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

TOP SECRET

TOP SECRET

A Report on US-Vietnamese Talks on POWs/MIAs During the Nixon, Ford, and Carter Administrations

Prepared for Richard Childress,
National Security Council

by

Paul Heer

September 23, 1985

COPY 1 OF 2 COPIES

TOP SECRET
CLASSIFIED BY: NSC Multiple Sources
DECLASSIFY ON: OADR

TOP SECRET

TOP SECRET

TOP SECRET

TOP SECRET

TOP SECRET

~~TOP SECRET~~

~~TOP SECRET~~ September 1985

BACKGROUND: THE JOHNSON ADMINISTRATION

The release of US military personnel being held as prisoners of war in Indochina, and the accounting of those missing in action, has been a primary interest of the US Government since the beginning of efforts to resolve the Vietnamese conflict. The humanitarian concern for the well-being of US servicemen, as well as their families, has clearly been the driving force behind the public and official assumption that every possible effort would be made to assure that US POWs were treated humanely by the Vietnamese and that ultimately all POWs and MIAs would be either released or somehow accounted for. During the mid- to late-1960s, when the Johnson administration began its attempts to bring the North Vietnamese to the negotiating table and end the war, overtures were made toward arranging prisoner exchanges with Hanoi. US strategy, from the beginning, assumed that the POW/MIA issue could and should be dealt with as a purely humanitarian problem, to be resolved outside discussions intended to end the war, and hopefully through separate channels. In addition to prisoner exchanges, the US Government offered to arrange for a third country to receive prisoners for internment or transfer. The International Red Cross was encouraged to request prisoner lists, mailing rights, and, if possible, on-site camp inspection, from Hanoi. At the same time, the administration publicly highlighted allegations of Vietnamese ill-treatment of US POWs, thereby encouraging Hanoi to act humanely with regard to prisoners.

The Vietnamese response to US POW/MIA proposals during the late 1960s established the trend of silence, intransigence, and almost total lack of humanitarian concern that characterized Hanoi's treatment of the prisoner issue through 1980. Hanoi, for the most part, ignored proposals for prisoner exchanges; refused access to any party for inspection of prisoner camp conditions; denied claims of harsh or inhumane treatment or that the Geneva accords were applicable; repeatedly failed to provide the US or any third party with satisfactory lists of prisoners; and failed to facilitate mail service between prisoners and their families. Starting in 1967, Hanoi occasionally released small groups of prisoners (two or three at at time), but strictly for propaganda purposes. On such occasions the Vietnamese fully exploited the international press, and they routinely used independent (usually anti-administration) US organizations as the intermediaries for the release of the prisoners.

~~TOP SECRET~~
CLASSIFIED BY: NSC Multiple Sources
DECLASSIFY ON: OADR

~~TOP SECRET~~

The Johnson administration was the first to discover that treatment of the POW issue as a humanitarian problem was futile, since the Vietnamese were determined to deal with the issue only to the degree that it could be used as a diplomatic tool or as part of a quid pro quo that would benefit Hanoi. It soon became apparent that any resolution of the POW/MIA problem would probably have to come about as part of a general settlement of the war itself. For this reason, the subject of POWs was bound to enter into the peace talks which began in Paris in May of 1968. Nonetheless, US strategists (at least on paper) continued to maintain that the prisoner question was a fundamentally unique matter that was to be considered a pre-condition or a by-product of the peace rather than one of the terms of a settlement.

THE NIXON ADMINISTRATION

The Paris Peace Talks

The US Government originally hoped to avoid any linkage of POW release to political or military issues at the talks in Paris. US negotiating strategy thus focused on efforts to bring about an early settlement of the POW/MIA issue prior to and outside the general discussion of a cease-fire and withdrawal. Unfortunately, there was virtually nothing the US Government could offer as an incentive to the Vietnamese to be receptive to such a plan. Suggestions for a reciprocal release of North Vietnamese prisoners in the South were impractical, since Hanoi refused to openly acknowledge any military presence in the South and thus denied that any soldiers held there were theirs. In addition, the North Vietnamese clearly recognized the depth of US concern for the POWs and therefore the amount of leverage the prisoners could afford Hanoi. This alone probably made it inevitable that the POW question would be linked to other issues. Most importantly, it did not take long for the US delegation to realize that appeals to Hanoi on the basis of humanitarianism, or suggestions that the Vietnamese resolve the POW question early and separately as a gesture of goodwill that would improve the atmosphere of the negotiations, would consistently fall on deaf ears.

The US delegation in Paris grudgingly but quickly accepted the reality of Hanoi's attitude toward the POW issue, and proceeded to develop tactics for including prisoner release in its discussions with the Vietnamese. As with all important issues that were dealt with at Paris, discussion of POWs evolved concurrently in two different fora: the semi-public negotiations between the two formal delegations, and the secret meetings--ultimately between Le Duc Tho and Henry Kissinger--during which virtually all substantive conversations were held. The formal sessions, which were conducted

largely as a front for the more sensitive secret discussions, were often marked by exchanges of political rhetoric. US negotiators repeatedly demanded that the Vietnamese provide lists of US prisoners, allow for inspections that could verify humane treatment, facilitate mail delivery to and from the prisoners, and to indicate a willingness to negotiate an early and complete release of all POWs. Hanoi's delegation habitually responded by accusing the US team of attempting to turn the subject of the talks away from the "aggressive" and "imperialist" war that the US had brought upon the Vietnamese people. In their statements, Hanoi's negotiators denounced US servicemen being held in the North as "war criminals" (and thus not due the treatment guaranteed by the Geneva protocols) while maintaining that all were treated well. The North Vietnamese said little of substance about POWs through the course of the formal negotiations, except when launching propaganda initiatives or when alluding vaguely to the general principles that were being discussed in the secret meetings. Hanoi often made the bottom line explicit: they would not discuss anything seriously, particularly POWs, without assurance that US troops would be withdrawn from Vietnam.

The Public and the Press

Public opinion in the United States was an important tool of the US delegation in Paris, especially with regard to the POW issue. Many of the appeals that were made to the Vietnamese at the formal talks emphasized the demand of the American people for a complete and satisfactory accounting for lost and imprisoned servicemen. Public awareness campaigns that were either encouraged or supported by the US Government were brought to the attention of the Vietnamese in Paris, who were also asked about reports that POWs were harshly treated. It was clearly hoped that Hanoi would respond favorably in the interests of receiving or retaining positive international press. In most cases the Vietnamese responded in piecemeal or not at all. Instead Hanoi tried to bring negative press to the US delegation and the Nixon administration by highlighting anti-war sentiment in the United States and by making contacts with private US organizations or citizens, some of whom advocated unilateral moves (or actions outside the scope of US Government policy) to resolve the POW question. To this end, the Vietnamese delegation in Paris met on several occasions with relatives of POWs or MIAs, and seemed more forthcoming in providing information to these individuals than to US officials. Few of these meetings, however, resulted in any important steps toward a more complete accounting of prisoners, nor did the meetings the Vietnamese had with US Congressmen or officials from other public or private organizations.

The Kissinger Meetings

"I've dealt with the North Vietnamese for a long time. They are the worst sons-of-bitches I've ever

met. After any negotiating session with them, one is seized with the overwhelming desire to bomb the bejeesus out of them. They are brutal, monomaniacal, and impervious to human emotion. To them your concern is simply a tactical weapon. It doesn't create an obligation or a humanitarian concern. Even the Syrians are a joy to deal with compared to the North Vietnamese."

--Henry Kissinger
9 February 1974

Outside the showcase of the formal sessions between the North Vietnamese and the US delegation, the real negotiating was done in secret between Henry Kissinger and the agents of Hanoi (primarily Le Duc Tho and Xuan Thuy, nominal head of the North Vietnamese delegation in Paris). Kissinger's initial approach to the POW issue reflected the original attitude of the government in any discussion of the issue with Hanoi: he regarded it as "a matter of simple humanitarianism" that was not an appropriate topic for political/military negotiations. Kissinger, however, understood the necessity of confronting the issue in his meetings with the Vietnamese and was prepared to deal with it in connection with the conditions for peace. After recognizing that there was no alternative, and resolving to keep the Vietnamese reminded of the unique demands of the American public on the POW question, he fully incorporated the subject of prisoners into his conversations with Le Duc Tho. In accepting the POW issue as an integral part of the settlement, Kissinger was determined to prevent the POWs from becoming a diplomatic pawn, and he voiced that determination repeatedly to the Vietnamese.

One of Kissinger's main problems in devising a POW policy for his meetings in Paris was Washington's relationship with the Thieu government in South Vietnam. Kissinger, for example, had little leverage in proposing prisoner exchanges, since most prisoners held by the allies were in camps administered by South Vietnam. This, of course, was not itself a serious restraint on US negotiators, since Thieu was often receptive to the idea that the release of some prisoners or the promise of an exchange would be an incentive to Hanoi. In any case, Hanoi generally ignored any such overtures because the North Vietnamese refused to claim any soldiers in South Vietnamese prisons. The larger, central problem that affected the POW question was that which proved to be perhaps Kissinger's greatest obstacle to reaching a settlement in Paris. Many of Hanoi's conditions for peace concerned the future of the Saigon government, and thus many of the promises that Kissinger wanted to make to Hanoi in return for a promise to bring an end to the war in general--and a return of US prisoners in particular--depended upon Thieu's concurrence, which was hardly a given, since the core of Hanoi's demands included Thieu's ouster. Thieu's understandable reluctance to surrender either his government or his control over it, even

TOP SECRET

when it became obvious that Saigon's authority and legitimacy were faltering, became a thorn in Kissinger's and Nixon's sides that delayed the peace settlement. Agreement with Hanoi on POWs was especially complicated by Saigon's refusal during the later stages of the negotiations to agree to Hanoi's demands for the release of those civilian and military personnel held in the South (which by that time they had implicitly claimed). In fact, much (if not most) of the difficulty that Kissinger had in reaching a final agreement with the North Vietnamese on the wording of the POW sections (Article 8 and the Protocol) of the peace accords was occasioned by Saigon's stubborn intransigence rather than Hanoi's.

Kissinger's Statements and Proposals on POWs

During his meetings with Xuan Thuy and Le Duc Tho in 1971, Kissinger habitually reiterated the US Government request for Hanoi's agreement to an immediate release of all prisoners on both sides, as a separate humanitarian action. If that could not be done, he said, release of US POWs would have to be an integral part of the peace settlement, according to which the US would expect a complete list of prisoners held throughout Indochina on the day the peace was signed, as well as a schedule for POW release that would parallel and end at least two months before the schedule for US troop withdrawals. In qualifying the US proposals and responding to Hanoi's, Kissinger emphasized that he could not and would not set a date for US troop withdrawal without a clear understanding that such a guarantee would bring the release of US POWs. He repeatedly told the Vietnamese that US public opinion would not allow the POWs to be held for ransom or the demand for their complete release to be compromised in any way.

Hanoi's Statements and Proposals on POWs

The North Vietnamese peace plan of 8 May 1969 (the "Ten Points") implicitly linked the release of POWs to the payment of war reparations by the United States. Their "Eight Point" proposal of 17 September 1970 stated that Hanoi would be ready to discuss the release of POWs if the United States would agree to a total troop withdrawal by 30 June 1971. In subsequent statements it became clear that an agreement to "discuss" the release of prisoners was apparently something short of an agreement to actually release them. The central implication in the qualifying statements of Xuan Thuy and other members of the North Vietnamese delegation was that the condition of a guaranteed troop withdrawal was intended to mean a guaranteed end to the war; basically that Hanoi would not concern itself with the prisoner issue until the United States, acting in good faith, met its key demands. More than just a withdrawal deadline, these of course included a cessation of bombing over North Vietnam as well as other violations of that country's "sovereignty and security," and a satisfactory response to the PRGSVN (Provisional Revolutionary

Government of South Vietnam) proposal to replace the Saigon regime. Hanoi was thus stating that US POWs would not be released until after the war itself was over, and placing the onus for continuing the war and hence the incarceration of the prisoners on the government of the United States.

The Negotiations

In the PRG's "Seven Point" proposal of June 1971, the North Vietnamese seemingly committed themselves to a POW release that would take place concurrent to and end at the same time as a US withdrawal from Vietnam. Kissinger agreed to the plan but again requested clarification that a withdrawal date would lead directly to POW releases. He received an apparent "yes" from Le Duc Tho. By August 1971, then, essential agreement had been reached on the timetable for prisoner release, as well as an exchange of prisoner lists. It seemed that a withdrawal deadline would in fact bring the release of US POWs in Vietnam. In addition, after raising the question of US prisoners in Laos and Cambodia, Kissinger was told that Hanoi would "use its influence" with its allies to resolve the problem.

Nonetheless, it was generally suspected that a promise to withdraw all US troops would not be enough to secure the release of US POWs, despite Hanoi's attempts to qualify its statements to the contrary--which were confusing and seemingly contradictory. To many, the "Seven Points" still implied a Vietnamese readiness to merely discuss "the modalities" of prisoner release. To most, they indicated that Hanoi would do nothing without a guarantee that the "Vietnamization" of the war would be stopped and that both the war and the withdrawal would completely end within 1971. Kissinger was not prepared at the time to promise an end to the war or an abandonment of the Thieu government, nor to make US POWs part of any such deal. In addition, the North Vietnamese promises with regard to Laos and Cambodia were ambiguous, and there were growing problems in determining the status and future of captured civilians on either side. And, although it placed a low priority on the release of its own soldiers (and those of the Viet Cong) held in the South, Hanoi was expected to eventually include a demand for their release as part of a deal for US POWs.

Needless to say, all attempts to end the war and bring a POW release by the end of 1971 failed; negotiations to that effect inevitably fell by the wayside. In 1972, the POW issue was to become a test, for each side, of its diplomatic leverage. The Nixon administration's failed January 1972 attempt to rescue US POWs from a camp at Son Tay evidently brought Hanoi to a full realization, for the first time, of the high priority that Nixon had assigned to the release of POWs. Prior to that time, the North Vietnamese had apparently underestimated the importance of the issue to the United

States. It is possible that much of Hanoi's inattention to the question of POWs was simply based on their assumption that the matter was of no great importance. In any case, the impact of the Son Tay raid on Hanoi's strategy was probably a reassessment of the POW issue as one that provided it with greater leverage it they had previously understood. Ironically, Washington seemed to conclude that Hanoi's recognition of the importance of the POWs to the United States could increase the leverage of the American side. The US negotiators believed that Hanoi would now be more sensitive to the effect of POW matters on its image, and thus motivate the North Vietnamese to resolve the question in some degree of good faith.

In late 1972, as the negotiations were approaching a climax, Kissinger emphasized two secondary issues with regard to POWs that had not been previously dealt with to any large degree: the subject of American prisoners in Laos and Cambodia, and the question of how servicemen missing in action would be accounted for after the ultimate release of POWs. On the subject of POWs held outside of North Vietnam, Le Duc Tho informed Kissinger that there were "very few" American prisoners in Laos, and none in Cambodia. He repeated Hanoi's claim that, in any case, such matters were under the jurisdiction of the Laotian and Cambodian governments, and reminded Kissinger of his agreement to "work out the arrangements with our friends." With regard to MIAs, the North Vietnamese delegation did not appear to offer any serious resistance to including in the peace settlement a paragraph to the effect that both sides would help each other in getting information about those missing in action, and facilitate the investigation of crash sites and the repatriation of remains.

As the negotiations drew to a close, the major stumbling block in finalizing the POW section of the peace settlement was the question of civilian prisoners, which was closely related to the undetermined status of Viet Cong and other prisoners held in South Vietnam. Since the resolution of this problem would have to involve the parties operating on either side in the South--the PRG and the Saigon regime, both of whose responsiveness to the major negotiating powers was questionable--and because there were questions as to whether satisfactory resolution of the civilian prisoner issue would be linked to other parts of the POW agreement, discussions on the POW matter were delayed and complicated, probably unnecessarily (and not because of any fundamental disagreement as to the future of US POWs). Hanoi and Washington found it extremely difficult to come to agreement on what was to be expected of the PRG and the Thieu government, and what the implications were for a general settlement. By the time the peace agreement was signed, however, the separation between the two distinct problems of Vietnamese civilian prisoners and US military prisoners, in terms of both obligation and time frame, had been made. Kissinger promised that Washington

would do everything in its power to urge Saigon to cooperate with the PRG in meeting the civilian prisoner requirements of the agreement.

After the Peace Accords

Immediately after the signing of the Paris agreement, Hanoi provided the US Government with a list of American prisoners and released a large number of POWs. Unfortunately, both actions fell far short of US expectations. The list provided was not accepted as either fully accurate or complete, and little information was provided toward identifying or locating American soldiers missing in action. Within a month of the peace settlement, the North Vietnamese began to delay the further release of US POWs, claiming that the US side was not fulfilling its part of the agreement. Hanoi complained that the United States had failed to ensure the release of civilian prisoners in the South (a denial of the clear distinction that had been made during the negotiations between civilian and military prisoners) or abide by the cease-fire agreement, and that the US had shirked much of its responsibility to enforce the peace settlement. Washington responded by denying the allegations, demanding the release of US prisoners according to the schedule that had been set, and informing Hanoi that discussions in Paris, mine-clearing operations, and troop withdrawals would be suspended pending further North Vietnamese movement on POW release. In addition, both sides accused the other of impeding the activities and progress of the Four Party Joint Military Commission, whose responsibilities included the search for MIAs.

Beyond the initial POW releases, Hanoi's attempts to satisfy US demands for a full accounting of POWs and MIAs were few. The POW/MIA issue was among the first casualties of the collapse of the peace agreement, which became apparent within the first few months after the accords were signed. Kissinger's subsequent meetings with the Vietnamese brought no further results; questions addressed to Hanoi on the possibility of prisoners held back went unanswered, and requests for information on MIAs were largely ignored. For the remainder of the Nixon Administration, as military events overtook any hope that the Paris agreement could be upheld, humanitarian appeals once again fell upon deaf ears in Hanoi. With the withdrawal of US troops and the invasion of South Vietnam, Washington was left without a quid pro quo to offer in return for POW/MIA accounting.

US POWs/MIAs in Laos

On 2 February 1973, Hanoi provided the US delegation in Paris with what they claimed was a list of all personnel lost in Laos. The list was considered unacceptable for several reasons: 1) it contained only 9 American names, whereas approximately 350 US military and civilian personnel were

listed as missing or captured in Laos; 2) it was unclear whether the personnel on the list were dead or alive or if those still alive were being held in North Vietnam; 3) the list only contained prisoners who had been captured in Laos by the North Vietnamese, and ignored those captured by the Pathet Lao; 4) the list conflicted with reports from Pathet Lao sources that greater numbers of US prisoners were being held in Laos. In his meetings with the North Vietnamese after the signing of the Paris agreement, Kissinger demanded that Hanoi fulfill its obligation to ensure that all US prisoners throughout Indochina were released. Unfortunately, the uncertainty of the relationships between Hanoi and Washington and the opposing factions in Laos became an excuse--and ultimately an explanation--for Hanoi's and Vientiane's inaction with regard to US POWs and MIAs in Laos.

Hanoi's obligation to effect the release of POWs in Laos was more of a general understanding than an explicit term of the peace agreement, since it could not be assumed that the North Vietnamese had total control over Laos. In addition, Laos was racked with internal dissention that was being resolved through negotiations in which Hanoi and Washington were not directly involved. Thus it was extremely difficult to influence the course of events in Laos or to make demands on the rival factions in that country for the accounting of missing US personnel. In the long run, Hanoi claimed that it had lost, or had never possessed, any power to direct its "allies" in Laos. Washington tried, mostly in vain, to obtain information on missing US personnel directly from officials in Laos. Even after the Lao Protocols were signed in September 1973, the US Government had no leverage in demanding information from Vientiane. US POWs and MIAs in Laos thus met the same fate as those in North Vietnam; appeals for help in accounting for them came up against a crumbling stone wall.

The Joint Economic Commission and POW/MIA Accounting

Article 21 of the Paris peace agreement provided for the establishment of a Joint (US-DRV) Economic Commission that would supervise the implementation of the US plan to contribute to the post-war reconstruction of North Vietnam. In a 30 January 1973 side-letter to Hanoi, Nixon indicated his willingness to provide Hanoi with monetary aid, in the tentative amount of $3.25 billion, "without any political conditions." During the negotiations in Paris, there was never any direct connection made between this aid and POW release and/or MIA accounting. However, on several occasions the US delegation in Paris indicated to the North Vietnamese, subtly and informally, that Washington would be more inclined to move toward economic assistance if Hanoi would quickly and faithfully meets its obligations with regard to POWs. On 28 January (two days before the Nixon side-letter), Ambassador Sullivan (head of the US delegation in Paris) told Nguyen Co Thach (head of the Vietnamese technical team) that there would

be no note from President Nixon on economic aid until the Laos POW list was provided to the US side. Prior to Kissinger's trip to Hanoi in February, Le Duc Tho was notified that a "failure to solve" the Laos prisoner issue would "have the effect of impairing the utility" of Kissinger's visit and "restrict his ability to discuss positive programs," which were to include the activities of the Joint Economic Commission. Later in February, Kissinger instructed Sullivan to "tell Thach orally as your own view that if the prisoner issue is not satisfactorily resolved, the work of the Joint Economic Commission will be severely jeopardized."

It should be noted that Kissinger's intention here was not necessarily, or only, to threaten Hanoi with a direct linkage of POW release to economic aid. In his instructions to the US delegation in Paris on 29 January, Kissinger stated that the US "cannot proceed in the economic field as long as there is any implication that we are ransoming our prisoners . . . The domestic repercussions of not receiving the [Laos POW] list immediately will be serious." Thus it is conceivable that Kissinger did not view his instructions to Paris as establishing a POW/aid link, but in fact a political move designed to assure the American public that there was no link. He hoped that the Laos list would be presented, and other parts of the POW protocol satisfactorily fulfilled, before any discussions of economic aid to Hanoi began.

The meetings of the Joint Economic Commission began on 1 March 1973 and recessed on 25 July, after the technical work had been completed and the US side had concluded that further progress would not be made until Hanoi, among other things, attempted to effect a settlement in Laos. Even after the Lao Protocols were signed, however, the JEC talks never resumed. Thus, any suggestion of a connection between POWs/MIAs and aid to North Vietnam through the JEC quickly became a moot point. In any case, no progress was made on the POW issue, either in Vietnam or Laos, while the JEC talks were in session.

POWs and the Aftermath of the Paris Accords

As history shows, the Paris agreement virtually collapsed within weeks after it was signed. The North Vietnamese failed to observe the cease-fire, and the schedule for US withdrawal was delayed while both sides exchanged accusations as to who had violated the agreement first. The POW/MIA question was among the most important problems that remained unresolved when the agreement disintegrated. As events moved toward the fall of Saigon, the prisoner issue became a secondary concern for both sides. Hanoi again fell into the habit of ignoring US appeals for humanitarianism, and it became almost inevitable that any further accounting for POWs and MIAs would be extremely difficult. Despite US suppositions that additional prisoners were still in captivity and that Hanoi had access to further information on US missing, both the North Vietnamese

and the Viet Cong leadership in the South failed to provide any noteworthy degree of assistance or substantive information that would help account for US POWs/MIAs.

THE FORD ADMINISTRATION

After the failure of the peace accords--and ultimately the fall of Saigon--the US side did not abandon the MIA issue. To the American public, the fate of US MIAs was the unresolved problem in Indochina after the war had ended. Largely in response to public demands, Ford and Kissinger assigned a greater priority to the MIA problem than had been possible when wartime issues were more pressing. By mid-1975, however, Washington had little leverage with Hanoi, except for that which could be made out of Hanoi's continued hope for economic aid. (In a series of diplomatic notes throughout 1973-74, Kissinger and Le Duc Tho had accused each other of failing to meet their respective obligations (as per the Paris agreement) by trying to claim a linkage between MIA accounting and economic aid. Both had used an implied linkage as an excuse for not fulfilling the other's expectations.) Using the "carrot and stick" approach, Kissinger and Ford believed that a normalization of relations was the key quid pro quo that Washington had to offer Hanoi in exchange for an MIA accounting. By June 1975, diplomatic correspondence to examine the possibilities was under way.

The Ford Administration's strategy in dealing with the North Vietnamese was based on the view that "there can be no progress toward normalizing relations between [the US and the DRV] until Vietnam provides us as full an accounting as possible for all [US personnel who did not return from Southeast Asia]." As before, a direct linkage (e.g., that diplomatic relations would be established if such an accounting was provided) was not made; an MIA accounting was instead treated as a pre-condition for normalization. Thus the longstanding conceptualization of the MIA issue as a separate, humanitarian concern was again resurrected. Kissinger basically wished to coax Hanoi to the negotiating table with the suggestion of normalization, knowing that Hanoi viewed economic aid as the next logical step. In this way Washington could at least re-open a dialogue with Hanoi in which efforts could be made to obtain some accounting of MIAs.

Hanoi, in the meantime, had done or said nothing that would have conclusively assured the US Government that no live prisoners were being held back or that Hanoi had no further information on the missing or remains to be repatriated. On the contrary, on certain occasions (such as in response to US Congressional initiatives) Hanoi came forward with information on US personnel who were killed in action or died in captivity, and even repatriated some remains. After the fall of Saigon, Hanoi had fully recognized MIA accounting as its key diplomatic lever in dealing with the US, and made evident its

intention to link it to political/military issues, especially normalization, economic aid, and trade with the US. Hanoi's strategy--at least in Kissinger's view--was to torment and/or humiliate Washington with the fear of having to ransom prisoners and/or remains and/or information on the missing; at the very least Hanoi was prepared to exploit the MIA issue as a means of getting Washington to the negotiating table to discuss economic aid.

The Montgomery Commission

In September 1975, the House of Representatives established the Select Committee on Missing Persons in Southeast Asia, chaired by Congressman Sonny Montgomery, which was given a one-year mandate to review POW/MIA issues. Before visiting the North Vietnamese mission in Paris and proceeding to Hanoi and Vientiane in December 1975, the Montgomery Committee conferred with Kissinger, who briefed the committee and--although he was not hopeful--encouraged their attempt to break the US-Vietnamese deadlock. The Montgomery Commission largely followed Kissinger's advice. In their meetings with the Vietnamese, the members of the committee told Hanoi that substantial US financial aid was not to be expected on the basis of Article 21 of the treaty (which established the JEC) because the US Government viewed Article 21 to be a statement of intention, linked to Hanoi's implementation of the Paris agreement, rather than a binding commitment. Kissinger by this time viewed the Paris agreement as defunct, in light of Hanoi's many violations of it. The Montgomery Commission suggested to the North Vietnamese that Hanoi should hope instead for new agreements, based especially on a normalization of relations as well as other, more limited, economic concessions (such as the lifting of US trade restrictions). Montgomery and his fellow Congressmen, speaking on behalf of but not for the Ford Administration, thus notified Hanoi of the possible rewards it might expect for a more complete MIA accounting.

With regard to an accounting, the North Vietnamese told the Commission that all POWs in Vietnam had been released in 1973 and said that gathering information on MIAs was extremely difficult because of political and geographical conditions in the countryside. The Laotian government also stated that all US prisoners had been released in 1973, and added that no American MIAs were, or could be, alive in Laos. In its final report, which was released in December 1976, the Montgomery Commission concluded that "no Americans are still being held alive as prisoners in Indochina, or elsewhere, as a result of the war in Indochina" and that "a total accounting for all 2546 Americans who did not return from Southeast Asia is not now, and never will be, possible." The Commission also concluded, however, that "each of the governments of Indochina is capable of providing some information of the fate and place of burial of a number of missing Americans."

The Meaning of the Montgomery Commission

In must be noted that the Montgomery Commission was not an executive body, nor was it authorized to either negotiate for the Ford Administration or make executive policy. It was created in the wake of widespread public sentiment for missing servicemen and concern with the Government's failure to obtain a full MIA accounting. In this sense the Commission and its activities were a reaction to public confusion and uncertainty, and not an effort to subvert executive policy. The Commission was simply an attempt--encouraged by the White House--to succeed where previous efforts had failed. Kissinger, as stated above, was not hopeful that the Commission would accomplish much, since he knew perhaps more than anyone else in the US Government that the North Vietnamese would be neither forthcoming nor humanitarian in their response. Nonetheless, Kissinger utilized the Montgomery Commission as a channel through which he could transmit hints of the Administration's policy to Hanoi, and likewise obtain first-hand information on Hanoi's views without expending any White House or State Department effort.

What Kissinger (and Ford) found out from the Commission was that Hanoi was, as always, intent on using whatever POWs or information on MIAs it possessed as leverage in hopefully obtaining diplomatic recognition and/or economic aid. It was with well-defined benefits in mind that Hanoi released some MIA remains to the Montgomery Commission, stated that they had established an agency responsible for seeking information on other missing, and gave lip service to "a future of close US-Vietnamese relations." The US Government, however, viewed all of Hanoi's "concessions" as modest efforts, and, remaining unconvinced of Vietnamese good faith, allowed only small amounts of private humanitarian and economic assistance to go to Vietnam in response. US strategy thus placed the ball in Hanoi's court: Washington expected a major effort on MIAs before it would reciprocate with any discussion of economic aid, normalization, or the lifting of trade restrictions.

Hanoi's attention to the Commission was based largely on its efforts to play Congressional and US public sentiment off that of the Administration, and in the process gain support for the idea of US aid to Vietnam. This tactic worked to a certain degree, since some members of the Montgomery Commission returned to Washington recommending that the White House approve major programs of aid. Needless to say, the Administration felt no obligation to the Commission and ignored such requests. In the meantime, the Commission's conclusions--that their were no more live prisoners in Indochina and that a full accounting of the missing was impossible--aggravated both public opinion in the United States and Hanoi's perception of official US views on the issue.

Diplomatic Initiatives Under the Ford Administration

In this context (of continued but confused deadlock) President Ford was determined to prioritize and confront the MIA problem in particular and the issue of relations with Hanoi in general. Since the Montgomery Commission had reported that Hanoi was willing to enter into discussions, Kissinger (as Secretary of State) and General Brent Scowcroft (who had succeeded Kissinger as National Security Advisor in November 1975) thus prepared new diplomatic efforts to approach the North Vietnamese. Major US bargaining chips were to include the possibility of direct financial assistance; the removal of the trade embargo and controls on Vietnamese financial assets in the West; the allowance of US oil companies to operate in Vietnam; the resumption of bilateral talks in Paris; and US support for Vietnamese membership in the UN. The latter issue became an important concern in late 1976, as Hanoi was lobbying for admission to the United Nations and the US denied its support pending simultaneous Communist support for South Korea's membership. Kissinger perceived US support for Vietnamese membership in the UN in much the same way as normalization: it could only follow an MIA accounting.

After a series of difficult preparations, and delays occasioned by the UN issue, US and Vietnamese delegations met in Paris on 12 November 1976 to discuss any and all matters of mutual concern, but focusing on MIAs. The meeting produced nothing new; each side accused the other of establishing pre-conditions (for the US, MIA accounting for normalization; for Hanoi, a promise of aid for MIA accounting) and neither was prepared to step aside first. The deadlock continued. Plans were made for further meetings, but the talks never resumed: Hanoi refused largely because of Washington's veto of Vietnamese membership in the UN.

THE CARTER ADMINISTRATION

The Carter White House inherited the MIA issue in much the same state as it was left at the close of the 12 November 1976 meeting in Paris. Carter, however, did not inherit the staff that had in effect been dealing with the MIA issue since the time of the original Paris peace talks. Without Kissinger and Scowcroft and their assistants, Carter turned for advice and expertise to the two main groups with an ongoing interest in the POW/MIA problem: the Montgomery Committee and the National League of Families. His policy was thus largely determined by the conclusions and recommendations of the Montgomery report, and was refined and tempered to a certain degree through his meeting with the League of Families. Both groups, predictably, urged Carter to launch major efforts toward obtaining as full an accounting as possible from Hanoi. They were divided, however, over the question of status changes for missing servicemen, which was to become a major problem for Carter in dealing with the MIA issue. Status

reviews were recommended by the Montgomery Commission, and supported by Carter, but generally opposed by the League of Families. The controversy surrounding this particular issue evidently forced Carter to deal with the MIA problem when he seemingly wanted to avoid it.

Carter's leverage with Hanoi in calling for the elusive MIA accounting was basically the same as Ford's: extremely limited but with a few "major" bargaining chips. Carter, however, felt more personally compelled to resolve the issue (arguably, on the basis of his highly-idealistic approach to foreign policy), and was perhaps more interested in normalization as a distinct goal in dealing with Hanoi than Kissinger and Ford had been. Hence, he was more inclined to make the first move toward breaking the deadlock, rather than wait for a major Vietnamese initiative. It is somewhat evident, though, that Carter perceived himself in a dilemma: he felt a strong personal obligation to satisfy the public's (and particularly the League of Families') desires for resolution of the MIA issue, but also great frustration in realizing, as the Montgomery Commission concluded, that a total accounting was virtually impossible no matter what degree of assistance Hanoi was inclined to provide.

The Woodcock Presidential Commission

President Carter's vehicle for dealing with the MIA problem was the creation of a presidential commission that would travel to Hanoi and Vientiane to discuss MIA accounting. The idea had been suggested by the Montgomery group and was supported by the League of Families. In establishing the Commission, however, Carter and his aides were perhaps more interested in dismissing a problem that they perceived as insoluble than in genuinely launching a major diplomatic effort. In National Security Advisor Zbigniew Brzezinski's memo to Carter reviewing the "scenario" for the forthcoming mission, he stated that a "key element in the proposal is the strictly circumscribed authority of the Commission. Its purpose is to elicit information, not to formulate policy. And implicitly its purpose is to help diffuse the MIA issue." The Commission was instructed to tell the North Vietnamese that Carter was anxious to move toward normalization as quickly as possible and was flexible on how to proceed. Hanoi would also be assured that the US Government recognized the difficulties involved in MIA accounting and conceded that many men would never be accounted for. Nonetheless, Carter expected Hanoi to move toward a more complete MIA accounting, and was prepared to respond to Hanoi's suggestions on how to normalize diplomatic relations.

The Commission, chaired by former UAW President Leonard Woodcock and including Congressman Montgomery, visited Hanoi and Vientiane during 16-20 March 1977. Its final report, submitted to Carter on 23 March, summarized the responses the

Commission received in the two capitals. Hanoi told the Commission that it too was interested in normalizing relations, but emphasized that the US obligation to repair the damage caused by the war would be a major factor in any efforts toward establishing diplomatic relations. As the Commission's report stated, the North Vietnamese "clearly expect a significant contribution to their postwar economic reconstruction." Hanoi said, however, that the separate matters of economic aid, normalization, and MIA accounting were all closely "interrelated" rather than directly linked. Hanoi also agreed to establish a mechanism whereby technical information on MIAs could be passed to US officials. Vientiane likewise promised to be forthcoming and helpful, but provided no information at the meetings.

The Woodcock Commission concluded that the North Vietnamese and the Laotian governments were both friendly and sincerely anxious to improve relations with the United States. It also recommended the the President authorize the resumption of talks with the Vietnamese in Paris as a means of moving toward normalization, which would offer the best context in which to expect a full MIA accounting. The Woodcock Commission also reaffirmed the findings of the Montgomery Commission in reporting that "there is no evidence to indicate that any American POWs from the Indochina conflict remain alive." The Woodcock group apparently accepted, in good faith, Hanoi's and Vientiane's promises to search for MIA information and remains and pass anything that was found to the United States.

The Meaning of the Woodcock Commission

For the most part, the Woodcock mission produced nothing new. Despite the conciliatory rhetoric and cordiality of the meetings, neither side made any major step toward significant bilateral agreement. The Commission's activities, "findings", and conclusions were virtually the same as those of the original Montgomery group. Like its predecessor, the Woodcock Commission failed to obtain any real movement from the Vietnamese. By 1977, of course, this came as no surprise to many in the US Government. Indeed, many officials advocated these approaches to the Vietnamese as merely gestures directed at the US public; it is likely that there was virtually no expectation of noteworthy success from the beginning. It seems apparent that the Woodcock Commission was, at least to some degree, actually designed to close the book on MIAs by proving once and for all that little, if any, accounting could be expected from Hanoi.

Carter's central intention, it would seem, was to use the Woodcock trip primarily as an initiative in opening normalization talks: by "diffusing" the MIA issue once and for all, he wished to pave the way for his main goal, which was to establish diplomatic relations with Vietnam. The record suggests that, to this end, Woodcock and his colleagues

were provided with some preordained conclusions before they left on their trip. In addition, the Commission was instructed to raise with Hanoi the possibility of resuming talks in Paris. A report on Hanoi's willingness to do so, as well as a recommendation to proceed, were included in the Commission's final report. It seems evident that Carter wished to downplay the MIA issue, which he almost certainly recognized as a potential obstacle in any later talks aimed at normalization. He thus instructed the Woodcock group to emphasize, both in their talks and in their final report, the problematic nature of demanding a full MIA accounting and the improbability of ever receiving it.

To say that Carter wished to defuse and dismiss the MIA issue is not to suggest that he had no sympathy with public sentiment on MIAs. In fact, Carter, was particularly determined to address humanitarian concerns and was extremely troubled by the great difficulties that a quest for MIA accounting presented. In his efforts to normalize relations with Vietnam, he always hoped that MIA accounting would be a by-product of any success that was had. His attitude toward the MIA problem was probably a result of his frustration in confronting (what he at least perceived as) a virtually insoluble humanitarian problem. Carter did not lack the concern for the MIAs and their families that was the basis for the negotiating strategy of his two predecessors. He probably sincerely believed that "closing the book" on the Vietnam war, and approving status reviews that would bring compensation to the families, would resolve the issue as decisively and humanely as was possible. Perhaps the only key difference between Carter's strategy regarding MIAs and that of his predecessors was simply that Carter, unlike Nixon and Ford, was prepared to seek normalization before obtaining the MIA accounting that Hanoi was assumed to be capable of providing.

Diplomatic Initiatives under the Carter Administration

Following up on the positive response received by the Woodcock Commission in Hanoi, Carter authorized renewed State Department talks with the North Vietnamese in Paris. A new series of meetings began in May 1977. The US negotiators were instructed to offer support for Hanoi's UN bid and the prospect of trade with the US in return for diplomatic relations. As in previous meetings, the North Vietnamese were told not to expect economic aid. MIA accounting was removed as a "pre-condition"; instead gratitude was expressed to Hanoi for its "recent actions" in that regard (the release of remains and the promise to the Woodcock Commission to search for additional information, etc.) and was told that "continued progress" on the MIA issue was considered "an integral part of normal relations" between the two countries. As the talks progressed episodically through the year and into 1978, the MIA issue was submerged as a topic for discussion. Carter and his staff were by this time pursuing normalization in its own

right and, either because they had lost sight of any importance it may have had or (more likely) because they had largely taken for granted that no further satisfaction could be expected on the MIA question, the matter of MIA accounting was given little more than lip service. The North Vietnamese were periodically reminded of the importance with which the US Government and the American people viewed the matter, but the talks never focused on a resolution of the problem.

The negotiations themselves, as planned and expected, focused primarily on the question of a linkage between normalization and economic aid--aid that Hanoi of course expected regardless of how the so-called "linkage" was understood. Nothing new emerged from the talks until September 1978, when the Vietnamese, in an uncharacteristic mood of frustration and impatience, offered to establish diplomatic relations without preconditions. There were, of course, many reasons for this seemingly conciliatory move: Hanoi 1) had finally accepted, it seems, that it could not expect a promise of aid prior to normalization; 2) had decided that, because of its pressing economic problems, a lifting of the US trade embargo and other minor concessions would be desirable and acceptable short-term achievements; 3) was anxious for the legitimacy that relations with the US might give to Vietnamese actions in Cambodia; 4) believed that economic aid could remain a realistic long-term possibility for which normalization could pave the way.

Ironically, the US response was to stall and, ultimately, abandon the talks, likewise for several possible reasons--one of them a significant development with regard to MIAs. First, Carter and Secretary of State Cyrus Vance had assumed that Hanoi would not be ready for normalization before Washington had dealt conclusively with the issue of relations with China, which was still undecided. There was also the concern that a hasty establishment of diplomatic ties with Vietnam, especially in light of events in Cambodia, would be viewed suspiciously by other countries, especially the Soviet Union and the ASEAN states.

[redacted] With the talks in Paris went the best channel through which Hanoi could be confronted with the new evidence. Thus, the communications deadlock between Washington and Hanoi was restored. Yet another chance for progress on the MIA issue was lost.

LEGACY: THE REAGAN ADMINISTRATION'S INHERITANCE

A general survey of the POW/MIA issue throughout the 1970s will reveal, at first glance, very little of substance. The conclusions to be drawn are simple and straightforward. The question of prisoners and missing was an important one during the Paris peace talks, but it was not, as far as US personnel were concerned, particularly problematic. It was, in any case, a secondary concern: troop withdrawals, the cease fire, and the future of the Saigon government were the overriding concerns of the negotiators up to 1973 (and again in 1975). After the signing of the Paris agreement and the initial prisoner releases, questions about the status and whereabouts of personnel who remained unaccounted for--combined with suspicions that Hanoi was not doing all it could--gave the POW/MIA issue greater priority and more attention. But the simultaneous collapse of the peace agreement strained and eventually closed many of the lines of communication with Hanoi, thus making it increasingly difficult to obtain satisfaction from the Vietnamese in accounting for the missing. Channels of communication with Laos and Cambodia, which had never really been open, also fell victim to the events of 1973-75.

From 1973-1980, Hanoi continually denied that it was withholding prisoners, remains, or information and constantly reiterated its promise to help account for the missing. But the occasional repatriation of small sets of remains, and Hanoi's apparent lack of concern for the fate of US MIAs, kept the US Government and the American people from taking Vietnamese statements at face value. For all practical purposes, Hanoi did nothing during the period 1973-1980 which seemed to constitute any effort to provide a full accounting, nor did Hanoi do anything which would have assured the US of its concern, sincerity, or good faith. Nearly all of Hanoi's actions during the 1970s suggested that, whether prisoners or information were being held back or not, the Vietnamese perceived missing US personnel as primarily--if not exclusively--a potential bargaining chip to be used as diplomatic leverage. In addition, the period was punctuated by incidents of live prisoner sightings or intelligence reports that Hanoi perhaps had more information on the missing than it was providing. In sum, the Nixon, Ford, and Carter administrations were characterized by: 1) on the American side, a constant demand for an accounting from Hanoi, driven by the public desire for satisfaction but coupled with the official

feeling that little could be expected from Hanoi in the way of sincere efforts to provide it; and 2) on the Vietnamese side, no real sympathy for American humanitarian concerns and virtually no substantial efforts to either provide a full accounting or convince the US Government of the sincerity of Hanoi's claims that it was doing all it could.

Nonetheless, the record--as summarized by this paper--shows that, despite the standstill in progress toward an MIA accounting from 1973 until 1980, the MIA issue was neither dormant nor forgotten. Largely because public opinion demanded it, the issue continued to be the subject of ongoing high-level interest, and was directly confronted during infrequent but key episodes during those years. After the collapse of the Paris peace talks, the MIA issue was pursued by the three successive administrations as a unique, humanitarian problem that could and should be resolved independently of any other bilateral concerns of the US and Vietnam. Unfortunately, Hanoi was generally intent upon linking MIA accounting to major concessions that it wanted from the United States, especially reparations for the war in the form of economic aid. Neither side was prepared to compromise or to make any friendly gesture that would break the deadlock (except for President Carter's 1977-79 attempts to normalize relations with Hanoi, which ultimately failed). The result of this stalemate, as time passed, was the downplaying, and ultimately the near-dismissal, of the MIA problem: 1) on the American side, because of what was evidently a deliberate effort to "close the book" on MIAs and move on to other subjects in US-DRV relations; and 2) on the Vietnamese side, probably because their strategy of linking it to other topics had failed and because the US Government had apparently lost interest.

[redacted] Thus, it was at the close of the late-1970s' nadir of the MIA issue, and at the beginning of a period of renewed interest in confronting the problem decisively, that the Reagan Administration took charge of US-Vietnamese relations.

POSTSCRIPT: THE FRENCH EXPERIENCE

In March 1976, the US Embassy in Paris prepared a report that was presented to General Brent Scowcroft, then National Security Advisor and responsible for formulating US policy with regard to the MIA issue, which summarized conversations with French officials on the French historical experience in obtaining an MIA accounting from the North Vietnamese. The report stated that at that time, twenty-two years after the end of the French Indochina war, the French Government was still involved in inconclusive and unsatisfactory efforts to obtain information on French soldiers who had never been

accounted for, to repatriate the remains of those who had been killed in action or died in captivity, and to gain access to Vietnam so that searches could be conducted. The Vietnamese had been slow in providing the French with what little satisfaction they did, and were in fact exacting monetary payments from France for information, remains, and search efforts. "The French experience casts serious doubt on whether Vietnam will ever be willing to allow us to search for MIAs or will be able to locate remains of men who died outside the Hanoi area. It also indicates that we will have to pay a significant political and financial price for those remains that the Vietnamese would return." In the memorandum he prepared for President Ford, Scowcroft said that the French experience had "grave implications for our effort to fully account for those Americans still listed as missing in Southeast Asia. Moreover, it calls into serious question North Vietnam's ability and willingness to provide this accounting." Scowcroft concluded that the US Government should "not place any reliance on North Vietnam's promises or statements of goodwill."

The Reagan Administration has, since 1982, been able to bring Hanoi to the negotiating table to discuss the MIA problem with prospects for movement toward a satisfactory accounting that are clearly unprecedented. The French experience outlined above, however, might caution against any assumption that Hanoi has either forgotten the past or has undergone a change of heart. Hanoi has probably been forthcoming on the MIA issue because of its long-overdue recognition that it is in the DRV's national interest. But it is certainly possible, if not likely, that the North Vietnamese have ulterior motives or, at the very least, other cards up their sleeve. Hanoi may finally be willing to give the US Government and the American people the satisfaction they have demanded for over a decade, but it may not yet have shown us the final price tag.