information by a variety of other means. All told, the SSC has obtained and reviewed literally millions of pages of documents from scores of USG agencies, offices and other sources.

A primary focus of the SSC's work involved determining what documentary evidence existed concerning the fate of the 2,266 unaccounted for servicemen from the Vietnam Conflict. A significant portion of this evidence is contained in casualty files. Another significant focus of the SSC's work involved the issue of whether any POW's remained in Southeast Asia following Operation Homecoming. Much of the evidence relating to this issue consists of live sighting reports.

EXECUTIVE ORDER 12356

When the SSC started its work in the fall of 1991, virtually all casualty files and all livesighting reports were classified and therefore unavailable to the public. Moreover, notwithstanding the provisions of Executive Order 12356, dated April 2, 1982, agencies did not appear to be reviewing classified POW/MIA related information with a view towards determining whether it would be appropriate to have that information declassified. The preamble to Executive Order 12356 reads as follows:

This Order prescribes a uniform system for classifying, declassifying and safeguarding national security information. It recognizes that it is essential that the public be informed concerning the activities of its government, but that the interests of the United States and its citizens require that certain information concerning the national defense and foreign relations be protected against unauthorized disclosure. Information may not be classified under this Order unless its disclosure reasonably could be expected to cause damage to the national security.

Section 1.6 of the executive order concerns limitations on classification and states:

In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

Section 3.1 of the executive order concerns Declassification and reads in part as follows:

Information shall be declassified or downgraded as soon as national security considerations permit.

The fact that the relevant POW/MIA related documents were classified did not prevent the SSC from obtaining them, however, either in redacted form or in their entirety. In virtually all instances, the portions redacted (lined out and not disclosed) consisted of information identifying "sources" or "methods" utilized in obtaining the information. The SSC recognized and accepted as valid the long standing practice of protecting from public disclosure sources and methods used in developing and obtaining classified information. In a few instances, the redacted information concerned deliberative processes which the agencies sought to protect in order to assure that its personnel would not be inhibited in their intra agency communications.

THE MCCAIN AMENDMENT

An initial legislative effort to declassify casualty files and live sighting reports occurred on August 1, 1991 with the passage of Senator McCain's amendment to the FY 1992-1993 Defense Authorization Bill, which amendment, among other things, sought to declassify information concerning Vietnam era POW/MIAs. The thrust of the amendment is incorporated in Section 1082 of the National Defense Authorization Act and requires, in part, that the Secretary of Defense declassify live-sighting reports or other information in DoD's custody relating to the location, treatment, or condition of any Vietnam-era POW/MIA. The section also requires that the declassified information be made available to the public in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

CENTRAL DOCUMENT OFFICE ("CDO")

In recognition of the scope of the SSC's intended inquiry, and in order to comply fully with the provisions of Section 1082 of the FY 1992-1993 Defense Authorization Bill, the Secretary of Defense created the POW/MIA Central Document Office ("CDO") on December 26, 1991 and placed it under the Assistance Secretary of Defense

Command Control, Communications and Intelligence.

SENATE JOINT RESOLUTION 125

The SSC's concern about the declassification issue prompted Senate Joint Resolution 125 which memorialized Congress to enact legislation directing federal departments and agencies to make public information relating to POWs or MIAs from World War II, the Korean Conflict, or the Vietnam Conflict. It also directed DoD to make a list of all people so classified. The joint resolution was agreed to by the Senate on February 11, 1992 and by the House of Delegates on February 26, 1992.

SSC TASK FORCE ON DECLASSIFICATION

As the SSC's investigative efforts intensified, the SSC recognized the need to assign additional resources to the declassification issue. Accordingly, in the Spring of 1992, the SSC established a Task Force on Declassification, headed by Senators Grassley and Robb, to identify the universe of POW/MIA-related documents, prioritize them for declassification, and propose a schedule for their public release at the earliest possible date.

As part of its efforts, the Task Force of Declassification interviewed representatives of CDO and learned that CDO's initial intentions were to declassify live sighting reports and some DIA and JCRC casualty files, pending approval by next of kin. CDO indicated that it did not have authority to declassify any other documents related to the POW/MIA issue. Under the provisions of Section 1082, the Department of Defense began declassifying all DoD records pertaining to the 2,266 Americans missing in Southeast Asia, giving priority to the declassification of live sighting reports. On May 13, 1992, DoD transferred 641 declassified live sighting reports to the Library of Congress in Washington, D.C. which began indexing the reports and preparing them for access by the public. Following initial review of its files of live sighting reports, DoD indicated to the Committee that approximately 1,600 first hand live sighting reports and about 2,700 hearsay reports could be declassified by early fall 1992.

The SSC's efforts to declassify POW/MIA information went further than DoD's interpretation of the McCain amendment, and indeed beyond DoD information itself. In addition to the live sighting reports and casualty files identified by CDO, the SSC's Task Force on Declassification identified other categories of DoD information, as well as information from the Defense Intelligence Agency, the National Security Agency, the Service Intelligence Agencies, the Joint Chiefs of Staff, the Central Intelligence Agency, the National Security Council, the State Department, the SSC's own documents including depositions and interrogatories;

and miscellaneous additional documents from various sources. Some of this information had already been reviewed by SSC staff; some of it had already been transferred to the Office of Senate Security (the repository for classified documents in the Senate's custody).

On July 1, 1992, upon the recommendation of Senators Robb and Grassley, the SSC (1) agreed to transmit a letter to the President requesting expeditious declassification of POW/MIA records from the War in Southeast Asia; (2) directed its Chairman to introduce the resolution pertaining to declassification on POW/MIA records on behalf of the Committee; and (3) directed the Chairman immediately upon the reconvening of the Senate after the July recess to call a meeting of the committee to evaluate progress and consider initiating alternative formal declassification means, if necessary.

SENATE RESOLUTION 400

The alternative means for obtaining declassification under consideration by the SSC included those contained in Section 8 of Senate Resolution 400 [we need the correct date and citation for this] which established the authority for the senate to declassify, on its own initiative classified information in its possession. Portions of the text of Section 8 are set forth below:

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President notifies

the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is vital and outweighs any public interest in the disclosure.

(3) If the President notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. such information shall not thereafter be publicly disclosed without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall, not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

However, the authority of a standing committee of the Senate as established by Senate Resolution 400 had not been tested. Thus, while the procedures set forth in Senate Resolution 400 provided mechanisms for declassification, the SSC recognized that those procedures should be viewed as a last resort.

SSC LETTER TO PRESIDENT BUSH

Armed with the knowledge that the American people supported initiatives for declassification, the SSC determined to request that the President issue an executive order calling for the declassification of POW/MIA information. Toward that end, the SSC sent a letter to President Bush, dated July 1, 1992, requesting that he issue a executive order to declassify certain POW/MIA information. The text of the letter is set forth below:

We are writing to request that you issue an executive order to declassify and publicly release all documents, files, and other materials in the government's possession that relate to American POWs or MIAs lost in Southeast Asia.

Mistrust and suspicion of the government's role and actions on POW/MIA matters through the years have hindered efforts to resolve questions related to our lost American servicemen, and we believe declassifying documents will begin to provide POW/MIA families the answers they need and deserve.

Pursuant to Section 1082 of the FY 1992-1993 National Defense Authorization Act, the defense Department has begun to declassify certain documents, but the effort targets only a fraction of POW/MIA materials in the government's

possession. We believe it is in the interests of all those concerned to achieve much broader declassification, and have attached a list of documents that encompasses the full range of information that we believe should be released as expeditiously as possible. We reserve the right to add to our request should we desire additional documents needed to complete our investigation.

We understand that for reasons of national security, some materials to be released to the public require redaction. However, our investigation has convinced us that the vast majority of materials related to the POW/MIA issue now protected by the National Security Classification System could be released to the public in full with absolutely no harm or risk to national security or to the families' right to privacy.

As a starting point, already-redacted documents now in the possession of the Committee could be declassified and released very swiftly, in time for our August hearings. Additionally, we request that the Nixon and Kissinger papers, described in the attached list be declassified and in the Committee's possession no later than August 13th.

We firmly believe that the public interest would be served if all POW/MIA documents in the government's possession were declassified, and we hope you share our opinion.

Attached to the letter to the President was the following detailed list of documents which the SSC requested be declassified:

- * KISSINGER PAPERS -- The Committee requests that the entire files which relate to the POW/MIA issue of Dr. Henry Kissinger, former Special Presidential Emissary to the Paris Peace Accords, National Security Advisor, and Secretary of State be declassified.
- * NIXON PAPERS -- the Committee requests that all files of former President Richard Nixon which relate to the POW/MIA issue be declassified.
- * FORD PAPERS -- The Committee requests that all files of former President Gerald Ford which relate to the POW/MIA issue be declassified.
- * CARTER PAPERS -- The Committee requests that all files of former President Jimmy Carter which relate to the POW/MIA issue be declassified.
- * REAGAN PAPERS -- The Committee requests that all files of former President Ronald Reagan which relate to the POW/MIA issue be declassified.

- * BUSH PAPERS -- The Committee requests that all files of President George Bush which relate to the POW/MIA issue be declassified.
- * WSAG DOCUMENTS -- The Committee requests that all WSAG memoranda, minutes of meetings and other documents related to the POW/MIA issue be declassified.
- * LIVE SIGHTING & HEARSAY REPORTS -- Pursuant to Section 1082 of the FY 1992-1993 Defense Authorization bill, the Committee requests expeditious public disclosure of these reports. Additionally, the Committee requests that all case file data accompanying these reports be declassified.
- * OTHER REPORTS -- In addition to first hand and hearsay reports, the POW/MIA Fact Book issued by the Defense Department states that nearly 12,000 reports pertaining to dog tags, bones, and crash and grave site information from the way years exist. The Committee requests that these reports be declassified.
- * CASUALTY FILES -- Pursuant to Section 1082 of the FY 1992-1993 Defense Authorization bill, the Committee requests that all DIA and Service casualty files, pending permission being granted by the next of kin, be declassified. The Committee has been told by the Defense Intelligence Agency that there are 2,266 casualty files.
- * DIA HISTORICAL FILES -- The Committee understands that POW/MIA related archival information from 1966 to 1980 was retired to the National Archives in 1984. Apparently the files were retrieved by DIA in 1985, and later returned in 1988. The committee request the declassification of all these files which include documents relating to DoD policy decisions made through Operation Homecoming and the fall of Saigon.
- * CURRENT DIA POW/MIA POLICY FILES -- The Committee requests the declassification of all policy memoranda, documents, materials, reviews, and internal assessments pertaining to the POW/MIA issue created by DIA since 1980. Such documents would include the Gaines Report and the Tighe Report.
- * LAST KNOWN ALIVE/IN CAPTIVITY FILES -- The Committee understands that DIA holds working casualty files, approximately 130 in number, relating to servicemen last known to be alive and in captivity. The Committee requests the declassification of these files.
- * DIA INTELLIGENCE FILES -- There are approximately 1,100 such files that correspond to MIAs who are non-KIA/BNR

status. The Committee requests they be declassified.

- * FILES OF DR. ROGER SHIELDS, FORMER DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR INTERNATIONAL ECONOMIC AFFAIRS WITH RESPONSIBILITY FOR POW/MIA AFFAIRS (1971-1976) -- Dr. Shields' files contain DoD policy documents from 1971 to 1976 relating to POW/MIA matters, and we understand that they are currently being stored in 26 separate boxes. The Committee requests that all of these materials be declassified.
- * FILES OF FORMER DEPUTY DEFENSE SECRETARY WILLIAM CLEMENTS -- The Committee has reason to believe Mr. Clements' files include important materials related to the government's handling of the POW/MIA issue, and the Committee requests that these papers associated with the former Defense Secretary be declassified.
- * FILES OF FORMER DEFENSE SECRETARIES CASPAR WEINBERGER AND FRANK CARLUCCI RELATED TO THE POW/MIA ISSUE -- The Committee requests that all memoranda, background papers, talking papers, meeting minutes, personal cables, "breakfast meeting" papers prepared for or by Secretary Weinberger or Carlucci pertaining to the POW/MIA issue be declassified. Additionally, all similar material from Assistant Secretary Richard Armitage's files should be declassified.
- * NATIONAL SECURITY AGENCY PRODUCT REPORTS -- 1,369 war-time product reports and 630 post-war product reports presently exist, and the Committee requests that all of them be declassified. This would include all third party reports pertaining to the POW/MIA issue in NSA's possession. Understanding that this information is governed by the National Security Act, which provides for a 50 year time period before public disclosure of such documents, the Committee believes data in these reports could be declassified in carefully redacted form.
- * SERVICE INTELLIGENCE FILES -- The Committee requests that all Service intelligence archives from 1971 to 1975 be declassified. This information has not been provided to date by the Services, despite repeated requests by the Committee.
- * JOINT CHIEFS OF STAFF DOCUMENTS -- The Committee requests that POW/MIA related policy as well as operational documents issued by the Joint Chiefs of Staff during the war and until the fall of Saigon be declassified. The Committee believes important historical documents held by the Joint Chiefs detail cross border operations, proposed rescue operations and negotiations that merit full disclosure to the American

public.

- * CENTRAL INTELLIGENCE AGENCY DOCUMENTS -- CIA maintains custody of its wartime files. The Committee has learned that CIA has transferred 250 volumes of POW/MIA information to the Director of the National League of Families over a period of years in the 1980s. If such a transfer of documents has occurred, the Committee requests that those documents be immediately declassified. In addition, any other POW/MIA related document held by CIA the Committee requests be declassified.
- * CIA DOCUMENTS SENT TO THE SELECT COMMITTEE -- A file of roughly 120 CIA documents related to Laos and Vietnam has been sent the Select Committee. The Committee requests that all these documents be declassified.
- * PHOTOGRAPHY AND IMAGERY -- The Committee requests that all imagery collected by the National Technical Means indicating the possible presence of American POWs in Southeast Asia after 1973 be declassified. This would include all photography revealing possible distress signals or symbols. If intelligence capabilities would be compromised by such a release, line drawings would suffice.
- * NATIONAL SECURITY COUNCIL DOCUMENTS-- The Committee requests that all NSC memoranda, minutes of meetings, National Security Decision Directives, and other documents related to the POW/MIA issue be declassified.
- * STATE DEPARTMENT TELEGRAMS ON THE POW/MIA ISSUE -- The State Department has delivered to the Committee a file of several thousand telegrams concerning POW/MIA matters and related issues treated in U.S. Embassy and State Department cable traffic between 1973 and 1990. The Committee requests that all these materials be declassified.
- * FILES OF MR. FRANK SIEVERTS, FORMERLY THE SPECIAL ASSISTANT FOR POW/MIA MATTERS TO THE DEPUTY ASSISTANT SECRETARY OF STATE (1969-1977) --The Committee requests that the entire files of Special Assistant Frank Sieverts be declassified. Additionally, the Committee requests the declassification of all State Department memoranda, policy documents, and diplomatic cables relating to the negotiation of the Paris Peace Accord in 1973.
- * SPECIFIC MEMORANDA AND DOCUMENTS -- The Committee requests that a cable from Admiral Thomas Moorer to CINPAC dated March 22, 1973, a memo from Assistant Secretary Eliot Richardson dated March 27, 1973, and a

letter from Richardson to Dr. Kissinger dated march 28, 1973, all be declassified. Additionally, the Committee requests declassification of satellite imagery of Sam Neua showing the "Walking K", satellite imagery of the Hon Gai prison building, showing the "Walking K" in morse code, written interpretations of that imagery, and, finally, JSOC materials on the Gnommarath incursion.

SENATE RESOLUTION 324

As part of its strategy, the SSC also sought to obtain the backing of the full Senate for its declassification efforts. Toward this end on July 2, 1992, SSC members Grassley and Robb introduced Senate Resolution 324 which provided, in pertinent part, that:

It is the sense of the Senate that the President of the United States expeditiously issue an Executive Order requiring all Executive Branch departments and agencies to declassify any publicly release without compromising U.S. national security all documents, files, and other materials pertaining to POWs and MIAs.

In introducing the resolution, Senator Grassley made the following statement:

Mr. President, I join my committee colleagues in original cosponsorship of the Resolution offered by Senator John Kerry to declassify all documents related to the POW/MIA issue from the war in Southeast Asia.

I was pleased to work with Senator Robb of Virginia as co-chair of the Task Force on Declassification, which made the recommendation for the process described within the resolution. The goal of that process is to accomplish swift and comprehensive declassification. The process is further outlined in a letter to the President delivered today, and signed by each member of the committee.

Accompanying the letter is a four-page compendium of identified categories of documents, files and materials, listed by government agency and department, that should be declassified. This list is by no means meant to be finite. During the course of further investigation, we may discover additional batches of documents that are as yet unknown to us. If so, we intend to identify those documents and communicate our desire to add them to the list. Our objective in creating the list was to be as specific as possible in defining the universe of documents to be declassified, yet general enough to avoid precluding newly discovered documents from declassification.

The reasons this committee, indeed the public and, I believe the Senate support this request for declassification are selfevident. Mystery and suspicion have shrouded this issue from day one. National Security secrecy merely feeds the suspicion. Let there be no doubt -- in adopting this resolution, the Senate is firmly committing itself, in the public interest, to full, public disclosure of all documents, safeguarding only legitimate risks to national security and families' right to privacy.

Assuming this resolution passes, we will begin negotiating immediately with the executive branch to declassify documents already in the Office of Senate Security, and in time for our August hearings. We will also begin to identify for declassification POW/MIA related documents from the Nixon and Kissinger files, in time for our September hearings.

On July 23, right after the July recess, the Chairman will reconvene the committee to examine progress on declassification and determine if further actions are required by the Senate.

Finally, Mr. President, I would like to raise a very important point for the benefit of my colleagues. What we are saying in this resolution is that declassification means declassification. By that, I mean public release. When is declassification not declassification? Let me illustrate.

In May, this committee sent a letter to DoD asking that the now-famous "Brooks Memo" be declassified. So DoD redacted it for declassification, but stamped "FOR OFFICIAL USE ONLY" on it. In other words, it still can't be released to the public. So it might as well still be classified. That simply does not meet our objective. When we say declassify, we mean declassify -- that is, public release.

Mr. President, I would like to commend the efforts of both the Chairman and the Vice-Chairman for their leadership in bringing about consensus and unanimity on this resolution and this process. Senator Smith, in particular, has been a dynamic force pushing this issue forward, and will continue, I am confident, to hold the government's feet to the fire for full cooperation and insights were so valuable for the framework of our recommendation, and for helping build the consensus for our approach. And, I would like to stress that each and every member of the committee had a unique and valuable contribution to this product.

By unanimous vote of 96-0, the Senate agreed to the resolution on July 2, 1992.

**THE CHIEF COUNSEL'S LETTER TO THE PRESIDENT'S DEPUTY LEGAL
ADVISER AND SPECIAL ASSISTANT FOR NATIONAL SECURITY AFFAIRS**

The SSC kept up the pressure to have relevant documents declassified as evidenced by Chief Counsel Codinha's letter of July 9, 1992 to the President's Deputy Legal Adviser and Special Assistant for National Security Affairs. The letter is illustrative of many which have been issued on behalf of the SSC in its efforts to declassify POW/MIA related materials. The text of the letter is set forth below:

Dear Mr. Rademaker and Ms. Lampley:

Consistent with our meeting yesterday, the Senate Select Committee requests the following items be declassified in a form that will allow the items to be disseminated to the public:

Items to be declassified on or before July 23, 1992:

- (1) Live Sighting and Hearsay Reports - The live sighting and hearsay reports listed on attachment "A" to this document along with all case file data accompanying these reports should be declassified by this date.
- (2) Current DIA POW/MIA Policy Files - All policy memoranda, documents, materials, reviews, and internal assessments pertaining to the POW/MIA issue created by DIA since 1980, including the Gaines Report, the Brooks Report, the Tighe Report, and any addenda or comments attached thereto should be declassified by this date.
- (3) National Security Agency Product Reports - Those designated published (serialized) and raw intelligence reports and memoranda listed on Attachment "B" from wartime product reports and post-war product reports. This would include all third party reports pertaining to the POW/MIA issue in NSA's possession should be declassified by this date.
- (4) Photography and Imagery - All designated imagery listed in Attachment "C" collected by National Technical Means indicating the possible presence of American POWs in Southeast Asia after 1973 should be declassified by this date. This should include all photography revealing possible distress signals or symbols. If intelligence capabilities would be compromised by such a release, line drawings would suffice.
- (5) Specific Memoranda and Documents - A cable from Admiral Thomas Moorer to CINCPAC dated March 22, 1973, a memo from Assistant Secretary Eagleburger to then-

Secretary of Defense Elliot Richardson dated March 27, 1973, and a letter from Mr. Richardson to Dr. Kissinger dated March 28, 1973, should be declassified by July 23. Additionally, the Committee requests declassification of 1988 satellite imagery of the symbol near Sam Neua, the 1975 satellite imagery of the Hon Gai prison building, written interpretations of the above imagery, and finally JSOC materials on the Nhom Marrott incursion.

(6) National Security Council Documents - All previously designated National Security Council memoranda, minutes of meetings, national security decision directives, and other documents related to the POW/MIA issue should be declassified by this date.

(7) WSAG Documents - All previously designated WSAG memoranda, minutes of meetings, and other documents or supporting documents relating to the POW/MIA issue should be declassified by this date.

(8) Kissinger Papers - The Committee must have access for six named individuals to review the unredacted files of Dr. Henry Kissinger which do, or may, pertain to POW/MIA matters as they are kept at the Library of Congress. The access should begin on or before July 13, 1992 and continue for the life of the Committee. As documents which pertain to POW/MIA matters are identified by the designated Senate Select Committee staff, they should be declassified immediately.

(9) Nixon Papers - The Committee must have access for six named individuals to review the unredacted files of Richard Nixon which do, or may, pertain to POW/MIA matters as they are kept at the National Archives. The access should begin on or before July 13, 1992 and continue for the life of the Committee. As documents which pertain to POW/MIA matters are identified by the designated Senate Select Committee staff, they should be declassified immediately.

Documents to be declassified by August 1, 1992:

(1) Last known alive/in captivity files - The 130 files relating to servicemen last known to be alive and in captivity should be declassified by this date.

Documents to be declassified by August 15, 1992:

(1) Casualty files - All DIA and service casualty files, pending permission being granted by the next of kin should be declassified by this date.

(2) Files of Dr. Roger Shields, Former Deputy

Assistant Secretary of Defense for Internal Economic Affairs with Responsibility for POW/MIA Affair 1971 - 1976 - All documents from 1971 to 1976 relating to POW/MIA matters should be declassified by this date.

(3) Files of Former Deputy Defense Secretary William Clements - All documents relating to the POW/MIA issue should be declassified by this date.

(4) Files of Former Defense Secretaries Caspar Weinberger and Frank Carlucci related to the POW/MIA issue - including all memoranda, background papers, talking papers, meeting minutes, personal cables, breakfast meeting papers prepared for or by either Secretary Weinberger or Carlucci pertaining to POW/MIA issue should be declassified by this date. Additionally, all similar material from Assistant Secretary Richard Armitage's files should be declassified by this date.

(5) Joint Chiefs of Staff Documents - All POW/MIA related policy as well as operational documents issued by the Joint Chiefs of Staff during the war until the fall of Saigon should be declassified by this date.

(6) Central Intelligence Agency documents - All POW/MIA related documents that CIA has transferred to the Director of the National League of Families over a period of years in the 1980s and all other POW/MIA related documents held by CIA should be declassified by this date.

(7) CIA Documents sent to the Select Committee - The 120 CIA documents related to Laos and Vietnam that have been sent to the Select Committee should be declassified by this date.

(8) Four Party Joint Military Commission - All materials related to POW/MIA matters should be declassified by this date.

The following documents should be declassified by September 15, 1992:

(1) Ford Papers - All files of former President Gerald Ford which relate to the POW/MIA issue should be declassified by this date.

(2) Carter Papers - All files of former President Jimmy Carter which relate to the POW/MIA issue should be declassified by this date.

(3) Reagan Papers - All files of former President Ronald Reagan which relate to the POW/MIA issue should

be declassified by this date.

(4) Bush Papers - All files of President George Bush which relate to the POW/MIA issue should be declassified by this date.

(5) State Department Cable Traffic - All cable traffic related to POW/MIA issues should be declassified by this date.

(6) DIA Intelligence Files - The approximately 1100 DIA intelligence files which correspond to MIAs who are not KIA/BNR status should be declassified by this date.

(7) Service Intelligence Files - All service intelligence archives relating to POW/MIA issues from 1971 to 1975 should be declassified by this date.

(8) Photography and Imagery - All imagery collected by National Technical Means indicating possible presence of American POWs in Southeast Asia after 1973 and not previously designated for declassification should be declassified by this date.

The following documents should be declassified by October 31, 1992:

(1) Live Sighting and Hearsay Reports - All remaining reports should be declassified by this date.

(2) Other reports - The nearly 12,000 reports pertaining to dog tags, bones and crash and grave site information from the war years should be declassified by this date.

(3) Casualty Files - All casualty files not heretofore designated should be declassified by this date.

(4) Kissinger Papers - All remaining papers not previously designated which relate to POW/MIA issues should be declassified by this date.

(5) Nixon Papers - All remaining documents not previously designated relating to POW/MIA issues should be declassified by this date.

(6) Frank Sieverts Files - All files of former Special Assistant for POW/MIA matters to the Deputy Assistant Secretary of State Frank Sieverts should be declassified by this date. Additionally, the Committee requests the declassification of all remaining State Department memoranda, policy documents, and diplomatic cables relating to the negotiation of the Paris Peace Accords in 1973.

(7) DIA Historical Files - The POW/MIA related archival information from 1966 to 1980 previously retired to the National Archives in 1984 should be declassified by this date.

I believe that if the NSC can meet the proposed schedule enumerated above, the Senate Select Committee will be able to avoid initiating action under S. Res. 400 in order to release documents to the public. I believe we are in agreement that your cooperation would be in the best interest of all parties.

The items which we have requested declassified by July 23, 1992, are those items which we believe will indicate that the NSC and other agencies are making a "good faith effort" to comply with the Senate's document declassification request. It would be helpful to the Senators if you respond on or before July 17 to the substance and schedule set forth in this letter.

Please contact me if there is any question about this letter or my request.

Sincerely,

J. William Codinha
Chief Counsel

EXECUTIVE ORDER 12812, JULY 22, 1992

The efforts to have POW/MIA documents declassified met with little resistance. On July 22, 1992 President Bush issued the requested Executive Order captioned "Declassification and Release of Materials Pertaining to Prisoners of War and Missing in Action" which provides in pertinent part:

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356.

Sec. 2. All executive departments and agencies shall make publicly available documents, files, and other materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy or returnees, family members or POWs and MIAs,

or other persons, or would impair the deliberative processes of the executive branch.

Sec.3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

In accordance with the provisions of the executive order, executive departments and agencies have begun the task of reviewing and declassifying, to the fullest extent possible, all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia. The scope of this effort is demonstrated by the following memorandum from CDO, which has coordinated most, but not all, of the declassification efforts.

DEPARTMENT OF DEFENSE CENTRAL DOCUMENTATION OFFICE
SUPPORT TO THE
SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

1. Responded to over 400 written Committee requests for records, documents, files, lists, memoranda, briefings, notes, summaries, and other material. Served as liaison between the Committee and various DoD agencies in scheduling depositions and arranging for witnesses at hearings.
2. Organized, trained, and equipped a staff of over 70 military and civilian personnel to redact and declassify Vietnam-era records and other material requested by the Committee.
3. Expended over \$2,000,000 in purchased services, supplies, maintenance, and utilities and rents (not including the salaries of over 70 DoD military and civilian personnel). Specifically,
 - a. Over 3,000,000 pages of copy paper and seven copying machines
 - b. Over 28,800 rolls of correction tape used to redact sensitive intelligence sources and methods. (If laid end to end, this tape would extend over 318 miles, or almost five times around Washington's beltway.)
4. Driven over 7,000 miles in the Washington metropolitan area retrieving documents from over 20 archival storage sites and delivering specifically requested documents to the Committee.

5. Declassified over 60 depositions taken by Committee investigators to support open hearings and related activities including coordinating with external agencies to declassify non-DoD material.

6. Made available for committee review an estimated 1.5 million pages of Vietnam-era records. Established an "on call" delivery and courier service for the Committee staff, delivering to the Committee offices 100-200 files daily, provided trained personnel to redact "on the spot" sensitive intelligence to facilitate the Committee's investigation.

7. Served as the focal point to coordinate declassification of documents which contained multiple agency equities, including those of the Department of State, Central Intelligence Agency, National Security Agency, National Security Council, Federal Bureau of Investigation, and the Defense Intelligence Agency.

8. Served as a world-wide document location and retrieval service for the Committee; provided office space in the Central Documentation Office for Committee staff to review records; provided declassified copies of records at Committee's request.

On December 1, 1992, the Office of the Assistant Secretary of Defense issued its mid-course review of the CDO project which, among other things, provides a summary of CDO progress to date. Portions of the report are set forth below:

The task set by Congress required that the CDO (1) task Defense components for documents and supporting analysis; (2) locate, retrieve and consolidate records pertaining to Vietnam-era POW/MIAs; (3) redact classified records, when required to protect sensitive sources and methods, prior to transfer to Congress; (4) prepare documents for public repository, and (5) serve as the focal point to respond to [SSC] requests for specific Vietnam-era POW/MIA related documents.

In practice, the CDO devoted an extraordinary amount of time, effort, and resources to support the [SSC]. On a typical day, the CDO simultaneously supported Committee investigator review of classified files in CDO spaces; transported classified files to the Office of Senate Security in the Capitol; redacted files for Committee investigators on-the-spot in the Office of Senate Security; delivered as many as 40,000 pages of declassified material to the Committee offices for investigators to review; located, retrieved, and transported from local area archival storage facilities specific files requested by the Committee, and answered literally dozens of Committee and investigator questions by telephone or fax. The committee submitted daily to the CDO as many as ten letters requesting

information. Each letter contained up to 50 separate requests for documents, lists, printouts, notes, minutes, and other forms of record material. the CDO has answered over 400 Committee letters requesting information by retrieving information from DoD sources at all levels and making it available to the Committee.

The Committee held eight sets of multiple-day hearings on POW/MIA related subjects during 1992. It frequently tasked the CDO, most often on short notice, to declassify hundreds of pages of specific reports to support these hearings. The CDO reviewed for declassification over 60 Committee depositions of up to 250 pages each. Materials submitted by the Committee for declassification often required multiple government agency review of each document, including the Central Intelligence Agency, and Department of State. The Committee encountered difficulty in obtaining timely, multiple reviews and requested that the CDO serve as the government wide focal point for coordinating this multi-agency review process. The CDO coordinated and completed all requested reviews, including the weekend delivery of declassified depositions to former Cabinet officials.

The CDO also reviewed for declassification numerous documents the Committee requested which were originated by non DoD agencies but reflected DoD equities. These included such organizations as the Central Intelligence Agency, National Security Council, State Department, Federal Bureau of Investigation and Drug Enforcement Agency. This material is conservatively estimated at 10,000 pages. Simultaneously, and in response to the disclosure requirement in Section 1082 of the National Defense Authorization Act, the CDO provided over 100,000 pages of declassified material to the Federal Research Division of the Library of Congress to be indexed and microfilmed for access by the public. The pace and volume of work accelerated in July when the President directed, by Executive Order 12812, that all records pertaining to Vietnam-era POW/MIAs be reviewed for declassification. This order enlarged the volume of material to be reviewed for declassification and public release to any estimated 1.5 million pages.

As a result of the heavy workload imposed by the [SSC] during late 1991 and 1992, the majority of the original task levied by Congress in Section 1082 remains to be completed.

DIA records include over 17,500 source files from Vietnam, Laos, and Cambodia. To date, the CDO has declassified 1,613 source files (9%). The frequent interruptions of source file declassification to support Committee requests have hampered an accurate production estimate on source file declassification.

The second major collection of records covered by Section 1082 are the DIA, service, and Joint Task Force-Full Accounting casualty files. In compliance with Section 1082 family consent requirements, the CDO drafted and coordinated the submission, through the service casualty officers, of letters to the designated next-of-kin of the 2,266 unaccounted for servicemen requesting consent to release to the Library of Congress records pertaining to the servicemen's location, treatment, or condition. To date:

871 (38%) have granted consent

187 (8%) have denied consent

62 (3%) have withheld consent; next-of-kin have asked to be provided a completed, /declassified file prior to providing a decision granting or denying consent; these files have been declassified and submitted, through the service casualty officers, to the appropriate next of kin.

No reply has been received from the remaining 1,146 (51%); a second follow-up letter has been sent by the service casualty officers as a good faith effort to elicit a response.

In summary, the CDO has supported the Committee's investigation with a totally unconstrained document location, retrieval, declassification, and delivery (courier) service.

CONCLUSION

The results of the SSC's efforts to declassify POW/MIA information are unparalleled in United States history. When the declassification process is complete, over a million pages of previously classified information will have been made available to the public. In its efforts to declassify POW/MIA information, the SSC encountered no significant obstacles. All facets of the USG, including the White House, the armed services and the various departments and agencies involved cooperated fully in the SSC's efforts to have POW/MIA information declassified. The declassification is continuing.