

[http://www.therant.us/usa.htm#nmj\\_columnists](http://www.therant.us/usa.htm#nmj_columnists)

NEW MEDIA JOURNAL

## Part 1: Introduction

**USA Henry Mark Holzer, Featured Writer**

November 26, 2007

*Since it was established as a distinct component of the Defense POW/Missing Personnel Office in the fall of 1994, the Joint Commission Support Directorate has carefully examined a series of reports and sightings of U.S. servicemen held in the Soviet gulag, a network of penal camps that crisscrossed the former Soviet Union.*

*Several points have become clear.*

*First, Americans, including American servicemen, were imprisoned in the former Soviet Union. The Soviets and their Warsaw Pact allies even transferred some of these Americans from satellite states such as the German Democratic Republic, to the Soviet Union, where they were detained. However, despite our extensive efforts, we have not yet acquired definitive, verifiable information that would allow us to determine the scope of such transfers or the ultimate fates of those whose lives were directly affected by them. [1]*

*The parties [including the United States and North Vietnam] 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 take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains, and to take such other measures as may be required to get information about those still considered missing in action.[2]*

During the Twentieth Century the United States *openly* fought international communism three times, on battlefields from the frozen wastes of Siberia, to the harsh mountains of Korea, to the steaming jungles of Vietnam—and after those conflicts we never recovered thousands of American POWs and MIAs. We fought communists *covertly* during World War II when they were our allies, and later in the “Cold War” when they were not—and then, too, suffered the loss of countless POWs and MIAs.

These hot and cold wars against worldwide communism, together with unimpeachable evidence that emerged after all American prisoners of war were supposed to have been repatriated from Vietnam in 1973, strongly support the conclusion that by the end of the Vietnam War American fighting men had been murdered by our enemies, while others were deliberately withheld from repatriation by the Indochinese communists. It is nearly certain that one of those men was then-Captain Michael Joseph Bosiljevac of the United States Air Force.

Even though Captain Bosiljevac’s case was not discussed by name in a 1991 United States Senate Report entitled “An Examination of U.S. Policy Toward POW/MIAs, [3] it could well have been because what probably happened to Mike Bosiljevac beginning in 1972 had been the fate of literally countless other American military and civilian personnel starting a half-century earlier.

As the Senate Report noted, “it is not surprising to learn that the problems with which the United States has had in dealing with prisoners of war and the missing in action [from the Vietnam War] are not the result of chance, but of *historic Communist policy*. Indeed, history reveals that policy. *In the years after World Wars I and II, the Soviet regime, and later their North Korean cohorts, held American soldiers and citizens captive in the aftermath of these wars.*” [4]

The Senate Report further acknowledged that “Soviet and Asian Communist regimes view POW/MIAs, living or dead, not as a problem of humanitarian concern, but 1) as leverage for political bargaining, 2) as an involuntary source of technical assistance, and 3) as forced labor.”

There were two additional purposes for which the communists used American POW/MIAs: 4) to obtain hard cash and needed goods, and, 5) to turn them into human guinea pigs.

It is very likely that Mike Bosiljevac fell into at least two of these five categories.

The United States Senate Report added that “*the [communists’ POW/MIAs-as-commodities] policy began with Lenin.*” [5] Indeed it did.

#### Footnotes

[1] “The Gulag Study” (Fifth Edition), prepared by the United States Joint Commission Support Directorate—Moscow. The task of it is “to determine if there were or still are any American servicemen who were held against their will within the territory of the former S Union. The office, officially known as the Joint Commission Support Directorate - Moscow - is actively pursuing POW/MIA informatio to World War II, the Korean War, the Vietnam War, as well as aircraft shoot downs that occurred during the Cold War.” The Study c found at [http://www.dtic.mil/dpmo/sovietunion/gulag\\_study.htm](http://www.dtic.mil/dpmo/sovietunion/gulag_study.htm).

[2] Article 8(b) of the Paris [Peace] Accords, officially entitled “The Agreement on Ending the War and Restoring Peace in Vietnam.”

[3] The lengthy Senate Report—“based on open-source material, including official U.S. Government documents that have been declassified and collected from official agencies through Freedom of Information Act requests and through research from the National Archives, Washington, D.C.”—was rendered by the United States Senate Committee on Foreign Relations Republican Staff, dated May 23, 1991. It can be found at <http://www.aiipowmia.com/reports/exam1.html>.

[4] My emphasis.

[5] My emphasis. The Senate Report continued: “From the time of the Bolshevik treatment of POWs from the American . . . Expeditionary Force in World War I, to the Soviet Treatment of POWs in World War II, to the North Korea actions in the Korean War, and finally in the First and Second Indochina Wars, POWs, including MIAs, were used by Communist regimes as cynical bargaining tools in contravention of international law.”

---

*Henry Mark Holzer, professor emeritus at Brooklyn Law School, is a constitutional and appellate lawyer. His most recent book 'The Supreme Court Opinions of Clarence Thomas (1991-2006)' has just been published. He maintains a website at [www.henrymarkholzer.com](http://www.henrymarkholzer.com)*

## Part 2: Three Shooting Wars, One Cold War, One Invasion

USA Henry Mark Holzer, Featured Writer

November 27, 2007

### World War I

In World War I, the Allies (United States, Britain, France, and Russia) fought the Germans on the Western Front in Europe until the Brest-Litovsk Treaty of 1918, engineered by Lenin, pulled Russia out of the war with Germany. One result of the treaty was an Allied Expeditionary Force being sent to protect the Russian ports of Murmansk and Archangel from the Germans. In a campaign little known except to historians, Americans fought Soviet Bolshevik forces in the Archangel area of the Northern USSR. [1]

According to the Senate Report, “[a]s a result of the fighting against Soviet Bolshevik forces around Archangel in 1918-1919, there were many...eyewitness accounts of hundreds of U.S. and British and French personnel who disappeared.”

In one episode, First Lieutenants Dwight Fisher and Albert May, met with Bolshevik officers in an attempt to secure the release of captured Allied soldiers. The officers recorded the meeting. According to the Senate Report, the lieutenants stated that: “[w]e had 500 Russian prisoners. They had seven of ours. We were worried about hundreds of missing from our ranks and arranged a truce to affect an exchange. Negotiation was difficult. Interpreters were not very efficient. But the Reds learned what we were up for, and haggled. The end was, *they traded us two of the seven Americans for the 500 Russian soldiers, and we had to toss in a round of cigarettes to seal the bargain. We never did learn what had become of the missing.*” [2]

But the United States government knew “what had become of the missing, because even in World War I it was official United States policy that all missing-in-action (MIA”) were, *on the very day they went missing*, considered “killed in action/body not recovered” (KIA/BNR). In other words, *by administrative fiat, no soldiers were missing-in-action very long*. They were simply written off the books as dead, no matter what their actual status. Being dead, of course, they could no longer pose a delicate problem for the United States government.

But this cavalier administrative murder of MIAs outraged much of the public. After two years of indifference by the government, on April 18, 1921 *The New York Times* confirmed that American POW/MIAs were being held for ransom by the Soviet Union. The article was entitled “Captives’ Release Reportedly Sought” and read as follows:

*That the American prisoners held by the Soviet government of Russia have been told by the Bolsheviks that they are held because the United States Government has not made vigorous demands for their release is not surprising, because such statements are in thorough accord with Bolshevik methods.*

*The fact is that efforts have been made time and again to effect their release, but the Soviet government has endeavored to use these efforts as the means of compelling the United States to enter into bargains obnoxious to the principles of this Government.*

*Demetrius Kalimatian, named in the Riga dispatch as one of the American prisoners held by the Soviet government, **was employed in the American embassy in Petrograd when David R. Francis was the Ambassador. Representations to effect his release were made by the United States through other governments, and in response to these the Soviet Government offered to release him [Kalimatian] if the United States would release Eugene V. Debs from prison.***

*At one time under the Wilson Administration this Government received a threat that Americans held by the Soviet Government would be to put to death **unless Russian Bolsheviki held in the United States under the Espionage law were released.** Robert Lansing, then Secretary of State, sent a vigorous response in effect that the Soviet Government would be held to a strict accountability if the threat to kill was carried out. Mr. Lansing, while expressing keen solicitude for the safety of the Americans refused to commit this Government to a policy that would recognize any right to any Government to murder innocent persons.*

*The policy of the Harding Administration with reference to dealing with the Soviet government is the same as that of the Wilson Administration.*

*It has been demonstrated that **the Soviet government is holding the Americans in the hope that the United States will agree to recognize the Soviet or enter into trade relations with it or release communists from prison in this country in consideration of the release of Americans held in Russia.** A bargain of this character is repugnant to the Washington Government, and while it has not ceased its efforts to procure the release of the Americans is basing its course upon principles recognized by civilized nations and yielding to threats.*

*Secretary Hughes has let it be known to the Soviet Government that the United States will not consider any suggestions of any character from that Government until **the Americans now held as prisoners are permitted to leave the country.** [3]*

Not only was the Soviet government holding American prisoners as barter in return for diplomatic recognition and trade relations, but the communists had the impudence to attempt a manipulation of the United States federal criminal justice system by springing from prison one of their own, Eugene V. Debs.

Debs (1855-1926) was a noted Socialist (and probably crypto-Communist), and three times its party's presidential candidate. He was imprisoned for violating the Espionage Act," [4] and eventually his sentence was commuted by President Harding.

Further proof emerged that the Soviets had been holding American POW/MIAs for barter when the USSR and the United States entered into the "Riga Agreement." Under it, the United States contributed financial and material relief to the famine stricken USSR. According to the Report, because the Riga Agreement contained specific provisions that the Soviet's were required to release all Americans detained in the USSR, and because the United States Government had deliberately minimized the number of POW/MIAs, the authorities were astonished when instead of the twenty-some returnees they expected would be repatriated, one hundred Americans were freed on September 1, 1921—about three years after their capture and cessation of hostilities. What had the Americans endured during their captivity? "One big, dirty, hungry prison place," said American merchant seaman Delvio Senna describing the USSR after his release from Soviet detention in 1921. [5]

The United States had managed to free one hundred of its wrongly imprisoned citizens. In return, the Soviets obtained food and other aid (perhaps even more American cigarettes).

The Twentieth Century *quid pro quo* trafficking of Americans had begun.

Although other Americans were held prisoner by the Soviets following World War I, the issue did not become prominent again until World War II. [6]

## **World War II**

The most damning proof that the Soviets used American military personnel as human bargaining chips after World War II appears in unimpeachable official records. [7]

In early 1945, President Roosevelt met with Churchill and Stalin at Yalta to plan the postwar world order. Less than a month later, American ambassador to the USSR Averill Harriman sent the following "Urgent Top Secret" personal cable to FDR: "Since the Yalta Conference General Deane and I have been making constant efforts to the Soviets to carry out this agreement in full [regarding American POWs under Soviet control]. We have been baffled by promises which have not been fulfilled."

Harriman continued:

*I am outraged that...the Soviet Government has declined to carry out the agreement signed at Yalta...that our contact officers be permitted to go immediately to points where our prisoners are first collected, to evaluate our prisoners, particularly the sick, in our own airplanes, or to send our supplies to points other than Odessa, which is 1,000 miles from point of liberation, where they are urgently needed. For the past ten days the Soviets have made the same statement that Stalin has made to you [FDR], namely, that all prisoners are in Odessa or entrained thereto, whereas I have now positive proof that this was not repeat not true on February 26, the date on which the statement was first made. This supports my belief that Stalin's statement to you is inaccurate.*

To the contrary, wrote Harriman, "there appear to be hundreds of our prisoners wandering about Poland trying to locate American contact officers for protection. I am told that our men don't like the idea of getting into a Russian camp."

Six days later Ambassador Harriman sent another cable to Washington, this time to the Secretary of State, Edward R. Stettinius, Jr.:

*[T]he Soviet Government is trying to use our liberated prisoners of war as a club to induce us to give increased prestige to the Provisional Polish Government by dealing [directly] with it in this connection... [8]*

Soviet unwillingness to return American military personnel was not confined to the European Theater of Operations. According to the Report, "[in] the Pacific Theater, even though the Soviets were late-comers in the war effort against Japan, they managed to take control of territory just across the Soviet Union's contiguous borders with Manchuria, China as well as the northern islands of Japan. In doing so, the Soviets were able to seize some Japanese POW camps holding Allied prisoners." The fate of many of these men has never been determined. [9]

### **The Cold War**

According to The Gulag Study, “[i]n the late 1940’s and early 1950’s, six U.S. servicemen are known to have been arrested in Germany or Austria and transferred to the former Soviet Union.

All six eventually returned to U.S. control *after years in various prisons and camps in East Germany and the former Soviet Union.* [10]

U-2 Pilot Francis Gary Powers was shot down over the USSR in May 1960, and held in a Moscow prison for nearly two years. In return, the United States was forced to swap Powers for Col. Rudolph Abel, a convicted East German atomic spy who had operated in the United States for years. The United States obtained the return of a CIA pilot. The Soviets repatriated a dangerous intelligence agent.

In July 1960 a Soviet MIG fighter downed a United States Air Force RB-47 reconnaissance aircraft over the Barents Sea. Two Air Force captains survived, but were held captive in a Moscow prison for six months before they were returned. What the Soviets received in return, other than the intelligence value of the aircraft, is apparently still classified.

Here are three related entries from The Gulag Report:

*Vladimir Central Prison—An Austrian returnee met an alleged American official of the **U.S. Legation to Bucharest**, Romania, named **William C. Wallace**. He was originally from New York City.*

*Vladimir Central Prison—A second Austrian returnee reported that he had met **William C. Wallace** of New York, **the former American Commercial Attaché to Bucharest**. Wallace [doubtless an intelligence agent operating under cover] had been held in Aleksandrov Prison prior to 1953-54.*

*Vladimir Central Prison—A German returnee reported meeting an American Army officer, Captain **William Wallace**, from San Francisco in Vladimir Prison. [11]*

*Captain Wallace never returned to the United States.*

### **The Korean War**

Exceeding even World War II and the Cold War’s despicable Soviet abuse of American military personnel was the communists’ withholding and horrific treatment of our men during and after the Korean War. There is absolutely no doubt that this occurred. None! Those who doubt that this happened are in utter denial.

According to the Report, “[o]n June 17, 1955, almost two years after the end of operation “Big Switch,” [repatriation of unwounded POWs], the Office of the Secretary of Defense, issued an internal report titled, “Recovery of Unrepatriated Prisoners of War.” The report admitted that:

*After the official repatriation efforts were completed, the U.N. Command found that it still had slightly less than 1000 U.S. P[O]Ws (**not MIAs!**) “unaccounted for” by the Communists.*

*At the time of the official repatriation, some of our [returnees] stated they had been informed by the Communists that they (the Communists) were holding “some” U.S. flyers as “**political prisoners**” rather than as prisoners of war and that **these people would have to be***

*“negotiated for” through political or diplomatic channels. Due to the fact that we did not recognize the red regime in China, no political or diplomatic negotiations were instituted, although [the] State [Department] did have some exploratory discussions with the British in an attempt to get at the problem.*

*The situation was relatively dormant when, in late November 1954, the Peking radio announced that 13 of these “political prisoners” had been sentenced for “spying.” This announcement caused a public uproar and a demand from U.S. citizens, Congressional leaders and organizations for action to effect their release. [12]*

(Later, the North Vietnamese would insist on characterizing downed American airmen not as “prisoners of war,” but rather as “air pirates,” and “criminals,” threatening at one time to put them in the dock at “war crimes” trials.)

The sentenced U.S. “political prisoners,” according to the report, were not the only American servicemen the Chinese held after the Korean War. *The New York Times* reported that:

*Communist China is holding prisoner other United States Air Force personnel who were recently sentenced on spying charges following their capture during the Korean War. This information was brought out of China by Squadron Leader Andrew R. MacKenzie, a Canadian flier who was released today by the Chinese at the Hong Kong border. He reached freedom here two years to the day after he was shot down and fell into Chinese hands in North Korea...**Held back from the Korean War prisoner exchange**, he was released by the Peiping [sic] regime following a period of negotiations through diplomatic channels...Wing Comdr. Donald Skene, his brother-in-law who was sent here from Canada to meet him, said guardedly at a press conference later that **an undisclosed number of United States airmen had been in the same camp with Squadron Leader MacKenzie...Wing Commander Skene said none of the Americans in the camp was on the list of eleven whose sentencing was announced by the Chinese November 23, 1954.** [13]*

In its June 19, 2000 issue, *Newsweek* magazine published an article about American POWs, claiming that “hundreds” may have been kept against their will. “After the collapse of the Soviet Union,” according to *Newsweek* “the Kremlin’s archives yielded an extraordinary exchange of telegrams among Joseph Stalin, Zhou Enlai [the Chinese Communist foreign minister] and the North Korean strongman Kim Il Sung, father of the current leader. Toward the end of the war, the Chinese suggested that *if American prisoners were to be repatriated, ‘at least 20 percent should be held back.’* Mao thought he could use the prisoners as political pawns in support of his efforts to win a U.N. seat and diplomatic recognition from Washington.” [14]

Among those who unquestionably had been held back was U.S. Army Corporal Roger Armand Dumas, then age 22. *Newsweek* wrote: “A POW since November 1950 [when the Chinese poured across the Yalu River], he was brought to a repatriation point along the front line. Then, as other American prisoners were being handed over, eyewitnesses saw two Chinese guards lead Dumas away. There’s been no sign of him since [some forty-seven years later].”

*Newsweek* continued: “There may have been an even more sinister use for the prisoners. Jan Sejna, a Czech general who defected to the United States in 1968, told Pentagon investigators he had been personally involved in a *Soviet project that conducted medical experiments on American prisoners at a secret hospital in North Korea.* Testifying before Congress in 1996, Sejna said as *many as 100 ‘human guinea pigs’ were later shipped to the Soviet Union for more tests.* Others, he said, were killed and cremated in North Korea.” [15]

In addition to Sejna's knowledgeable testimony, considerable anecdotal evidence exists of American military personnel withheld after the Korea War by the North Koreans, Chinese, and Soviets.

For example, in the vicinity of Krasnoyarsk, according to "The Gulag Study," "A cleaning lady in the camp made a list of 22 names of citizens of the USA who were in the camp . . . during the winter of 1951 to 1952. She was able to take a pencil to the Americans and have them record their names and addresses on pieces of newspaper. She smuggled these pieces out of the camp, put them in a can and buried them. *Many names on the list match those of missing service members from the Korean War.*" [16]

As reported in "The Gulag Study," the following are several *different* reports, from *different* years, from *different* places, referring to the *same* specifically identified United States Army officer.

*On 15 October 1957, a Polish witness visited the American Consulate in **Strasbourg**, France. He stated he was held in a prison camp in Bulun until July 1957 and reported seeing the following Americans: Dick **Rozbicki**, an American soldier captured during the Korean War.*

*On September 20, 1957, two Polish witnesses visited the American Consulate in **Genoa**, Italy. Both men claimed to have been WWII POWs held captive in Bulun Camp 217. They reported that two men, who claimed to be American army officers captured during the Korean War, had been transferred to Bulun Camp 217 from another camp on July 24, 1955. The men were: Stanley **Rosbicki**, approximately 24 years old, of Buffalo, New York and Jack **Watson**, 38 or 39, of Philadelphia, Pennsylvania. Both were infantry lieutenants.*

*A Catholic priest visited the U.S. Embassy in **Paris** on July 11, 1958 to report an interview he had recently conducted with a former Polish Gulag prisoner. He claimed to have been acquainted with...a lieutenant, Stanley **Rosbicki**, from New York.*

*On September 5, 1960, a Polish witness visited the American Embassy, **Brussels**, Belgium. He stated he had been imprisoned in Bulun Camp 307 for seven and a half years and was released on May 1, 1960. He reported seeing two U.S. Army personnel captured in Korea: Ted **Watson**, an infantry lieutenant, and Fred **Rosbiki**, a commando or paratroop sergeant. [17]*

As Rochester and Kiley have written, "[a]s late as 1970, U.S. representatives would still be lamenting the lack of Chinese cooperation in resolving the cases of some 389 missing Americans whose fate remained uncertain [approximately] 20 years after the Korean armistice." [18]

### **The Cuba Invasion**

The Eisenhower Administration planned an attack on Cuba to remove dictator Fidel Castro and his communist regime. Although, strictly speaking, the invaders were not American military personnel—they were merely recruited, trained, equipped, and transported to the Bay of Pigs by the United States—the same fate befell them as did Americans who had earlier fallen into communist hands.

When President John F. Kennedy, in a contemptible act of cowardice, removed air cover from the American-trained Cuban invaders at the Bay of Pigs in April 1961, nearly twelve hundred of the attackers were taken prisoner. Eventually, behind the fig leaf of "humanitarian aid," the United States government (i.e., the President's brother, Robert F. Kennedy) pressured the private sector of American business into paying to Castro a ransom of about \$53 million in medicine, powdered milk, and baby food in return for the Cuban Brigade members still alive.



According to a recent book, [19] Castro boasted at a Havana rally attended by international communist notables that “[f]or the first time in history imperialism has paid war indemnification. They call it ransom. We don’t care what they call it. They had to agree to pay indemnification [for damages caused by the aborted invasion].” Whether it was their Cuban communist comrades who inspired the North Vietnamese to withhold Vietnam War American POW/MIAs, the Indochinese communists would later employ the same linkage tactic.

#### Footnotes

[1] Archangel extends from Finland to Siberia, and is partly within the arctic circle. The capital city of the area is also named Archangel.

[2], [3], [8], [10], [12-17] My emphasis.

[4] Debs’s conviction, upheld in an infamous Supreme Court decision, made a mockery of the First Amendment because his “crime” was merely propagandizing against conscription and American participation in World War I.

[5] “The Gulag Study.”

[6] The World War II information that follows is merely representative of considerably more data that are contained in “The Gulag Study,” which categorizes sightings of Americans in the Soviet system known as the Gulag according to prison, camp, and other detention facility.

[7] The following World War II material is from the Senate Report, unless otherwise noted.

[8] My emphasis.

[9] My emphasis. The Senate Report stated also that “[t]he Soviets even sent a delegation to Hanoi [North Vietnam] to forcibly repatriate any French Foreign Legionnaire POWs in custody of the Japanese who were identified as citizens of the Soviet Union, or as citizens of any of the east bloc nations...”

[10] My emphasis.

[11] My emphasis. Sightings like these which provide a place, name, rank, occupation, hometown, and similar information are quite different from those which, like many that have come out of Vietnam, are double or more hearsay lacking significant identification and providing only such information as “an emaciated Caucasian with long blond hair.”

[18] Rochester and Kiley, *Honor Bound, American Prisoners of War in Southeast Asia 1961-1973*.

[19] Hendon and Stewart, *An Enormous Crime*. For my review of the book, see <http://www.henrymarkholzer.citymax.com/page/page/3986396.htm>.

---

*Henry Mark Holzer, professor emeritus at Brooklyn Law School, is a constitutional and appellate lawyer. His most recent book 'The Supreme Court Opinions of Clarence Thomas (1991-2006)' has just been published. He maintains a website at [www.henrymarkholzer.com](http://www.henrymarkholzer.com)*

## Part 3: The First and Second Vietnam Wars

USA **Henry Mark Holzer**, Featured Writer

November 28, 2007

The information contained in the Senate Report and in “The Gulag Study,” covering the period immediately after World War I to the eve of the Vietnam War—through World War II, the Cold War, and The Korean War—prove beyond any doubt that American military personnel were held captive in the Soviet Union over the course of some forty years, from approximately 1918 to 1960. [1]

Whether these men were held by Soviets, Chinese, or Koreans; whether they were enlisted or officers; whether they were native born or immigrants; whether they were pilots or had other military occupational specialties; whether they were wounded or not; whether they were arrested, kidnapped, shot down, survived crashes, not repatriated, or were POWs liberated by the Soviets from Germans and Japanese prison camps; or whether they or fell under communist control some other way—*the unarguable fact is that thousands-upon-thousands of our countrymen lived, and died, in Soviet prisons, labor camps, “hospitals,” and other detention facilities.*

Thus, it comes as no surprise that this despicable conduct by the communists was repeated during both Vietnam Wars.

### The First Vietnam War

Most Americans erroneously believe that what we know as the “Vietnam War” was the first modern conflict on the Indochina peninsula. It wasn't.

Soon after 1700 A.D., French missionaries and traders began to visit the Indochina peninsula. By the late 1800s, the French had occupied Indochina and imposed colonial rule.

By the 1930s, three forces were at work in Indochina. The French were in control, Japanese interest in the peninsula was keen, and indigenous nationalism/communism was taking root.

The resistance to French colonialism was led by a Vietnamese from the north who had been a Marxist from at least the time Stalin's Communist International was spawned by the Soviet Union in 1919.

His name was Nguyen Tat Thanh. Educated in France where he co-founded the French Communist Party in 1920, he organized the Indochinese Communist Party in 1930. He lived in Moscow for a while, traveled to the West, and settled in China. From there, Nguyen Tat Thanh “directed the underground effort against the French and Japanese in the 1930s and early 1940s, leading in May 1941 to the formation of the League for Vietnamese Independence...or Viet Minh.” [2]

In 1943 Nguyen Tat Thanh adopted the name which would soon become infamous, not only in Indochina but around the world: *Ho Chi Minh*.

After Ho's forces defeated the French in the mid-1950s, his Viet Minh would emulate the Soviet Union's longstanding tactics regarding prisoners of war and those missing-in-action. The Viet

Minh refused to provide casualty lists to the French. The communists' prisoner rosters were incomplete and inaccurate. They sold bones and artifacts. They "introduced the prisoner of war issue in negotiations leading up to Geneva [the peace conference], gaining Viet Minh admission to the conference as a full participant in exchange for returning a number of French wounded." And "when the P[O]Ws had served their purpose in the propaganda campaign and bargaining chips in the peace negotiations, they continued to be used by Vietnamese Communists in the ongoing Cold War." [3]

In his 2004 historically important book *Leave No Men Behind*, Garnett "Bill" Bell, who probably has had more experience dealing with POW/MIA issues on site in Vietnam and throughout Asia than any other American, draws on a detailed study of Communist Vietnamese methods in exploiting the remains issue in the aftermath of the French Indochina War. The Study, published by the Rand Corporation for the U.S. government in January 1969, declared:

*Despite the substantial political and economic concession the French have made to Hanoi since 1954, **France has never received a full accounting for its missing and dead.** The Vietnamese Communist government has consistently circumvented and violated the terms of the 1954 agreement concerning the accounting for France's missing servicemen.*

*Hanoi's actions clearly demonstrate that its only interest in the French military graves in Vietnam and the requests for remains by the families of the deceased is in **the economic and political benefits that the Vietnamese Government can derive from control of these remains.***

*We [the United States] should keep this in mind in dealing with Hanoi. We can anticipate that Hanoi's objective is to obtain increasingly large economic and political concessions in exchange for piecemeal releases of remains and information about our missing servicemen. [4]*

The lengthy Rand Study is an eye opener. Its major point is that the Vietnamese communists saw POW/MIAs as mere chattel, or worse, to be used as bargaining chips for economic and political purposes—whether the communists were Viet Minh, Viet Cong, or North Vietnamese.

### **The Second Vietnam War**

*There is a threefold purpose in taking U.S. prisoners: They can be exploited for intelligence purposes; they can be exploited for propaganda and counter-propaganda purposes through radio broadcasts and interviews published in the neutralist and pro-communist press; they can be used politically to further the cause of communism beyond the limited confines of Vietnam by propagandizing actively for the Party in their own country after they have been released. [5]*

The origins and consequences of post-World War II American involvement in Vietnam have often been told, and there is no reason to reiterate them here. Suffice to say that the United States became modestly involved in Indochina immediately after the 1954 Geneva Accords supposedly ended the First Vietnam War. Our government's "mission creep" did not end until some twenty years later—by which time many thousands of Americans had been killed and many hundreds had been captured and gone missing in Indochina.

### **The 1966 Ransom Plan**

Nearly ten years before United States involvement in Vietnam ended, Ambassador Averill Harriman, whose outrage over Soviet treatment of liberated American POWs after World War II had come to naught, was again involved in repatriation efforts—this time concerning our countrymen held captive in Indochina.

In late 1966 (seven years before the war's end), during the Johnson Administration, a plan was floated by Harriman, patterned after the earlier Cuba "humanitarian aid" charade, that would have ransomed American POWs the North Vietnamese then held. For various reasons, the idea was quickly scotched by the Joint Chiefs of Staff.

However, though stillborn, the ransom plan shows that Harriman and others in our government did believe that the Indochinese communists might be willing to sell our POW/MIAs.

### **POW/MIAs in East Germany**

In *The Long Road Home: U.S. Prisoner of War Policy and Planning in Southeast Asia*, an official study by the Department of Defense, author Vernon E. Davis has written that, also in 1966, "U.S. representatives in Berlin reported an approach by a[n East] German 'lawyer' [I have used quotation marks because 'prisoner broker' would be a more apt term], Wolfgang Vogel...[who] had been involved in arranging the return to the West of detainees [i.e., prisoners] from Communist countries in Europe." (Indeed he had: Once I approached Vogel on behalf of two brothers imprisoned in the Gulag.)

Vogel claimed that he "had been authorized to mediate an exchange of 10 American P[O]Ws." In return, Vogel's principals wanted the return of "not only 10 PAVN [Peoples Army of Viet Nam] members, *but two Communist spies that had been convicted in the United Kingdom, the [husband and wife] Krogers.*" [6] Return of the UK prisoners in an exchange between the United States and the North Vietnamese was, for the latter, a deal breaker. The negotiations went nowhere.

According to Davis, "Vogel...[and a colleague] appeared once more in late January 1967. *They offered at least two and possibly five or six wounded U.S. flyers purportedly being held in East Germany in exchange for the Krogers.*" [7] The British, however, would not go along with freeing the spies.

In terms of pure Aristotelian logic, either American POW/MIAs *were* then being held captive in East Germany, or they *were not*.

If they *were not*, Vogel was lying, and that's that.

On the other hand, if American POW/MIAs *were* then being held in East Germany, they vanished without a trace—*because none of the Operation Homecoming returnees reported having been held in East Germany.* [8]

Vogel's gambit, doubtless on behalf of his Soviet puppet masters, should not have been surprising to anyone who knew what the Indochinese communists' game plan had been from the beginning.

### **The North Vietnamese/Viet Cong/Lao POW Policy**

Declassified CIA documents reveal that in 1964 the North Vietnamese Communist Party "ordered that all North Vietnamese military personnel and civilians be trained to capture American military personnel alive so that they could be used 'as hostages to compel the U.S., in the event of a cease fire, to pay war reparations for the destruction inflicted upon NVN by the United States'." [9]

In furtherance of this policy, the North Vietnamese produced a pamphlet entitled "Policy on Treatment of American Prisoners."

At the North Vietnamese Son Tay Officers School, the CIA reported, an “instructor stated that the North Vietnamese government considered U.S. POWs to be of ‘first-level importance because they will be used as a means of obtaining payment for bomb damages from the U.S. when the war ends’.” “To get the POWs back at the end of the war,” the authors of *An Enormous Crime* write, citing other CIA documents dated before Operation Homecoming in 1973, “the instructor told the officer candidates, the United States would have to ‘exchange equipment for them and build up the country’.”

Other CIA and Department of Defense documents purport to show the importance (unfortunately not always observed) that the North Vietnamese and Viet Cong attached to capturing, not killing, American prisoners.

For example, the Peoples Army of Vietnam (PAVN) was instructed to kill as many Americans as necessary in combat—but not those who surrendered. Wounded American POWs were to be treated at field hospitals, and those who could not walk were to be carried. PAVN soldiers violating this order (as some did) by executing surrendering or already captured Americans were to be severely disciplined.

PAVN soldiers had to memorize English phrases such as “hands up,” “hands down,” “surrender, not die,” “after me,” “go to hospital,” “go to safe area,” and they were issued “capture cards” containing Vietnamese words for English-language phrases like those above and “surrender or die,” “gun down,” “turn around,” “do not move,” “go quickly,” “silence,” “where are your men,” and “call them.” The cards directed that American prisoners were to be removed from the battlefield into areas of safety as quickly as possible.

The Viet Cong in the South were supposed to employ the same policies (they were, after all, but an extension of their North Vietnamese comrades.) Medical care, such as it was, for wounded American prisoners was Viet Cong policy. When Viet Cong cadre and American POWs “required medical treatment at the same time, the American prisoners were given attention first, unless the VC were more seriously wounded.” If Viet Cong escorting a captured American to a headquarters area were subjected to an air strike, first priority was the safety of the prisoner. Although some American veterans of the Vietnam War doubtless had different personal experiences, according to MACV (Military Assistance Command Vietnam) in 1970, “instances where the VC have killed wounded Americans in lieu of taking them prisoner are extremely rare.”

Still other CIA and Department of Defense documents support the proposition that the same POW policies were supposed to be followed by the Pathet Lao. In fact, the former commander of the Pathet Lao, General Singkapo Sikhotchounamaly, admitted in 1990 “that the Lao communists, as a matter of policy, always turned over captured Americans to the North Vietnamese.” [10]

There is simply no doubt that U.S. prisoners, just as the French, were a valuable commodity for the communists, to be carefully acquired and handled. They were worth more alive than dead, but, as we shall see, even the bones and belongings of deceased Americans had value that could be, and have been, mercilessly exploited.

### **The North Vietnamese Policy At The Paris Peace Talks**

At the Paris Peace Talks, the North Vietnamese quickly revealed their strategy of using American POW/MIAs as hostages to obtain reparations at war’s end. Philip Habib, a U.S. delegation

member has stated that: “[i]n one of the first lists of negotiating points put forward by the North Vietnamese, the Communist side bracketed [joined] the release of prisoners with what they described as ‘U.S. responsibility for war damage in Vietnam.’ *In a single numbered point.* Although humanitarian issues such as POW/MIAs have been subjects of disagreement in the settlement of other past conflicts, I know of no instance in which an adversary so openly treated this humanitarian problem in this way...*We thus recognized from an early date what we were up against.*” [11]

Later in the talks, the North Vietnamese expressly demanded, among other things, “a massive program of postwar reconstruction of the North to be funded by the United States.” For this aid, they would “return within sixty days [of the agreement] *all American POWs they and the Vietcong held and render an accounting of Americans listed as missing in action and those who had been killed in action or died from wounds, disease.*” [12]

Henry Kissinger later admitted that he had embraced the North Vietnamese offer immediately. Although two of Kissinger’s top aides—Al Haig and John Negroponte—were skeptical and urged reflection and consultation with our South Vietnamese allies, Kissinger’s biographers would quote one official member of the delegation as saying “[b]ut no, Henry would have none of that. He wanted the deal, and he wanted it then.” The biographers—Marvin and Bernard Kalb—observed that a weary Kissinger with only four weeks before the United States presidential election “seemed more concerned about nailing down the deal than making sure that every detail was correct—an attitude that played right into Le Duc Tho’s [North Vietnam’s chief negotiator] hands.”

For various reasons the Paris Peace Talks went nowhere at that time. Soon after the American election President Nixon unleashed “Linebacker II”: massive air assaults on the Hanoi and Haiphong areas. The bombing succeeded in “bombing the North Vietnamese back to the table.” The reality, however, was that while the North Vietnamese were taking a terrific shellacking and were mostly defenseless against the Linebacker II air assault, Nixon was experiencing serious domestic problems, including the Watergate scandal. Yet still there was no settlement of the war.

### **The Rand Corporation Study**

About the same time that peace talks began, the Department of Defense commissioned the Rand Corporation, an independent “think tank,” to prepare the Study referred to above. In addition to addressing the French POW/MIA experience, the Study discussed also certain issues that would arise at the war’s termination.

Entitled “Prisoners of War in Indochina,” the Study predicted what the North Vietnamese would do: The communists will see POW/MIA issues as material/ political rather than moral or humane; the price in “reparations” for repatriation will be high; the North Vietnamese will employ the earlier tactics of the Viet Minh, using POWs to gain political objectives; release will be tied to North Vietnamese receipt of the reparations; it would be unduly optimistic to believe they and the Viet Cong will release all American prisoners on schedule, but instead they will hold some until all U.S. commitments have been met.

### **The Final Deal At The Paris Peace Talks**

In January 1973, even though Nixon and Kissinger had secretly agreed to pay reparations to North Vietnam of about \$5 billion, Kissinger still did not know how many POW/MIAs the North Vietnamese held or how many they would release—or who they were. Let alone what the POW/MIA situation was in Laos. This colossal ignorance, however, did not prevent Kissinger from

telling the leaders of the National League of Families of American Prisoners and Missing in Southeast Asia that: “[w]e have absolute assurance that all American prisoners of war held anywhere in Indochina will be released.” Kissinger added that “[w]e...do not believe they will hide any POWs.” [13]

When the North Vietnamese turned over the lists of POWs to be repatriated, “ ‘[w]e were *stunned* by the lists we got,’ Kissinger team member Peter Rodman would later tell Senate investigators. ‘We got lists that we knew were *inadequate* or at least very *puzzling* on both Vietnam and Laos.’” [14]

The lists omitted even the names of four crewmen who had survived a shoot down in Southern Laos *only a few days before*. Absent also from the list were the names of some Americans whom we knew for sure had been captured and seen alive.

### **The Lame And The Halt**

Col. George E. “Bud” Day (USAF Ret.), a Medal of Honor recipient and long-term prisoner in Hanoi, has written in his autobiography *Return With Honor* about three of his fellow POWs, code-named Max, Jig, and Kilo, all victims of unspeakable torture and “all emaciated to the point that they had difficulty walking.” Col. Day informed the guards that the men were about to die.

Soon after, Kilo and Max were taken to the hospital. Two days later, Jig followed them. At repatriation, the North Vietnamese reported that all three had “died in captivity.”

Col. Day then writes that he later learned from his wife that, along with Max, Kilo, and Jig, he and two others (Fellowes and Pollard) were *the only known POWs who were not reported by the [North Vietnamese] on the list of confirmed POWs* which they furnished to the U.S. at Paris.” Writes Day: “I’ve wondered many times what fate was planned for Fellowes, Pollard and me originally.” [15]

Col. Day goes on to note the indisputable fact “*that not one amputee, not one mental case, not one cosmetically displeasing prisoner was returned to the United States.*” [16]

Rochester and Kiley have made the same point about French prisoners of the Viet Minh: “In another grim foreshadowing of the [later] American experience [in Vietnam], no French P[O]W with serious wounds of the abdomen, chest, or skull, or experiencing severe psychological disorder, survived Viet Minh captivity.”

Since the United States government knew there were some American prisoners in Vietnam suffering from physical and mental disabilities, the North Vietnamese had an obligation to explain what became of them. They never have.

### **Aftermath of the Paris Peace Talks**

In 1973, all the POW/MIAs who would ever come home from Indochina were repatriated.

Two years later, the North Vietnamese overran the South, “reuniting” the country under brutal communist rule.

The Nixon/Kissinger secret \$5 billion deal then surfaced to a public and congressional reception of outrage and opposition.

Because of the Communist violation of the peace accords, and because Congress was adamantly opposed to appropriating funds to aid our former enemy, the reparations were never paid.

### **1918-1973 Summary**

In World War I the Soviets, newly in power, held captured American soldiers until the United States paid a *quid pro quo*. Even after those payments, some of our countrymen were never returned.

During the Cold War, once again American POW/MIAs were imprisoned in communist countries and thousands of them were never repatriated to the United States.

The North Koreans and Chinese communists were advised to, and did, hold back American POW/MIAs—some to be used as guinea pigs in “medical” experiments, some to use as bargaining chips after the war was over, and some for their intelligence, technical, and other value.

This same tactic worked for the Viet Minh when they extorted the French in return for some of their POW/MIAs, and when the communists forced their way into the Geneva Conference using as their admission ticket the release of a few wounded French troops.

The North Vietnamese had an object lesson in how successful the ransom tactic was after the United States paid off Castro in goods worth millions in return for releasing the American-backed surviving Bay of Pigs prisoners.

In 1966, the United States actually examined the possibility of paying ransom to the North Vietnamese.

The North Vietnamese had a clearly articulated and implemented policy of capturing Americans, and using the prisoners as leverage to achieve communist political, economic, and other goals.

At the Paris Peace Talks, North Vietnam’s Le Duc Tho *explicitly* used our POW/MIAs as bargaining chips to obtain reparation funds, by doggedly linking the two issues.

The Rand Corporation Study had predicted that the Communists would not only use POW/MIAs for barter, but would withhold our prisoners until the Vietnamese squeezed every last ounce of value out of them.

After Operation Homecoming, the promised Nixon/Kissinger *quid pro quo* for the return of our POW/MIAs—some \$5 billion in reparations that the North Vietnamese were determined to obtain—was never paid.

### **After the Second Vietnam War**

A former Marine pilot, now a retired lawyer in the United States who was held in a Son Tay prison camp (and later in Hanoi) has stated emphatically that all of his guards repeatedly taunted the prisoners with the threat that not all of them would make it home, and that some POWs would be withheld “for the good of humanity.” The former prisoner of war stated categorically that the threats seemed to manifest an actual North Vietnamese intent, and that they seemed to reflect actual policies and discussions. [17]



The authors of *An Enormous Crime* have written—citing a document in the National Archives—that “[o]n March 22 [1973, in the midst of Operation Homecoming], the White House received a classified cable from *U.S. Ambassador to Laos* G. McMurtrie ‘Mac’ Godley stating that ‘we believe the LPF [Lao Patriotic Front, the Pathet Lao] holds, throughout Laos, more prisoners than found on the [North Vietnamese] list.’” [18]

“One returnee, Capt. Douglas B. [“Pete”] Peterson, USAF, who would later become the first postwar U.S. ambassador to Vietnam, had in his homecoming debriefing told of a perfectly healthy American prisoner who was *inexplicably segregated* from his fellow POWs at an Hanoi prison one evening and *never seen again*.” [19] This is what happened to Korean War POW Roger Armand Dumas, who was within sight of freedom when Chinese Communist guards took him away.

Soon after South Vietnam fell in early 1975, the communists publicly linked exhumation/repatriation of American remains and a related but entirely separate issue: a purported willingness to *search* for American POW/MIAs—the clear implication being that while some KIA/POWs were *dead*, perhaps others were still *alive*.

Henry Kissinger, at a Southern Governors’ Conference not long after South Vietnam fell, stated publicly about the Vietnamese that “[f]irst they used the prisoners; *now they are using the missing in action*...I feel that they will [continue to] use the missing in action for their political purposes, [but] we do not believe that American foreign policy should be shaped by *the holding of hostages*—and, even less, by the remains of Americans who died in action.” [20] Note that Kissinger differentiated between “prisoners” (presumably those repatriated at Operation Homecoming) and those “missing in action”—*whom he then expressly referred to as “hostages.”* A mere slip of the tongue? Or did Kissinger know something few others had concrete knowledge about and that the United States government was trying to suppress?

In August 1975 the Vietnamese notified the United States of their willingness to repatriate three sets of remains. “When, on 11 August, the United States cast a vote which vetoed Vietnamese UN membership, the DRV [Democratic Republic of Vietnam] immediately retracted their three-day-old offer to return the remains, citing the US lack of ‘goodwill’.”

In late 1975 *the Vietnamese ambassador to France*, in pressing American officials yet again for the promised reparations, told them “that while all *living* POWs had been returned in 1973, agencies of his government were ‘carrying out the research of *missing* U.S. personnel,’ and ‘*we hope we can find some*’.” [21] Was he referring to “dead missing” or “alive missing”?

After North Vietnam overran the South, two high-ranking South Koreans who had been working with the South Vietnamese were captured by the communists. Until they were released *five years later*, and even after that, the Vietnamese communists denied they had custody of the South Koreans, even when presented with conclusive photographic evidence that they did. [22]

An official document supports the statement by the authors of *An Enormous Crime* that “[o]n December 3 [1979], officials at the *National Security Agency* advised Pentagon officials that a recent intercept of a Pathet Lao radio transmission had revealed the presence of three American POWs in Laos on November 15 [1979], only 18 days before.” [23]

In July 1982, Secretary of Defense Caspar Weinberger revealed to POW/MIA families the administration's new policy: "[W]e [now] proceed under the *assumption* that *at least some Americans are still held captive* by the Indochinese Communists [citing] over 400 first-hand sightings." [24] There was abundant newspaper reporting of Weinberger's statement.

In January 1986, on the *Good Morning America* TV show, Richard Armitage stated that "*there may indeed be some Americans held against their will*" in Indochina. Paul Wolfowitz, another high-ranking Department of Defense official, said on the *Today* TV show that of some 800 live-sighting reports in the past ten years "[f]here are roughly 100 that we believe hold up under this [sic] best scrutiny we can put to them." [25]

In 1986, a Task Force led by Lt. General Eugene F. Tighe, Jr., former Director of the Defense Intelligence Agency, concluded after a five-month review of intelligence files that there was a strong possibility Americans were being held captive in Southeast Asia.

That same year Ross Perot, long-time champion of POW/MIAs who had been given access to government intelligence files, testified before a congressional committee that negotiations, not military force, were necessary if the men left behind were to be repatriated. The authors of *An Enormous Crime* write: "Perot, meanwhile, was hard at work trying to get the president and vice president to adopt the one major recommendation that had come out of his study of the POW issue, a recommendation he had earlier conveyed to Bush but upon which [then Vice President] Bush had not yet acted. If he and the president wanted to get the POWs back, Perot had told Bush, they should appoint a presidential emissary on POWs, give him broad powers, and send him to Indochina at once with orders to negotiate for as long as was necessary to gain release of the prisoners." Obviously, Ross Perot, no man's fool, believed there were still American captives in Indochina. The upshot was that Perot went to Hanoi as a private citizen. Upon his return, he remained as sure about the captives—perhaps even more so—than before he departed.

In August, a *presidential envoy* to Vietnam reported that "[t]he Vietnamese have acknowledged that there are some wild parts of their country, and the suggestion is that *it is possible for there to be live Americans in Southeast Asia, not under the control of the Vietnamese government*. That is the inference I draw... . I don't know if there are any there, but *there is evidence some might be*." [26]

Months later, in Washington, D.C., the *Vietnamese Foreign Minister* repeated that somewhere in remote areas (of that closed, tightly run society) *there might be live Americans that the government did not know about*.

In 1992, former KGB Major General Oleg Kalugin reported that *the Soviets had interviewed three American POW/MIAs long after the war ended*—even though not one Operation Homecoming returnee reported having been interrogated by Russians.

Garnett "Bill" Bell—fluent in Vietnamese, Lao, and other Asian languages—spent decades as an Army non-com and civilian searching throughout Indochina for missing Americans. He interrogated friends, enemies, and refugees; he trekked through backwaters where few Americans had ever been; he climbed mountains and slogged through leech-infested swamps. Bill Bell did everything possible to ascertain the fate of missing American servicemen. No one has better credentials on the subject of POW/MIAs than Bill Bell. In his superb autobiography, *Leave No Man Behind*, he has written that:

*I mentioned to [a four-star general acting for the President of the United States] what I called the “controversial” cases, wherein the men involved were **alive at the time of their loss incident, and in some cases in the actual physical custody of Communist forces.** I also mentioned cases where the missing men were **depicted in photographs taken after they were captured,** and the pictures clearly showed that they were alive. I also mentioned other “controversial” cases where the missing men were **heard making radio broadcasts, where letters written by them dated after the time they were reportedly killed were found, or news accounts indicated they were captured,** but the Vietnamese claimed they have no knowledge. [27]*

*[At a Senate hearing] I also mentioned the fact that Duke and Mark [two employees of the military who disappeared in 1970 while on a motorbike outing] had been employed as jet aircraft technicians, which matched information in other reports indicating that American personnel were held after the war to work on jet aircraft at a base north of Hanoi. [28]*

*According to Deeter [who sat with Bell at a Senate Hearing], during the time that he [Deeter] had worked as a voice intercept specialist and Vietnamese linguist for the National Security Agency, [after the War] he had received traffic from the Dak To area of Kontum province referring to an American present there just prior to the arrival of a [recovery] team. [29]*

### **The Morris Document**

Note 11 to Chapter 32 of *An Enormous Crime* reads in part as follows: “Untitled memorandum to Nancy Soderberg [30] from Richard Bush, [31] February 2, 1993, re ‘Urgent Matter Regarding POW/MIAs in Vietnam,’ with National Security Council declassification authorization contained in letter from William H. Leary, Senior Director, Records and Access Management, to Ms. Carla J. Martin, Office of Senate Security, February 11, 1997.”

The authors reproduce the entire Memorandum. Here is most of it. [32]

### **Summary**

I have received what appears to be credible information about American POW/MIAs in Vietnam. The information suggests that *Americans may have been held alive by Hanoi after 1973.*

\* \* \* Properly handled, you can use this to advantage with the Vietnamese and with the American public.

### **Background**

The information comes by way of Steven Morris, a researcher at Harvard’s Center for International Affairs and a public supporter of Clinton in the campaign. Steven is working on a history of the Vietnam War, and has recently had a chance to do research in selected Russian archives.

During the course of that research, he accidentally came upon a Russian-language copy of a September 1972 speech by a [North] Vietnamese deputy chief of staff to the Politburo. In the speech, the general discussed how *Vietnam should use the American POWs under its control in its negotiations with the Nixon Administration.* In the course of his discussion, he provided data on the number of Americans that Vietnam held at that time, broken down by:

- the location of their capture (North Vietnam, South Vietnam, Laos, Cambodia

- type (fliers, saboteurs, or other—presumably ground personnel)
- rank
- political outlook (“progressive, neutral, and reactionary”)
- the number of prisons in which the men were held.

*As far as Steven or I know, this is the only case where an official Vietnamese source provides Hanoi’s accounting of the number of Americans under its control. As such, it is an important benchmark against which to judge Vietnamese claims.*

After crunching the numbers, Bush firmly stated “that it is hard to avoid the conclusion that on September 15, 1972 Hanoi held 512 Americans who had been captured in North Vietnam and South Vietnam but who were not returned at the time of Operation Homecoming. What happened to these men?” [33]

Answering his own rhetorical question, Bush posited four possibilities:

- “They may have died from natural or *unnatural* causes during the September 1992-March 1993 period” [34];
- “They may have been held beyond Operation Homecoming and died from natural causes”;
- “They may have been held beyond Operation Homecoming and executed at some point, perhaps because the Americans did not provide aid to Vietnam or failed to meet some other expectations”;
- “They may still be alive.”

Under the title “What Happens Now,” Bush wrote that researcher Morris had intended to give the document to *The New York Times*, but that Bush thought the White House “should have an opportunity to decide how this information should be used.”

“What I did not tell Steven,” Bush then informed Soderberg, “was that I did not want the Clinton Administration to be hit with a public bombshell on the POW/MIA issue in its early weeks. You should be able to develop a strategy for using this information—and any further information we can get out of the Russians—against the Vietnamese in a way that maximizes results for the MIA families, does not inevitably create a new obstacle to normalization, and demonstrates the Administration’s diplomatic skill. However, as much as Steven wants to do the right thing, he does not trust the bureaucracy. If he were told just to turn over his information to DIA [Defense Intelligence Agency], he would probably say ‘No, thanks,’ and head for the Times. If he is handled properly, I think it will work to your advantage.”

Eventually, however, Morris’s document did find its way to the *Times*. The newspaper’s headline read: “Files Said to Show Hanoi Lied in ’72 on Prisoner Totals.”

The article “first stated that ‘a document described as a top secret report written by a senior Vietnamese general and delivered to the Communist Party Politburo in Hanoi in September 1972 says that North Vietnam was holding 1,205 American prisoners of war at a time when North Vietnamese officials were saying that the number was only 368,’ and then went on to quote the author of the report, Gen. Tran Van Quang, the deputy chief of staff of the North Vietnamese Army, as saying ‘1,205 American prisoners of war located in the prisons of North Vietnam—and this is a big number. Officially, until now, we published a list of only 368 prisoners of war, the rest we have not revealed.’ The *Times* article quoted Morris as saying that “this is the biggest hostage-taking in the history of American foreign policy and we still [in 1993] don’t know where the hostages are, what happened to them, if they are still alive.”

The next day, the *Times* published more information from the document. General Quang was quoted as saying that “[t]he question of the American prisoners of war, as is well known, we intend to resolve in the following manner:...Nixon must compensate North Vietnam for those enormous losses which the destructive war caused.”

That same evening, Zbigniew Brezezinski, President Carter’s National Security Advisor, stated on the “MacNeil/Lehrer NewsHour” that “[a]s far as Vietnam is concerned, I think that if this document is sustained, and *it looks unfortunately to be sustainable*, we have the right to *ask the present Vietnamese government to place those responsible in war crimes trials.*” [35]

On the same program Henry Kissinger remarked that “[i]f that document is true, and *it is hard to imagine who would have forged it*, for what purpose, then I think *an enormous crime has been committed.*”

Needless to say, the Vietnamese condemned the document as a “clear fabrication,” the Clinton Administration fudged the numbers of POW/MIAs, and that was the end of the Morris document attracting any further notice by the American media or public. [36]

### **The Case of “Malnutrition Deprivation”**

In *Leave No Man Behind* Bill Bell recounts a story about one set of American remains that were processed by the United States Army Central Identification Laboratory in Hawaii (CILHI). Bell writes that the “CILHI Commander, Lieutenant Colonel Johnie Webb, revealed to me that one set of remains returned by Vietnam exhibited signs of ‘malnutrition deprivation’ due to a prolonged period of incarceration, *but that according to our records the man was never known to be in the [Indochinese Communists] prison system.*” [37]

Bell was “intrigued”:

*So I quietly began further research on the case, and I learned that **the same remains also exhibited clear evidence of having been wired together**, apparently for display. I recalled having debriefed several refugees in Hong Kong who described their observation of **American skeletal remains wired together for use as training aids in various medical schools in North Vietnam**. \* \* \* Given Webb’s statement to me that these remains showed “malnutrition deprivation,” a fancy way of saying starvation, **obviously the man had survived for some time. However, that he was never identified by the other returnees as being in the prison system—a major point continuously used by certain elements of the U.S. government to defend their position that no one was held back by the Vietnamese—should have raised***

**some eyebrows.** \* \* \* *But since we had the remains, for the U.S. government, the case was closed, even though the CILHI believed his remains showed he had survived for some time after his capture. There would be no further investigation of the man's fate....* [38]

### **The Ongoing Battle For Closure**

Regrettably, despite paying occasional lip service about ascertaining the truth of the Vietnam War POW/MIA story, today United States officialdom doesn't want to hear anything more about Americans languishing in Indochina, China, the Soviet Union, or anywhere else—especially after the Senate's Kerry Committee in the early 1990s whitewashed the Vietnamese communists.

As to the repatriated POWs, some understandably remain so seared by their experiences in captivity that the subject of Americans not repatriated by the communists opens old wounds, exacerbated by even the remotest possibility that some of their number may have been subjects of "medical" experiments. [39]

Many POW/MIA families, who have been able to move on with their lives, do not welcome discussions that cause them to revisit the painful past with its unbearable losses.

Few Americans want to believe that if the North Vietnamese did withhold POW/MIAs, for whatever purposes, the United States government did not *somehow* get them back—so some of our countrymen choose denial rather than believe the U.S. was complicit.

But other Americans press on, blowing on the decades-old embers in the ever-dimming hope that even if no POW/MIAs will ever be found alive in Indochina, at least the truth may someday either emerge or be forced out of the communists and/or from our own government.

One of those Americans is Kay Bosiljevac. The story of her POW/MIA husband, Captain Michael Joseph Bosiljevac, dramatically illustrates the fate of some Americans in Indochina.

### **Footnotes**

[1] Just as the American-trained Cubans who attempted to overthrow Fidel Castro were held in Cuban prisons.

[2] Rochester and Kiley, *Honor Bound, American Prisoners of War in Southeast Asia 1961-1973*.

[3] Rochester and Kiley, *Honor Bound, American Prisoners of War in Southeast Asia 1961-1973*.

[4] My emphasis. Rand Study RM-5729-1-ARPA, "Prisoners of War in Indochina, January 1969. The Study may be found at <http://www.aipowmia.com/reports>.

[5] "Viet Cong Policy Toward and Exploitation of U.S. Prisoners of War," CIA Intelligence Information Report, dated 4 March 1967, NSF Country File, Vietnam, Folder 81, Document 70, p.4, LBJ Library, Austin, Texas. Cited in "POWs and Politics: How Much does Hanoi Really Know, A Paper Presented on 19 April 1996 at the Center for the Study of the Vietnam Conflict Symposium 'After the Cold War: Reassessing Vietnam,' at Texas Tech University, Written by: Garnett "Bill" Bell and George J. Veith." While in their paper the authors' focus was on the POWs' value for intelligence and propaganda—certainly major interests of the communists—in other of their writings they recognize the economic, technical, and "medical" value of American POW/MIAs.

[6] My emphasis.

[7] Davis credibly sources this statement.

[8] If Vogel's principals were merely testing the waters and there were no American POW/MIAs in East Germany at that time, he probably could have obtained some from his communist comrades if the barter deal for the Krogers had come to fruition.

[9] This quotation, and the others until the end of this section, are from *An Enormous Crime*, which provides documentary and other sourcing for them.

[10] Timothy N. Castle, *One Day Too Long*.

[11] Senate Report.

[12-13], [15], [20-21], [23-26], [33], [37-38] My emphasis.

[14] My emphasis. Senate Report.

[16] My emphasis. In actuality, a few returnees did have physical problems, but all were ambulatory.

[17] The author obtained this information in a telephone conversation with the former POW on July 5, 2007.

[18] My emphasis. Unless otherwise noted, all quotations until the next section are from *An Enormous Crime*, which provides credible sourcing for them.

[19], [32] Emphasis in original.

[22] Garnett "Bill" Bell, *Leave No Man Behind*.

[27] My emphasis. Garnett "Bill" Bell, *Leave No Man Behind*.

[28] Garnett "Bill" Bell, *Leave No Man Behind*.

[29] Garnett "Bill" Bell, *Leave No Man Behind*. On July 14, 2007 Mr. Bell told the author that he believed Deeter then and he believes him now. He added that similar radio traffic relating to other MIAs was intercepted at other times.

[30] Soderberg was third-ranking official of the National Security Council at the White House, Deputy Assistant to the President for National Security Affairs.

[31] At that time, Bush (not a relative of the presidents) was an Asia expert Democrat staffer working for the House of Representatives' Asian and Pacific Affairs Subcommittee. Later, he would serve as national intelligence officer for East Asia at the National Intelligence Council and hold an endowed chair in Foreign Policy Studies at the Brookings Institution.

[34] My emphasis. Bush's use of the word "unnatural" may have been meant to suggest that the POW/MIAs had been victims of communist medical experiments.

[35] Note that Brezezinski does not attribute any blame to the United States government for allowing the North Vietnamese to withhold POW/MIAs.

[36] In *Prisoners of Hope* (1994), author Susan Katz Keating claims that "[t]he Quang report was eventually determined to be a forgery." Keating further claims that she learned CIA had planted the document "where an unwitting Morris would find it." However, Keating does not reveal where the incriminating document was "planted," who decided it was a forgery, how she knows that the document was CIA's work, or why researcher Morris was selected as the fall guy. Nor does she say where the document was found, citing only "Soviet Communist Party archives." If by "Soviet Communist Party archives" Keating means the files of the Central Committee, she could not be more mistaken. Indeed, a world renowned former Soviet dissident, who himself has had access to Central Committee files since the fall of the Soviet Union, laughed when I asked him if CIA could infiltrate a document into them.

[39] Some former Vietnam POWs may now be reluctant to acknowledge that others may have been murdered or withheld by the Vietnamese because that opinion would be at variance with what they told their debriefers at repatriation in 1973, immediately after they were freed but at the time lacked information they acquired later. Some may have been fearful the government might retaliate against them in connection with their retention, promotion, and benefits such as medical care and retirement pay. Some may still be suffering from “survivors guilt,” agonizing about their own safe return while other perished. And some, of course, may genuinely believe that everyone returned home in 1973.

\*\*\*All these attitudes are readily understandable. Not surprisingly, non-repatriation is a very touchy subject among many former POWs even today, nearly thirty-five years after Operation Homecoming.

---

*Henry Mark Holzer, professor emeritus at Brooklyn Law School, is a constitutional and appellate lawyer. His most recent book 'The Supreme Court Opinions of Clarence Thomas (1991-2006)' has just been published. He maintains a website at [www.henrymarkholzer.com](http://www.henrymarkholzer.com)*



# Part 4: The Case of Captain Michael Joseph Bosiljevac

USA Henry Mark Holzer, Featured Writer

November 29, 2007

As noted, there is overwhelming evidence that ever since Lenin's gang took over the Soviet Union in 1917 communists worldwide have been using captured American military personnel "1) as leverage for political bargaining, 2) as an involuntary source of technical assistance, and 3) as forced labor."

As further noted, "there were two other purposes for which the communists used American POW/MIAs: 4) to obtain hard cash and needed goods, and, 5) to turn them into human guinea pigs."

Based on the available evidence, it is very likely that Mike Bosiljevac fell into at least two of these five categories.

Yet even in the face of the evidence of what the communists have done to too many of our countrymen since 1918, it is still impossible for many well-meaning Americans to accept that a co-worker's father was locked away in the bowels of a Soviet prison; that a neighbor's son was worked to death in a Siberian coal mine, that a colleague's brother-in-law was vivisected in Czechoslovakia, that a friend's cousin starved to death somewhere beyond the Ural Mountains, that an employer's relative was reduced to living like an animal in a Laotian cave, that a wife's brother was deliberately exposed to atomic radiation—that American citizens serving their country in its armed forces were abused in every imaginable way by communists and then discarded like garbage.

## **The Soviet Union's F-86 Sabre Jet Project**

Although the facts provided in the Korean War section above conclusively show that American POW/MIAs were not repatriated but instead vanished into the oblivion of North Korean, Chinese, and Soviet prison camps and "medical" facilities, a little known Communist intelligence operation during that conflict goes a long way to explaining why Mike Bosiljevac vanished after he survived his shoot down in Vietnam.

A forty-two page Working Paper of the Joint Commission Support Branch, Research and Analysis Division, DMPM (Defense Prisoner-of-War and Missing Personnel Office of the Pentagon) dated 26 August 1993 [1] contains this Executive Summary:

*U.S. Korean War POWs were [2] transferred to the Soviet Union and never repatriated.*

*This transfer was a highly secret MGB [KGB] program approved by the inner circle of the Stalinist dictatorship.*

*The rationale for taking selected prisoners to the USSR was:*

***To exploit and counter U.S. aircraft technologies;***

*To use them for general intelligence purposes;*

*It is possible that Stalin, given his positive experience with Axis POWs, viewed U.S. POWs as potentially lucrative hostages.*

*The range of eyewitness testimony as to the presence of U.S. Korean War POWs in the GULAG is so broad and convincing that we cannot dismiss it.*

*The Soviet 64th. Fighter Aviation Corps which supported the North Korean and Chinese forces in the Korean War had an important intelligence collection mission that included the collection, selection and interrogation of POWs.*

*A General Staff-based analytical group was assigned to the Far East Military district and conducted extensive interrogations of U.S. and other U.N. POWs in Khabarovsk. This was confirmed by a distinguished retired Soviet officer, Colonel Gavriil Korotkov, who participated in this operation. **No prisoners were repatriated who related such an experience.***

*Prisoners were moved by various modes of transportation. Large shipments moved through Manchouli and Pos'yet.*

*Khabarovsk was the hub of a major interrogation operation directed against U.N. POWs from Korea. Khabarovsk was also a temporary holding and transshipment point for U.S. POWs. The MGB controlled these prisoners, but the GRU [military intelligence] was allowed to interrogate them.*

*Irkutsk and Novosibirsk were trans-shipment points, but the Komi ASSR and Perm Oblast were the final destinations of many POWs. Other camps where American POWs were held were in the Bashkir ASSR, the Kemerovo and Archangelsk Oblasts, and the Komi-Permyatskiy and Taymyskiy National Okrugs.*

*POW transfers also included thousands of South Koreans, a fact confirmed by the Soviet general officer, Kan San Kho, who served as the Deputy Chief of the North Korean MVD.*

***The most highly-sought-after POWs for exploitation were F-86 pilots and other knowledgeable of new technologies.***

*Living U.S. witnesses have testified that captured U.S. pilots were, on occasion, taken directly to Soviet-staffed interrogation centers. A former Chinese officer stated that he turned U.S. pilot POWs directly over to the Soviets as a matter of policy.*

***Missing F-86 pilots, whose captivity was never acknowledged by the Communists in Korea, were identified in recent interviews with former Soviet intelligence officers who served in Korea. Captured F-86 aircraft were taken to at least three Moscow aircraft design bureaus for exploitation. Pilots accompanied the aircraft to enrich and accelerate the exploitation process. [3]***

Why, one may ask, why were the Soviets so interested in the F-86?

The Working Paper provides the answer:

***The First Modern Air War. One of the worst-kept secrets of the Cold War was the head-to-head clash in Korea between the two former Allies of World War II, the Soviet Union and the United States. \* \* \* The Korean War was the first modern air war and was characterized by an***

**entirely new technology that was electronics intensive and depended not only on the keen wits and high mastery of the pilots flying the jet combat aircraft but on a host of advanced support activities such as air-intercept radar and airborne reconnaissance.**

*The Technology Gap. This was the backdrop for an even more insidious form of warfare. The Soviet Union cloaked its participation in the Korean War partly to conceal its **urgent need to bridge the technological gap with the West**, which was widening geometrically even then. Based upon a precedent repeatedly acknowledged by senior Soviet officers, which began with the wholesale reverse engineering of the Massey-Ferguson tractor by the State Automobile Factory in the 1930s, the Willys Jeep in the 1940s, and a variety of propeller technology aircraft during World War II, **the Soviets sought to avert the inevitable by systemized theft of design.***

*The air-focused Soviet priorities are perhaps best summed up by the comment of retired Colonel Aleksandr Semyonovich Orlov, a veteran of the 64<sup>th</sup> [Soviet Fighter Aviation Corps], and the chief...of intelligence for one of its divisions. He casually dismissed the significance of ground forces personnel with the comment that he knew more about the operations of the American infantry battalion that a U. S. Army captain would. Orlov, himself a captain at the time of the Korean War, then described in painstaking details **Soviet intelligence collection requirements which were focused on aircraft technical parameters.***

*A Special Air Force Unit. According to Dr. Paul Cole's interview with General Lobov, **a special Soviet Air Force unit** was organized and deployed, under the command of General Blagoveshchenskii, with **the mission to capture F-86 pilots**. Its mission was to **force down Sabre jets in order to capture the pilots alive**. The unit was composed of flyers from units in Mary, in the Turkmen SSR, and from the Primorskii Krai along the Pacific coast. Nine expert pilots were assigned to this mission, each of whom was required to sign a secrecy statement.*

#### **Captain Bosiljevac Was A Prize Intelligence/Technical Catch For The Soviets**

Fast forward about twenty years, from the early 1950s in Korea to the early 1970s in Vietnam, where the Soviets again had a strong presence. [4]

There can be no doubt that at the time of the Vietnam War the Soviet interest in “*new technology that was electronics intensive*” had not waned, that communist “*systemized theft of design*” had not abated, and that the USSR had every reason to redeploy the assets necessary to obtain human and technical information about American electronic warfare capabilities. After all, the Soviets had a long, successful history of stealing from the West everything from tractor designs to the atomic bomb.

In light of this history, Captain Bosiljevac was, for the Soviet's, truly a gift from the sky. Michael D. Benge—a prisoner of war in South Vietnam, Cambodia, Laos and North Vietnam for over five years—has stated with incredulity that “[f]or some unfathomable reason, DOD [Department of Defense] sent pilots, who had worked in top secret projects such as the atomic energy program, on tactical bombing missions over North Vietnam only to be shot down and captured. \* \* \*...one F-111 pilot was shot down over North Vietnam shortly after leaving the Gemini space program.” [5]

Indeed, Mike Bosiljevac's resume read like a wish list for the communists, especially the Soviets, and he knew it. Before he left for Vietnam, Mike told his wife that if he was captured Soviet intelligence would quickly know his identity and background from a dossier that had been prepared about him long before he was shot down.

While a cadet at the United States Air Force Academy, Mike was selected for a summer internship with the National Aeronautics and Space Agency. Mike lived in Houston, spent time at Cape Canaveral, and was often in the presence of the marquee names of the space program,

including astronauts such as Deke Slatton and scientists such as Werner Von Braun. Some of Mike's activities included training with a few of the astronauts.

When Mike graduated from the Air Force Academy in June 1967 with a B.S. degree, then-Lieutenant Bosiljevac received a Fellowship from the Atomic Energy Commission to finance his Master of Science Degree. He would later receive his M.S degree in nuclear engineering from the University of Minnesota.

In 1968 Mike was assigned to the United States plutonium production plant in Aiken, South Carolina. There, he was involved with the United States' only "K" atomic reactor. During that period he spent some time at the Alamos nuclear facility, at Oak Ridge, Tennessee's atomic facility, and at the Savannah River Nuclear Plant. Needless to say, Mike held very high security clearances, giving him access to atomic and other sensitive national security information.

Other information Mike possessed of value to the Soviets derived from his aircraft and his role as the F-105Gs Electronic Warfare Officer.

The F-105G was the designation given to F-105Fs which were fitted with greatly improved avionics, and carried Radar Homing and Warning Systems and defensive electronic countermeasure jamming equipment.

The aircraft's job was to escort other Air Force planes and suppress enemy air defenses, primarily surface-to-air missiles (SAMs) and anti-aircraft artillery (AAA).

Mike's job as Electronic Warfare Officer included monitoring the F-105G's sophisticated, technologically advanced avionics equipment and the aircraft's external environment. He would inform the pilot of changes in the threats posed by enemy aircraft and/or ground-based defenses, in order to adjust the F-105G's tactical posture.

Given how for a half-century the communists had sequestered America military personnel who possessed intelligence-value information and specialized technical knowledge, and given what Mike's knew and his electronic warfare skills, there is no doubt that the North Vietnamese and their Chinese and Soviet patrons would have had considerable interest in Captain Michael J. Bosiljevac, United States Air Force. [6]

### **Surviving The Shoot Down [7]**

It was September 29, 1972, approximately 10,000 feet over North Vietnam west of Hanoi. An Air Force F-105G, one of a flight of four, was streaking through the sky on a SAM missile suppression mission. Mike Bosiljevac was the Electronic Warfare Officer. Lt. Colonel Jim O'Neil was the pilot.

Closing on the target, O'Neil fired a Shrike AGM-45—an American anti-radiation missile designed to home-in on hostile anti-aircraft [radar](#). Moments later a North Vietnamese SAM missile exploded 50 to 100 feet under the aircraft. Shrapnel raked the F-150Gs underside. There was an explosion. Warning lights flashed.

Col. O'Neil was able to control his aircraft for about five minutes. He headed away from the Hanoi area. The plane stopped responding. O'Neil initiated ejection. He and Mike were blown out of their disabled aircraft.

Two parachutes opened. Col. O'Neil saw Captain Bosiljevac descending below him. He saw that some of Mike's parachute lines had been cut to allow him to better manage his descent.

They landed about a quarter-mile apart.

Although Jim did not see Mike on the ground—there was considerable green foliage, and Mike was wearing a green flight suit—Jim did see Mike's parachute, life raft, and associated gear.

### **Radio Hanoi's Confirmation**

Various Defense Intelligence Agency reports confirm that on 29 September 1972 the O'Neil-Bosiljevac aircraft was shot down. On the same day Radio Hanoi broadcast in English and Vietnamese that two American jets had been shot down and "the pilots [plural] bailed out and were immediately captured." [8]

### **No Knowledge Of Mike, Twice**

Jim O'Neil was imprisoned in two places, twice. His odyssey began at the "Hanoi Hilton," where he would be held in solitary confinement for about six weeks.

Then he was sent to a nearby prison the POWs dubbed the "Zoo." After that, he was sent back to the Hilton, and then again to the Zoo.

Although at each of those places, both times, Jim inquired about Mike as best he could, no fellow POW had ever heard of him. [9]

### **The Political Indoctrinator's Confirmation**

About ten days after being first locked up at the Hilton, Jim had a brief conversation with a North Vietnamese political indoctrinator.

According to Jim's March 31, 1973 debriefing at Clark Air Force Base in the Philippines, "Lt. Col. O'Neil recalls querying the prison guard as to the status of Capt Michael J. Bosiljevac. He states the guard left the room and returned shortly saying Capt Bosiljevac was 'here' and uninjured. Col. O'Neil assumed that guard had obtained an official response to his query. Col. O'Neil further states at that time he did believe the guard's response." [10]

The political indoctrinator enigmatically added that Mike was "luckier than you [O'Neil]." It was not clear then what he meant, nor is it now.

### **U.S. Government Confirmation**

Sometime around November 1972, less than two months after Mike had been shot down, his wife received a letter from Randolph Air Force base. It was startling in several respects. Essentially, the letter advised Kay Bosiljevac to send a "Care" package to Mike. It directed her to Ehrling Berquist Hospital, at Offut Air Force Base, where she was to pick up two pre-prepared sacks of medicine which were waiting for her, to be included in the package.

The letter recommended other items for the package, such as “long johns,” dry food, family photographs. Even the size of the box was provided, and the means of securing it (with string).

The United States Air Force—which until then had denied knowledge of where Captain Bosiljevac was being held—also gave Kay very clear instructions about how to address the package: *Camp of detention for U.S. pilots in Democratic Republic of Vietnam, Hanoi, Socialist Republic of Vietnam*.

The official Air Force letter then directed Mrs. Bosiljevac to a particular post office in South Omaha, Nebraska, from which the package was to be mailed.

As soon as the postal clerk saw the package’s address he went to a safe and removed a sealed envelope. Upon reading the contents, he first informed Kay that no postage would be required, and then took the package somewhere into the rear of the post office. When he returned, initially he refused to tell Mrs. Bosiljevac what the package’s routing would be, but soon relented and told her “*New York and then Moscow*” [11]

Because no one is told to send Long Johns to a dead man, this episode proves that the United States Air Force believed that Mike was still alive.

Further evidence that the Air Force believed Mike was still alive—though it didn’t provide Kay with any details—was demonstrated by its conduct during the early 1973 Operation Homecoming. Almost every day during that period when the American POWs were being released in order of their shoot down (earliest first), the Randolph Air Force Base Casualty Officer assigned to the Bosiljevac family informed them that Mike would be coming home—perhaps on the last plane out of Hanoi, but nonetheless he *would* be coming home.

As it turned out, the Air Force was correct, but off by fifteen years. And when Mike *did* come home, he wasn’t alive. [12]

### **Repatriation, Fifteen Years Later**

A small group of somber-looking American officers and several Vietnamese civilians stood under an aircraft’s wing at Noi Bai airport in the Socialist Republic of Vietnam.

The date was September 23, 1987—a decade-and-a-half after Mike Bosiljevac had been shot down.

On a picnic-size table covered with a white cloth rested three wooden boxes about the size of carry-on suitcases. They were numbered 1, 2, and 3. Number 2 contained the mortal remains of Mike Bolsiljevac. [13]

Box number 2 also contained Captain Bosiljevac’s “Geneva Convention Identification Card” (Department of Defense Form 528) and his Air Force ID card (on one side his photograph and signature, and on the other two fingerprints).

Although Mike’s remains were entirely skeletal, *the two documents were in pristine condition*, as if they had been issued only the day before.

After fifteen years of his family's anguish, the Air Force captain would soon be home.

One chapter would be over.

Another was about to begin.

Captain Bosiljevac's remains were sent to the United States Army's Central Identification Laboratory in Hawaii (CILHI). [14]

### **The Government's Analysis**

CILHI rendered a superficial brief report, attached to which were two skeletal drawings and a photograph of Captain Bosiljevac's skull, all of which were concerned with the laboratory's principal task: identifying his remains.

#### *Mike Bosiljevac's Ribs*

The report and the main skeletal drawing show that on Mike's left side ribs 4 and 5 were fractured and parts of 6, 7, 8 and 9 were missing.

Thus, in all CILHI found a total of six ribs that had been damaged either by fracture or loss.

There was no explanation of what may have caused the rib damage.

Indeed, the CILHI report only once mentions "ribs," and that reference is found in only one sentence buried in a full page of single-spaced text.

Moreover, the CILHI report in no way correlated the damage to Mike's ribs and whatever caused his death.

#### *Mike Bosiljevac's Skull*

The CILHI photograph of Mike's skull revealed two precise, "clean" cuts, which the report describes this way: "The cranium has been sectioned, *as if at autopsy*, from just behind the coronal suture to just below lambda. The separated section covers nearly the entire parietal area. *The cut is not of recent origin.* [Note: Mike was shot down on September 29, 1972 and his remains were not repatriated until September 24, 1987, fifteen years later.] There are patches of dried tissue on the inner and outer surfaces of the cranium." [15]

The Chief Medical Examiner of one of California's largest counties has explained that a human skull is sectioned in this manner in order to remove the "skull cap," which, in turn, is necessary in order to remove the brain.

When asked why someone would want to remove Mike Bosiljevac's brain, the Chief Medical Examiner offered three standard reasons: 1) to ascertain whether the brain revealed trauma or 2) disease — in other words, what was the cause of death? — or 3) for the purpose of medical research.

### *The Blue-Green Staining*

The CILHI report states that “*There is blue-green staining, of the type associated with metallic contact, on the distal [end further from the body] right humerus [the upper arm bone], the sternal [breastbone] ends of right ribs 6-9, the left metacarpal [bones making up the back of the hands], the right femur [thigh bone] proximal end closer to the body] shaft, and the left femur mid shaft.*” [16]

On the other hand, Kay says the staining she saw on Mike’s limbs was symmetrical, as if caused by “bands” of some kind. Unfortunately, the CILHI report does not address the staining’s symmetry or lack thereof.

The report said no more about the blue-green staining.

### **Dr. Charney’s Analysis**

Following CILHI’s report, Kay Bosiljevac decided to obtain a second opinion. She asked a noted civilian pathologist at Colorado State University, Dr. Michael Charney, to examine Mike’s remains. Dr. Charney had by then considerable experience analyzing remains that had been repatriated from Vietnam.

Like CILHI, Dr. Charney was concerned primarily with identification, and his opinion was that the remains were conclusively Mike’s.

However, three other aspects of Dr. Charney examination are of importance.

1. Mike’s Ribs. In his report under “pathology,” Dr. Charney identified “several fractured ribs *probably [17] postmortem*”—meaning that the rib damage CILHI and he identified likely occurred after death, not from some pre-mortem external cause (e.g., a gunshot wound) but rather “normally”: for example, in order to get underneath the ribs to reach the body’s internal organs when the Vietnamese (or someone else) autopsied Mike’s body.

If Dr. Charney was correct, and there is no reason to doubt his opinion, the rib damage by itself provides no clue as to the cause of Mike’s death except to underscore that an autopsy was performed by the communists.

2. Green staining. Dr. Charney’s report, also in the “pathology” section, made reference to a “green staining of several bones.” He continued: “Samples of the green stain were sent to Colorado State University’s Environmental Health Services laboratory for a heavy metal test. The results: *Copper.*” [18] A surface scrape of bones revealed 12,429 parts-per-million; the sub-surface (bone drilled down to the marrow) showed 403 parts-per-million. Normal ppm, according to Dr. Charney’s report, is a mere 2 to 3 *parts per million*. [19] Review of a skeletal drawing accompanying Dr. Charney’s report disclosed that the staining appeared principally on the right bicep, right forearm, right wrist, the upper portion of the right pelvis, the left and right thighs, the right calf, and portions of the right ankle area.

Every knowledgeable professional who has been consulted about the 12,429 ppm of copper—e.g., physicians, toxicologists, archeologists, anthropologists, metallurgists, geologists, medical examiners—has had the same reaction: *that many parts-per-million of copper on human bones is virtually unheard of and cannot have occurred accidentally.*



There are three ways copper can get into—or, in the case of bones, *onto*—a human body: by ingestion, inhalation, and by a copper-containing liquid substance leaching into, or being applied to the skin or directly onto the bones.

Because all that was returned of Captain Bosiljevac was most of his skeleton, we can't know whether there was copper in any of his organs, muscles, etc. Thus, we can't know whether the copper reached his bones via ingestion or inhalation.

However, one medical expert has opined that if Mike had ingested or inhaled some form of copper pre-mortem, blood supply would have carried it throughout his body and thus the staining on his bones would have been more uniform.

So we can rule out ingestion and inhalation.

Because undisturbed copper does not decompose, it is very unlikely that direct metal contact with Mike's skin or bones is responsible for the 12,429 ppm. For example, copper bracelets that supposedly alleviate arthritis are frequently submerged in liquid, including salt water, with no decomposition being released on the skin.

But copper contact with liquid will cause that liquid to assume properties which, when in close contact with skin and/or bones will leave the kind of staining CILHI and Dr. Charney reported—albeit not in the huge ppm seen on Mike's bones.

Thus, given what is known about copper generally, and Captain Bosiljevac's bones in particular, the excessively high ppm count had to have come from skin and/or bone contact with a liquid that, in turn, had been in contact with copper.

The 12,429 ppm of copper found on Mike's bones could not have come, as some have suggested, from contact with the soil. According to the Environmental Bureau of Investigation, “[s]oil generally contains between 2 and 250 ppm copper, although concentrations close to 7000 ppm have been found near copper production facilities.”

3. Age at death. Dr. Charney was specifically asked to address the “age of death” question. In a supplementary report to Kay Bosiljevac a year after his first report, Dr. Charney said it was not “possible to *pinpoint* the age *to the year* [20] at the most when your husband died.”

Having said that, Dr. Charney proceeded to disagree with CILHI's determination that Mike was between 27 (his actual age at shoot down) and 30 when he died. Dr. Charney said that through a *general* examination of *random* bones Mike might appear to have been *between* 30 and 33 years old when he died. However, the close examination of *specific* bones would—and did!—reveal that Mike's age was closer to age 33 at the time of his death.

This was demonstrable, according to the pathologist, because CILHI had used the so-called T. Wingate Todd photographic comparative test rather than the more accurate Brooks test which Dr. Charney used. Indeed, Dr. Charney's 22 March 1989 report to Kay Bosiljevac stated categorically that “[i]n deciding to use the lower age estimate of 27 years, the federal (i.e., CILHI) officials are violating scientific analysis.”

If Dr. Charney was correct, this means that *Mike Bosiljevac was alive for about six years after he was shot down— from 1972 to 1978.* [21]

### **The Fifteen Missing Years: 1972-1987**

Sometime between Mike's 1972 shoot down and the six years he probably lived in captivity (until about 1978), *the Vietnamese or others were making some use of him.*

The Vietnamese know what was done to Mike, and by whom.

The autopsy done on Mike's skull/brain, and perhaps other parts of his body—whether or not they were routine procedure—was *for the purpose of informing the Vietnamese or others what caused his death.*

The Vietnamese know how Mike died.

The huge amount of copper found on Mike's bones after their repatriation in 1987 could only have accumulated there pre-mortem between 1972 and sometime in 1978 (perhaps as the result of some sort of *experiment(s)*), or post mortem between his death about that time and 1987 (perhaps in the communists' effort to *preserve his bones for later use*).

The Vietnamese know where that copper came from, and how it got onto Mike's bones.

But the Vietnamese aren't talking.

### **Footnotes**

[1] The Working Paper is available at <http://www.aiipowmia.com/reports/trnsfr.html>.

[2] Bold face in original.

[3], [18-18], [20] My emphasis.

[4] It is worth reminding the reader that from its inception in 1917 the Soviet regime thought nothing about starving to death millions of Ukrainians, massacring nearly the entire Polish officer corps in the Katyn Forest, and dooming countless men, women, and even children of all nationalities to slow death in the vast penal system known as the GULAG (including thousands and thousands of its own troops whose only "crime" was to have been captured by the Germans). To successive Soviet regimes, human life was of no consequence when measured against the needs of the omnipotent communist state.

[5] "Cuba's End Game in Vietnam," available at <http://www.nationalalliance.org/cuba/benge4.htm>.

A corollary to Mr. Benge's point, though beyond the scope of this paper, is that the political and bureaucratic control of the air war in Vietnam ebbed and flowed up and down the chain of command, ending in the White House—with President Johnson, Secretary McNamara, and other civilians selecting politically correct and acceptable targets much like children playing "war" in a cornfield.

That, however, wasn't the worst of how the air war was mismanaged. There was no *de facto* single air commander in the Pacific Theater, allowing Navy and Air Force rivalry to subvert mission effectiveness. Cowardly and politically correct rules of engagement, promulgated by civilian and military politicians and bureaucrats, often required pilots to acquire targets visually, with the predictably dangerous and frequently fatal consequences. Bombing sorties during Operation Rolling Thunder utilized aircraft—F-105s, F-4s, A-4s—ill-suited to the nature of the air war over North Vietnam. B-52 strategic bombers, with their all-weather and heavy bomb load capacity, were underutilized because Johnson and his advisors worried that our Soviet and Chinese "friends" would see their use as "too provocative." The problem of all-weather bombing was dealt with initially by use of a World War II radar system that had been "upgraded" in the 1950s and 1960s.

In short, in the air war over North Vietnam the civilian and military politicians and bureaucrats threw Navy and Air Force pilots and their crews onto what amounted to a human skeet-shooting range, where their chances of survival were not much better than clay pigeons. See Timothy N. Castle, *One Day Too Long, Top Secret Site 85 and the Bombing of North Vietnam*.

[6] Knowing that, before Mike left for Vietnam he made it clear to his wife that he would fight to the last fiber of his being before he'd cooperate with enemies of the United States.

[7] The following information was obtained from Lt. Col. O'Neil's debriefing after his repatriation and in a telephone conversation with the author on July 13, 2007.

[8] Regarding the time and circumstances of Mike's death, an explanation has been proffered by the Vietnamese that is necessary to expose because it is patently a lie and a ridiculous attempted coverup.

Bill Bell has written in *Leave No Man Behind* (page 242) that on September 24, 1987, on the tarmac at an airport near Hanoi during Mike Bosiljevac's remains repatriation, he asked Vietnamese Lt. Colonel Pham Teo—a communist apparatchik who had been involved with MIA issues for years, and the lowest ranking team member involved with the remains—"about the circumstances surrounding [Air Force Captain Michael J.] Bosiljevac's death, and unexpectedly he [Teo] provided some previously unknown information. According to Teo, Bosiljevac had in fact been captured alive, but by Chinese rather than Vietnamese troops. He then described how the Chinese troops, who were on a temporary assignment to defend the airfield, shot Bosiljevac in the chest shortly after his capture. CILHI forensic experts later confirmed that Bosiljevac's skeletal remains did have evidence of a bullet wound to the chest."

No one can quarrel with Bill Bell's veracity in recounting what Teo told him, but there are plenty of reasons to disbelieve what Teo said.

1. Immediately following the statement quoted above from Bell's book, he wrote: ". . . given that most Chinese troops had been withdrawn by this time [meaning September 29, 1972], and given the current enmity between China and Vietnam, *I was guarded regarding the veracity of this information.*" (My emphasis.)

2. Also dubious about Teo's statement was the American team from the Joint Casualty Resolution Center. Its report of 5 October 1987 noted that "[o]ther than the downing point [i.e., where Mike landed], no available data can confirm or refute Mr. Teo's explanation of the circumstances surrounding Captain Bosiljevac's fate.

3. In the same report it was further noted that Teo himself "emphasized that his information is hearsay, gathered years after the fact from local villagers presumably untrained in observing and reporting." Accordingly, then, it was local villagers who years before told Teo that Mike landed near an airfield and was shot in the chest by Chinese troops.

4. Communists lie about everything whenever it suits their purposes. On the POW/MIA issue, they have repeatedly lied about every aspect of it. Our not knowing *why* Teo would have lied to Bill Bell does not mean that Teo told him the truth.

5. Given the secrecy and duplicity the North Vietnamese (and Viet Cong) exhibited regarding prisoners and their remains, beginning with the French colonials, Teo would have had no motive to tell the truth about Mike, and every reason to lie. Indeed, retaining Mike's remains until 1987 was in itself a fifteen-year lie about Mike's POW/MIA status.

6. One important reason for Teo to lie would have been to float a cover story calculated to divert attention from whatever really happened to Mike.

7. Bell writes that Teo "then described how the Chinese troops, who were on a temporary assignment to defend the airfield, shot Bosiljevac in the chest shortly after his capture." Note the "temporary assignment" and "shortly after." This kind of specificity from a communist apparatchik—in an off-hand, brief conversation held on a tarmac during a remains repatriation, about an event that occurred some fifteen years earlier, and related to him by villagers—seems too contrived.

8. It was the North Vietnamese policy to capture, not kill, American pilots. It beggars belief that the Chinese policy would have been any different, and that they would have gratuitously killed Mike. The fact is that American airmen were worth more alive than dead.

9. As noted earlier, Mike would not have initiated a gunfight with Chinese troops armed with automatic weapons. He would have surrendered.

10. Teo's shot-in-the-chest revelation seems too specific. It would have been one thing for Teo to tell Bell that Mike was *killed*, even *shot*, by Chinese guarding an airfield, but Teo describing exactly *where* in the body Mike was shot seems like Teo was trying too hard.

11. Teo's shot-in-the-chest tale is implausible because of the damage to a human body inflicted by the *automatic* weapons used by the Chinese. Even one shot to the chest would have caused substantial damage, let alone several shots. Indeed, the use of *automatic* weapons bespeaks of more than one round hitting Mike (or any target).

12. Neither the government nor the private autopsy report even hinted of a bullet wound to Mike's chest or, for that matter, anywhere else on his body.

13. Long before Mike arrived in Vietnam he had resolved not to call for a rescue attempt if he was shot down, so as not to expose the rescuers to danger. This suggests that if Mike could not have evaded capture, he would have surrendered rather than initiating a gunfight that he had no chance of winning. Indeed, in a related context, before Mike left for Vietnam he told his wife that, because of a sad and traumatic family event that had occurred earlier, under no circumstances would he take his own life.

14. Teo expressly contradicted what he told Bell, and on the very same day. An official U.S. government report of September 29, 1987 states that Teo had this to say: "In the case of Bosiljevac (REFNO 1930) he was wounded when his aircraft was hit approx 12 to 13 km from Ha Son Binh provincial town. He was able to eject from his aircraft and was captured shortly after he landed. He lived for several days during which time he was provided medical care but died due to his wounds." A subsequent report amended this statement to read: "Due to his extremely severe injuries the pilot died on 2 October 1972. His identification card and Geneva Convention card were recovered." At another time, the Vietnamese claimed that Captain Bosiljevac died on 3 October 1972.

15. There are at least five facts that cut against Mike having been wounded when he ejected, let alone that he died "due to his wounds": (a) The SAM missile did not strike the aircraft; (b) Mike and Jim exited the aircraft before it exploded; (c) Jim was not wounded; (d) Jim saw nothing in Mike's descent to indicate he was injured; (e) Jim did see that shroud lines on Mike's parachute had been manipulated, and if Mike had been wounded during ejection he likely would not have been able to control his parachute during the descent.

16. Teo was apparently enamored of the "Chinese shooting" tale, because he used it at least two other times.

Regarding Air Force Captain Roger E. Behnfeldt, Teo reported that the officer "did manage to eject, but was killed by Chinese military personnel working on a rail line in the area."

In another JCRC report, it is stated that Teo said that "after Behnfeldt landed he was surrounded by Chinese military personnel who were working on a rail line in the general area."

Embellishing the story and adding more specificity, Teo somehow knew that when this had occurred on October 7, 1967—twenty years before repatriation of Behnfeldt's remains on September 24, 1987—"the Chinese troops shot him six times with 'AK' rifles and once with a pistol."

Even this wasn't the end of Teo's detailed recital of the Chinese troops' alleged conduct two decades earlier: "They [the Chinese] then removed his clothing and all personal effects which they retained. For this reason there were no identification media available on this case."

Elsewhere, other Vietnamese reported that as to Behnfeldt: "The army and populace captured alive one pilot—name unknown—and took him away. The remaining pilot was unable to parachute from the plane and burned to death in it. (His identity card and convention card were recovered.)"

According to a Defense Intelligence Document, the Vietnamese reported that F-105 pilot Major Wayne E. Pullam was shot down on 7 October 1967. According to the communists, "[w]hen the plane was hit, the pilot parachuted to the ground and injured his right thigh. The local areas populace bandaged his wounds, and then *Chinese troops arrived and fired six AK submachine gun rounds into his chest and one pistol round into his head.* The Chinese gathered up all of his papers [which were apparently more valuable to them than a live Major Pullam]."

At another time, the Vietnamese claimed that Pullam "was wounded when his aircraft was hit over the Dong Son area of Ha Bac province. He was able to eject from his aircraft but was dead when he landed due to his wounds."

17. As to Bill Bell's statement that the Army's "CILHI [Central Identification Laboratory Hawaii] forensic experts later confirmed that Bosiljevac's skeletal remains did have evidence of a bullet wound to the chest," there are several things to be said.

Bell does not remember who confirmed Teo's story, or when. Bill Bell does remember, however, that there were CILHI people on the tarmac when Teo told his story, and according to Bell they may have overheard it.

More important is that not one person at CILHI or anyone else ever told Kay Bosiljevac that Mike had been shot in the chest. More important, still, is that neither the CILHI nor private autopsy reports even hint at a bullet wound(s) to Mike's chest. Lacking irrefutable evidence that CILHI possessed *independent* evidence that Mike had been shot in the chest, we have every right to believe that its personnel were merely repeating the Teo story they had heard elsewhere.

18. Mike could not have come down on an airfield. For one thing, Jim O'Neil has said that he didn't see one in any direction. For another, according to official topographical maps the O'Neil-Bosiljevac F-105G aircraft went down at coordinates 210200N-1052200E—at the Ba Vi mountain, whose peak is at 4252 feet above sea level—and these coordinates are on the south side of the mountain at an elevation of 625 feet. Hardly a propitious location for an airfield.

19. As if any of these reasons alone, let all of them cumulatively, are not enough to prove that Teo was lying, this last one is conclusive: If the Chinese killed Mike with a shot(s) to the chest *there would have been no reason to autopsy his body in general and his skull in particular, and to remove his brain*, all of which is discussed below. It would have been clear what killed him.

[9] In an April 10, 1981 letter to the then-mayor of Omaha, Nebraska, Raymond F. Burghardt, Acting Director of the Office of Vietnam, Laos, Kampuchea Affairs, wrote that after Captain Bosiljevac was captured "he was never seen by any other American prisoners."

[10] The redacted document is in the possession of the author.

[11] Emphasis added. Several months later, Kay Bosiljevac found the package on her doorstep. It had been dumped there by a young man wearing a ponytail, who quickly ran down the block and jumped into the back seat of a black sedan. The package bore East German stamps, and its contents had been disturbed. The family photographs had been copied, and the originals were missing.

[12] A United States government document (probably originated by MIA-searchers) dated May 27, 1987, just four months before Mike's remains were repatriated, states that his "detaining power" is "North Vietnam." Because by that time the government had changed Mike's status from MIA to KIA even though no one on the U.S. side knew whether Mike was alive or dead, it is puzzling, to say the least, that an official U.S. government document apparently recognized that North Vietnam still held either Mike himself or his remains.

[13] Adding grievous insult to incalculable injury, the American Representative of the U.S. Joint Casualty Resolution Center was required by the Vietnamese to sign a receipt for the three remains and to acquiesce in the following statement: "The representative of the U.S. Joint Casualty Resolution Center has received all the remains of the above-mentioned three (3) American servicemen and highly appreciated [sic.] the humane policy and goodwill of the Government of the Socialist Republic of Vietnam."

[14] A discussion of CILHI is beyond the scope of this paper, except to note that until the laboratory was investigated and reformed well after the Vietnam War, the facility was, at best, wholly incompetent and, at worst, actually fraudulent in some of its identifications of servicemen's remains. For a devastating account of CILHI's shortcomings, see Susan Katz Keating's *Prisoners of Hope*.

[15] My emphasis. The primary purpose of an autopsy is, of course, to ascertain the physical condition of the body at time of death and to establish what killed the deceased. Accordingly, whether the autopsy of Mike Bosiljevac's body was instigated by the North Vietnamese or by an ally of theirs, the fact is that communists—be they Soviets, Chinese, Cubans, Czechs, East Germans, North Koreans, North Vietnamese—had a vested interest in knowing what someone had done to kill him.

[16] My emphasis. This description is quite different from what Bill Bell sometimes observed in Vietnam on recovered American bodies: remains with green tint only "here and there," which he believes may have been from copper sulfate leaching from the soil where bodies were buried by the Vietnamese. Copper sulfate that infiltrates human bodies in the earth appears in very low concentrations.

[19] The report adds that the count "can go as high as 100 ppm in special cases."

[21] 1978—coincidentally or not—was the year that for "administrative" reasons the Air Force changed Captain Bosiljevac's status from Missing-in-Action to Killed-in-Action.

---

*Henry Mark Holzer, professor emeritus at Brooklyn Law School, is a constitutional and appellate lawyer. His most recent book 'The Supreme Court Opinions of Clarence Thomas (1991-2006)' has just been published. He maintains a website at [www.henrymarkholzer.com](http://www.henrymarkholzer.com)*

## Part 5: Conclusion

USA Henry Mark Holzer, Featured Writer

November 30, 2007

In its 1978 reclassification of Mike from Missing in Action to Killed in Action—a gambit that saved the government a lot of money—the United States Air Force effectively wrote him off, literally and figuratively.

Even though from time to time tireless MIA-seekers like Bill Bell would make inquiries to the Vietnamese about Mike Bosiljevac's status, after 1978 our government officially would no longer make serious efforts to ascertain whether he might still be alive, or even whether he had lived for some time after his 1972 shoot down.

Officially, as far as the United States government was concerned, as of 1978 Captain Michael Joseph Bosiljevac was, literally and figuratively, a dead man—and thus, except for the annoying question of what had become of his remains, no longer a “controversial” problem for either this country or the Vietnamese.

Accordingly, it was no longer of interest to the Air Force or the Pentagon whether Mike had been held captive in Vietnam or Shanghaied to another communist country. Nor was our government concerned about when the young Air Force officer had died, why his bones exhibited huge concentrations of copper, or why an autopsy had been performed on his body or by whom.

Despite the government's long-standing indifference, however, whether one applies a legal, common sense, or any other standard of proof to the incontrovertible facts presented above, there exists a powerful—*albeit circumstantial*—prima facie case that perhaps for as long as six years Mike was squeezed for his atomic/electronic warfare intelligence value, and/or that, for reasons the Vietnamese will still not reveal, he was exposed to a copper-containing substance that caused a massive amount of parts-per-million to accumulate on his bones. Indeed, when the communists were finished using Mike, they apparently found it necessary to perform an autopsy to ascertain the exact cause of his death.

Because “prima facie” means “on its face”; or “apparent, clear from a first impression”; or “sufficient in law to establish a case...*until disproved*,” [1] in light of the facts presented above the burden of proof has *shifted* to the communist Vietnamese to rebut the prima facie case that this paper makes against them.

An understanding of burden-of-proof and burden-shifting is of the utmost importance because since 1973 the survivors of some unrepatriated MIAs have unnecessarily taken upon themselves the burden of establishing whether their loved ones were either alive or dead. This burden, however, is not *theirs* to shoulder. *It is the Vietnamese who have the burden of explaining what happened to these men—and to Mike Bosiljevac.*

Thus, invoking burden-of-proof and burden-shifting is not just some clever legal tactic, a lawyer's use of smoke and mirrors. Burden-of-proof, and burden-shifting, are basic tenets of legal argument and proof.

This means that because there is a strong circumstantial case explaining what happened to Mike Bosiljevac, that case will stand as condemnation of the Vietnamese until *they* convincingly rebut it.

It stands because the Vietnamese, and possibly some ally of theirs, know very well what happened to Mike during the fifteen long years between his shoot down and repatriation of his remains.

It stands because the Vietnamese's sometimes silence, sometimes dissembling, for those fifteen years, and for twenty more since Mike's remains were repatriated, is a virtual confession that they do, indeed, have something to hide.

It stands because recently Kay Bosiljevac has recently again demanded to know from the Vietnamese what happened to her husband, and yet again the communists have remained indifferent and stonily silent. [2]

There is one more important point to be made about burden-of-proof, because the shifting of that burden bespeaks of something else that needs to be considered concerning the fate of Mike Bosiljevac: *The Vietnamese are not the only ones obliged to rebut the prima facie case of what happened to him.*

So, too, are those individuals in the United States, *including former Vietnam prisoners of war*, who believe differently— those who contend that everyone who was supposed to come home in 1973's Operation Homecoming actually was repatriated, that Operation Homecoming closed the books honestly on Vietnam War POW/MIAs, and that all questions have been answered about what happened to the hundreds or perhaps thousands of Americans who vanished somewhere in the mists, jungles, and mountains of Indochina.

Before these disbelieving naysayers dismiss out-of-hand the prima facie case that this paper presents against the Vietnamese, the doubters in this country must themselves advance a more plausible explanation of what happened to Captain Michael Joseph Bosiljevac, United States Air Force, in that hostile, far off land where proudly he went to serve his country.

*They, and the Vietnamese communists, have to explain how the Air Force captain of 1972 was turned into the copper-stained skeleton of 1987.* [3]

#### Footnotes

[1] *Encarta Dictionary*; my emphasis.

[2] This is her unanswered letter:

August 10, 2007

Mr. Pham Van Que  
Vietnamese Office Seeking Missing Personnel  
Hanoi, Vietnam

*Mr. Pham Van Que,*

*My name is Kay (Bosiljevac) Schneider, and I am writing to you with a demand for information.*

*Major Michael J. Bosiljevac, USAF, was my husband.*

*On September 29, 1972 he and his pilot were shot down and landed on the south slope of Mt Ba Vi. Vietnam announced his capture, and that of Col. O'Neil, who was released on the 29<sup>th</sup> of March in 1973.*

*On 24 September 1987, your government released my husbands remains to U.S. control.*

*I remember well receiving correspondence from the Vietnamese Embassy in America, and I will send this letter to you, through Nguyen Tam Chien.*

*The lack of an accounting is a raw nerve to most Americans. Flags, posters, car stickers can be seen in every State, even California. The answers must be given by your government.*

*My purpose in writing to you, is:*

*I want to know how my husband died, when, and where.*

*I demand a copy of all of the autopsy information, which should be in your possession.*

*By the way, it will not suffice to repeat the story that Michael was killed by Chinese troops. This story has been proven to be false, and apparently repeated frequently in other cases.*

*I am sure you are aware of the great concern of the American People with regard to our missing servicemen. Some thirty-four years after Operation Homecoming, the signs of the concern of the American People are common. POW/MIA information is visible, all over this country.*

*/s/ Kay Bosiljevac-Schneider*

*Mrs. Kay (Bosiljevac)-Schneider  
Omaha NE  
68107-1021*

[3] I am indebted to Kay Bosiljevac for much of the information contained in this paper about Michael Bosiljevac. She has suffered greatly at the hands of the Vietnamese and her own government, but she has not given up. Nor, I believe, will she abandon her quest while there is even a scintilla of hope that someday the truth will emerge.

---

*Henry Mark Holzer, professor emeritus at Brooklyn Law School, is a constitutional and appellate lawyer. His most recent book 'The Supreme Court Opinions of Clarence Thomas (1991-2006)' has just been published. He maintains a website at [www.henrymarkholzer.com](http://www.henrymarkholzer.com)*