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November 27, 1994

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Re: Case # 94-L58352

Attachment #1 shows in highlighted areas on page 2 and 3, the destruction of documents during the Senate Select Committee's investigation of wrong doing in the Department of Defense concerning mishandling of the POW/MIA investigation.

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Department of Defense Hotline  
The Pentagon  
Washington, D.C.. 20301-1900

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FRAUD AND MISMANAGEMENT IN THE DEFENSE INTELLIGENCE AGENCY,  
PERJURY BEFORE THE SENATE SELECT COMMITTEE, AND FAILURE TO  
FOLLOW REGULATIONS.

(1) FALSE OFFICIAL STATEMENTS: VIOLATION OF ARTICLE 107, UCMJ;  
SECTION 907 TITLE 10, U.S.C. [FOR CIVILIANS SIMILAR VIOLATIONS UNDER  
TITLE 18, U.S.C.]

(2) WILLFUL DERELICTION OF DUTY: VIOLATION OF ARTICLE 92, UCMJ;  
SECTION 892 TITLE 10, U.S.C. [FOR CIVILIANS SIMILAR VIOLATIONS UNDER  
TITLE 18, U.S.C.]

(3) NEGLIGENT DERELICTION OF DUTY: VIOLATION OF ARTICLE 92, UCMJ;  
SECTION 892 TITLE 10, U.S.C. [FOR CIVILIANS SIMILAR VIOLATIONS UNDER  
TITLE 18, U.S.C.]

(4) ACCESSORY AFTER THE FACT: VIOLATION OF ARTICLE 78, UCMJ;  
SECTION 878 TITLE 10, U.S.C. [FOR CIVILIANS SIMILAR VIOLATIONS UNDER  
TITLE 18, U.S.C.]

(5) CONSPIRACY TO MAKE FALSE OFFICIAL STATEMENTS: VIOLATION OF  
ARTICLE 81, UCMJ; SECTION 881 TITLE 10, U.S.C. [FOR CIVILIANS SIMILAR  
VIOLATIONS UNDER TITLE 18, U.S.C.]

(6) CONSPIRACY TO BE WILLFULLY DERELICT IN PERFORMANCE OF  
DUTIES: VIOLATION OF ARTICLE 81, UCMJ; SECTION 881 TITLE 10, U.S.C.  
[FOR CIVILIANS SIMILAR VIOLATIONS UNDER TITLE 18 U.S.C.]

(7) CONSPIRACY TO BE ACCESSORIES AFTER THE FACT: VIOLATION OF  
ARTICLE 81, UCMJ; SECTION 881 TITLE 10, U.S.C. [FOR CIVILIANS SIMILAR  
VIOLATIONS UNDER TITLE 18, U.S.C.]



**SENATE SELECT COMMITTEE ON POW / MIA AFFAIRS  
INTERNAL MEMORANDUM**

**TO:** file

**FROM:** Jon D. Holstine

**SUBJECT:** Events surrounding document destruction

**DATE:** April 21, 1992

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On April 9, 1992, the Vietnam/Laos investigative team operating in SRB-78 provided a briefing, at the instructions of the Senate Select Committee's staff director, for Senate Staff Designees of Members of the Select Committee, previewing the material which the Vietnam/Laos team planned to present to the Committee Members the following day. The contents of the briefing were set forth in a paper prepared by John McCreary. It explained our approach, the purpose of the display map, and the numbers represented on the map, as well as the inferences and conclusions of the investigators from the intelligence material which went into the briefing. These were presented as the intelligence findings of the investigators at that date and time.

There were a limited number of copies of the Gaines Report (a classified DIA document), of the unclassified SI report, which had been highlighted for easy use/reference by the Senators, and of the briefing paper. In each case there were 15 copies; one each for 12 members and one each for Frances Swanig, Bill Cochran, and Dino Carluccio. It was the plan of the investigating team that all these materials would remain in SRB-78 to protect the security and integrity of the materials and to be available at least until after the presentation to the Senators on April 10. Mr. McCreary called for 15 copies of each item to be returned. It turned out that 15 copies of the SI report and of the intelligence briefing paper were returned to the team; however, 15 copies were left for the briefing on April 9, and immediately afterward until the briefing for the next day took place the following day. No copies of the classified Gaines report were

On Thursday April 9, 1992, the investigators met with several of the Members of the Select Committee and other staff in SRB-78 to brief their results. Early in the meeting one copy of the Wednesday briefing paper was produced by Senator McCain, who referred to it as he addressed the Chair. There was one copy of the SI report which, it turned out, was in the possession of Carter Pilcher, Senator Brown's designee, who had retained it the evening before. No copies of the Gaines Report had been taken



out of SRB-78 until the Vietnam/Laos investigators carried them to S-407 for the briefing. The copy of the intelligence briefing in the possession of Senator McCain was returned to the Vietnam/Laos investigators at the conclusion of proceedings. Chairman Kerry instructed that the proceedings of the day were to be closely held, lest someone conclude that the Committee had reached a decision on the intelligence, and that the intelligence briefing paper was to be controlled also. He was very specific and adamant that the contents of the briefing were not to go out of the room.

Shortly after the Vietnam/Laos team returned with their materials, including the SI report copies and the copies of the Gaines Report, Frances Zwenig called to instruct the team to collect all copies of the intelligence briefing paper for transmission in a burn bag to Senate Security for destruction; Barry Valentine was to accomplish the delivery. A check of copies of the briefing paper revealed that only 14 copies were to be found. A telephonic check with Frances Zwenig led to the recovery of the copy from the office of Senator Kassebaum. At about 1800 hours the copies were sealed in a burn bag and locked in Barry Valentine's safe against delivery the next day to Senate Security for destruction. On April 10, 1992, Mr. Valentine made his delivery and received a receipt from Senate Security noted "received for destruction".

Friday, April 10, was a comp time day of sorts authorized by Senator Smith. The following week Mr. Hendon, on reflection, was quite concerned that he had participated in the improper destruction of Select Committee documents -- namely the intelligence briefing paper copies -- which concern was shared by Mr. McCreary. When aired in a meeting with Bill Codinha, Chief Counsel of the Select Committee on Wednesday April 15, the problem was not immediately obvious to Mr. Codinha. His first reaction was that it was no problem because no one was aware what had happened. He made no mention of any record copy having been set aside. Mr. Hendon made clear that he would welcome a special prosecutor to investigate the case, if that would be necessary to clear him of any wrongdoing in the case. My personal reaction was one of shock, because I had not until then come to realize the problem that was set forth by Mr. Hendon. It was clear in the subsequent conversation that a) there was a problem and b) Mr. Codinha was not prepared to acknowledge it.

The following day there was a considerable amount of pulling and tugging over the staff director's desire for the Vietnam/Laos team to prepare a "portable version" of the cluster map for the CODEL to use in Indochina. For a variety of reasons this was problematic. Mr. Carluccio passed on Senator Smith's wishes that the Staff Director's instructions were not to be complied with; the Vietnam/Laos team followed Mr. Carluccio's direction. At the same time Senator Smith communicated to Senator Kerry his concern about the destruction of documents.



Late Thursday, April 16, at a meeting in his office, Senator Kerry announced that the question of document destruction was "moot", because a copy had been placed in Senate Security. This was obviously news to most; Mr. Codinha had not mentioned an extant copy at 2:30 Wednesday afternoon.

Subsequently, after the meeting had adjourned and I returned home, I recalled seeing Frances Zwenig's signature on the sign-in sheet at Senate Security moments before we returned to work there Thursday afternoon. She had been there for about one minute. Later it was established that she had delivered a sealed envelope for her personal file.