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UNITED STATES SENATE

Committee on Foreign Relations

January 28, 1974

TO: All Members of the Foreign Relations Committee

FROM: Dick Moose

SUBJECT: Missing in Action

Background

A year and a day after the signing of the Paris Accords the MIA families and their largest orgznization, the National League of Families of American Prisoners and Missing in Southeast Asia, sense themselves at an important crossroads in their efforts to determine the fate of their approximately 1,200 missing men.

In individual terms, while many of the relatives of those missing must know that there is little chance of additional survivors or of obtaining more information from the North Vietnamese, they are understandably reluctant to acknowledge this reality-even to themselves. Officials with whom the families meet are equally reluctant to speak frankly with them. Instead, the families are continuously reassured -- out of compassion and probably political caution as well -- that every effort will continue to be made to obtain an accounting for the missing. Such assurances serve to keep the families' hopes alive and to fuel their efforts at obtaining additional action from the Government.

The families' conflict between hope and reality is reflected in an organizational crisis within the League of Families. Many of the League's national leaders have come to recognize that there is little more to be done. Some of them would prefer to see the League quitely fold rather than continue an increasingly futile campaign which they fear will degenerate into strident militancy. They are opposed by a minority element in the League which accuses the leaders

(such as today's lead witness, Scott Albright) of having given up and sold out to the Administration. The militants believe that demonstrations against the Government -- such as that conducted at the White House yesterday-are now their only recourse.

Public Witnesses

The selection of family representatives to appear at today's hearing was complicated by this schism in the League. When the Committee announced that the public witnesses for today's hearing would be drawn from the League, the militants immediately launched a telegram campaign demanding that Mr. George Brooks, one of the League's militant board members, and Mrs. Gloria Coppin, a representative of FIVA (Voices in Vital America) - the California-based conservative public membership group which sold the MIA bracelets be allowed to testify. The Committee staff attempted to meet the militants' objections by asking the League to include a representative of the militants among the witnesses. The leadership agreed and Mr. E.C. Mills was chosen by the militant board members as their spokesman.

The moderates were particularly hopeful that Secretary Kissinger would appear today. His failure to do so is being cited by the militants as an indication of the Administrations "indifference."

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With the foregoing as background, there follows a series of items on specific points and issues which may come up in today's hearing:

Statistics:

Various figures on the MIA's will be cited in the hearing. It is difficult to reconcile them, but the following may help:

Listed by U.S. as POW/MIA before signing of Accords	1,980
POW's returned by DRV and PRG	579
Reported as died in prison by DRV and PRG	43
Sub-total "accounted for"	622
Remaining to be accounted for	1,358

Of those not accounted for, the Pentagon still carries about 58 men as POW's because they were previously believed to be captured but have not been returned, reported as dead by the DRV/PRG, or otherwise accounted for. The current Pentagon total of those classified as "missing in action" is only about 1,138 rather than 1,358, the difference being explained by the fact that since January, 1973, nearly 200 men have been reclassified from MIA to KIA on the basis of "presumptive findings of death" (a controversial practice as will be explained below.) Despite these presumptive findings, the individuals involved are still, in a sense, unaccounted for.

Areas of Particular Sensitivity

The families are upset by statements to the effect that "all our prisoners have been returned." As noted above, the Pentagon still carries more than 50 men on its rolls as POW's. In many of these cased there have been North Vietnamese press photographs or broadcasts involving specific prisoners who have never been accounted for.

The possibility of additional prisoners in Laos is a major item of interest. The Administration has said that we hold the DRV responsible under the Paris Accords for POW's throughout Indochina, but only nine of more than 300 listed as missing in Laos were returned. The U.S. is not a party to the Lao settlement and it is now apparent that we are dependent upon the Pathet Lao (Lao Patriotic Front) for further information in that area.

Changes of Status

Some families are resisting the reclassification of MIA's to KIA status. They allege the services would like to make wholesale reclassifications, thereby ridding themselves of the MIA problem. Existing service regulations provide that the service secretaries (Army, Navy and Air Force) may after a year and a day reclassify MIA's as KIA on the basis of "presumptive findings of death" when there is no available evidence that the man is still alive. Last year a group of relatives obtained a Federal Court order enjoining the service secretaries from making such findings except upon

specific request of the "primary next-of-kin" (a wife in the case of a married man, otherwise the parents or nearest other relative.) This order has created some agonizing situations where wives and parents differ. Some families argue that if these reclassifications are made the DRV/PRG will be absolved of responsibility for an accounting. The Pentagon assures them this is not the case. Although generalizations about this issue are dangerous, wives are more frequently in favor of reclassification than parents.

Efforts to Obtain Additional Information

The Executive Branch states that it has no hard evidence that there are any living POW's other than Emmet Kay, a civilian pilot who is being held by the Pathet Lao.

The only regular forum for discussing MIA's is the Four Party Joint Military Team which meets twice a week in Saigon. We have gotten nothing out of these meetings. The Committee staff has read the reports of many of these meetings. The atmosphere is poisonous. The Vietnamese parties trade insluts and the DRV/PRG tries to raise issues which the GVN, in particular, insists are beyond the competence of the FPJMT.

In addition to efforts in the FPJMT meetings, the U.S. sent the DRV a note in July, 1973, asking for more cooperation. Secretary Kissinger has reportedly raised the MIA issue with Le Duc Tho in their bilateral meetings.

Following the ceasefire, the U.S. established a Joint Casualty Resolution Center (JCRC) at the Nakorn Phanom air base in Thailand where the residual U.S. Air Force Command in Southeast Asia is also located. It is headed by a U.S. General and has teams, composed largely of ex-Special Forces personnel, who are supposee to investigage crash sites. Neither the DRV nor PRG has allowed the teams to operate in areas under their control. The result has been that only a handful of investigations has been made. Objective

observers are not surprised that the DRV and PRG have not allowed these teams to operate. Apparently no advance provision was made with the DRV and PRG for their operations.

OTHER POSSIBLE ACTIONS

No one has any good ideas about further action which could be taken. Many families believe that the US should seek to generate more world-wide publicity regarding the MIA's. They want statements by high US officials, the Congress, USIA and VOA. They want the US to raise the MIA issue in the UN and other international forums.

Some family members want complete trade and communication embargoes against North Vietnam. A few would urge military action but others recognize that this would lead to more casualties and that, in any event, it is not politically feasible.

POLICY CONSIDERATIONS

There appears little likelihood that the North Vietnamese will do anything substantial in the near future to facilitate an accounting for our missing. Even if they wanted to cooperate, they probably have very little to offer beyond some information regarding additional deaths in North Vietnam and, of course, the repatriation of remains. There may be some prisoners in Laos but even this is doubtful. Knowing this, the Administration must ask itself what price it should be willing to pay for such limited returns.

The North Vietnamese clearly would like to re-engage the United States on the question of implementing the political provisions of the Paris Accords and they would like to see an end to US support for Thieu. The Administration undoubtedly is not enthusiastic about either proposition. Furthermore, there is no guaranteethat willingness to engage in political talks would lead quickly to any significant progress on the MIA issue. More than likely we would see a re-run of the pre-1973 negotiations with the North Vietnamese using cooperation on the MIA's as negotiating bait just as they earlier used the POW's.

It seems unlikely that the Administration will explain the MIA situation in the terms just described. Instead they place the entire blame upon the North Vietnamese whom they portray as totally unreasonable. They take the position that North Vietnam's obligation to implement Article 8(b) is not linked to performance by our side on any other aspect of the Accords. The Administration also points out that the FPJMT exists only for the purpose of implementing Article 8(b) and other questions (e.g. ceasefire violations, political prisoners) are beyond the purview of the FPJMT.

The North Vietnamese clearly have not fulfilled their obligations under Article 8(b) and have violated other provisions of the agreements as well. But there have been many violations on both sides. At this point US policy seems to be to live with the imperfections of the agreement, rather than to seek full implementation. This is where the MIA families are caught. No one wants to say to the families that we have done as much as is politically feasible or that the possibility of obtaining additional information must be weighed against other policy considerations. Many family members already know this, of course, but in the absence of unusual cases the cycle of hope, entreaty, assurance and frustration seems likely to go on forever.

1. Article 8(b) reads as follows: "The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

Resolutions

There are two resolutions on MIA's now before the Committee - S. Con. Res. 41, introduced last year by Senator Tower, and S. Con. Res. 63 introduced by Senator Percy. In hearings before the Zablocki Subcommittee the State Department expressed concern that the House version of the Tower resolution went too far in calling for a complete cut-off in communication and travel to North Vietnam.

The State Department seems to prefer Senator Percey's resolution. A Defense Department official has suggested, privately, that a simple but forceful resolution calling on DRV/PRG/Pathet Lao to cooperate would be even better. The attitudes of MIA families on the subject of resolutions range from mild interest to indifference to indignation.

POSITIVE PROOF OF ABANDONMENT OF POWs/MIAs

A year and a day after the signing of the so-called ceasefire (January 28, 1974), the Foreign Relations Committee held hearings on the Missing in Action in Southeast Asia. The Senators on this Committee were given a briefing memo prepared by a consultant to the Committee. The following point-counterpoint items speak for themselves.

A

When "peace was at hand" on 16 October 1972, President Nixon told the National League of Families of Prisoners and Missing in Southeast Asia:

> "We shall under no circumstances abandon our POWs or MIAs wherever they are. When I use the word abandon, I speak quite deliberately. That means that we cannot leave their fate to the goodwill of the enemy."

In an address on Armed Forces Day, 19 May 1973, the President said:

> "And I can assure you that we must and will insist that this promise, this pledge, this solemn agreement be kept, because just as America never broke faith with our Prisoners of War, I can assure you today, we will not break faith with those who are reported Missing in Action."

On 28 January 1974, the following statement appeared in the private Senate briefing memo given to the members of the Senate Foreign Relations Committee:

> "No one wants to say to the families that we have done as much as is politically feasible or that the possibility of obtaining additional information must be weighed against other policy considerations."

B

In the State of the Union Address, presented by President Nixon on 30 January 1974, the President pledged the following regarding the POWs/MIAs:

> "We will press for full compliance with the peace accords that brought an end to American fighting in Indochina, including particularly the provision that promised the fullest possible accounting for those Americans who are Missing in Action."

In the briefing memo given to the Senators on 28 January 1974, the following is stated:

> "At this point, US policy seems to be to live with the imperfections of the agreement, rather than to seek full implementation."

Continued

C

In the White House copy of Dr. Kissinger's press conference, 24 January 1973, he said:

> "The return of American personnel and the accounting of the Missing in Action is unconditional and will take place within the same time frame as as the American withdrawal."

In the briefing memo, when discussing the possibility of American POWs still alive, the following observation was made:

> "Knowing this, the Administration must ask itself what price it should be willing to pay for such limited returns."

D

In that same 24 January 1973 press conference, Dr. Kissinger said:

> "...all parties have an obligation to assist each other in obtaining information about the Prisoners, Missing in Action, and about the location of graves of American personnel throughout Indochina."

In the briefing memo given to the Senators, the following is stated:

> "Objective observers are not surprised that the DRV and the PRG have not allowed these teams to operate. Apparently no advance privision was made with the DRV and PRG for their operations."

EXPLANATION - "Teams" refers to the Joint Casualty Resolution Center search teams.
"DRV" refers to North Vietnam(Democratic Republic of Vietnan .
"PRG" refers to the Viet Cong (Provisional Revolutionary Government).

E

During his confirmation hearings before the Senate Foreign Relations Committee, 7 to 11 September 1973, Secretary Kissinger commented on the failure of the Communists to live up to their obligations in accounting for the Missing:

> "We are seriously dissatisfied with the other sides performance on this subject - it has been one of the most unsatisfactory aspects of the implementation of the agreement."

In the briefing memo, there is the statement that reads:

> "The North Vietnamese clearly would like to re-engage the United States on the question of implementing the political provisions of the Paris Accords..."

SUMMATION

The points quoted from the Sentae memo have been deduced by many families over the past year, now we have it directly from the Consultant for one of the most prestigious committees on the Hill. These points are totally contrary to the public statements made by President Nixon and Secretary of Stat Kissinger, whom we have quoted as well as statements by other officials in the Department of State and Defence.

In light of Congressman Benjamin A. Gilman's report that General Vang Pao told him of 8 to 10 Americans held in Laos, the Walter Cronkite report on the sighting of journalists in Cambodia, and a report last week that released ARVN POWs were held with three Americans in the Central Highlands of South Vietnam, there is strong evidence that more men other than Emmett Kay, a confirmed POW of the Pathet Lao, are being held in S.E. Asia. Our government still lists a number of 50 to 100 men as prisoners of war. These men were known to have been captured and held by the Communists. At what point did our government decide that these men died? Did they all die at once on the day that North Vietnam said we are holding no more Americans? Did they die on e by one over a period of time? The truth is that when the North Vietnamese refused to even respond to inquiries about these POWs, our government decided the best thing to do was just to declare them dead and close the book! The family members who are enraged about this are now referred to as "Hard-core" "diehards" and "militants." You have read the facts you must judge for yourself!

There is evidence somewhere...someone knows the truth about these American servicemen...the jungle didn't swallow all of them. If the US is going to ask men to lay down their lives, our leaders must do everything possible to account for each. This issue has touched many American families who now feel that unless the US policy involving MI - is clarified, their sons will not serve in the armed forces. It is time for the President and Secretary of State to tell the families of these men and the American ;ublic the truth. With emphasis on honesty in government these days, there is no subject which more needs an honest investigation than this one. If our men are to be abandoned, it behooves our government to inform us why and what was the price too great to pay for their return.

The President has been asked to meet with spokesmen for our MIA families. We see daily on television and in the newspapers, the President meeting with various groups of people domestic and foreign, we search for the reason why he continues to ignore our request for a meeting. A camper which has circled the White House since 27 January 1974 and occupied by family members, will continue to do so until the President grants us this meeting