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SECRECY & GOVERNMENT BULLETIN

To Challenge Excessive Government Secrecy and
To Promote Public Oversight and Free Exchange
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POW/MIA Secrecy

"Nothing has done more to fuel suspicion about the government's handling of the POW/MIA issue than the fact that so many documents related to those efforts have remained classified for so long," according to the massive final report of the Senate Select Committee on POW/MIA Affairs, released last month (Sen. Rep. 103-1).

The secrecy that until recently surrounded most government files on POW/MIAs is perhaps unique in terms of its cruel consequences for POW/MIA families. Arguably, in several cases, government secrecy on this issue directly obstructed the identification and recovery of missing American soldiers, particularly those held captive in the Soviet Union. (See *Soldiers of Misfortune* by James D. Sanders, Mark A. Sauter, and R. Cort Kirkwood, National Press Books, 1992).

In other respects, however, the POW/MIA secrecy problem holds familiar lessons for the larger issue of uncontrolled government secrecy.

1. Secrecy enables government officials to falsify the historical record, and they sometimes do.

Where there is smoke, there is not always fire, and many of the conspiracy theories circulated by POW activists are demonstrably untrue. Some individuals have even exploited the hopes and fears of POW/MIA families for financial gain, as described in the Senate Committee report.

But at the same time, it is now clear that some government officials over the years have exploited the classification system to mislead the public about the POW/MIA issue.

Thus, as Senator Bob Smith (R-N.H.) delicately put it, "The public should realize that the findings of the Committee concerning evidence of Korean War POWs who did not return contradict statements by U.S. Government officials in recent years."

2. The classification system promotes permanent classification of records.

President Reagan's Executive Order 12356, which remains in force today, directed that information should be declassified "as soon as national security considerations permit."

This instruction is violated more often than it is fulfilled. Reagan himself undermined the declassification process by abolishing automatic declassification and eliminating the requirement for agencies to conduct systematic declassification review.

Thus, the Senate Committee found that no government agency or department "was systematically reviewing classified POW/MIA related information with a view towards determining whether that information should be given to families. This apparent government-wide failure to even consider declassifying POW/MIA information was inconsistent with the requirements of

Executive Order 12356 [that information be declassified as soon as national security allows]."

Following repeated overtures by Committee members and the full Congress, President Bush issued Executive Order 12812 last July 22 ordering declassification review of information relating to POW/MIAs in Southeast Asia "in accordance with the standards and procedures of Executive Order No. 12356."

In other words, President Bush had to issue a new order to require that the requirements of a previous order should start being implemented a decade after they were issued. The Bush Order did not establish any new declassification criteria, it merely directed that existing standards should finally be observed, at least with respect to this narrow issue. This of course is an implicit acknowledgement of the failure and bankruptcy of the classification system based on E.O. 12356.

Even so, the Pentagon still interprets last summer's Bush Order as applying only to Vietnam-era POW/MIA files. A FOIA request from author Mark Sauter for 40 year old Korean War POW-related files stored at the National Archives was denied by the Army in December 1992. The Army refused to declassify some 900 pages of documents dating from 1952 that Sauter had requested.

3. Government secrecy undermines government credibility and poisons political discourse.

According to Senator Herb Kohl (D-Wis), "It is clear that our government did not reveal everything that was known and was less than truthful when it talked publicly about POWs and MIAs at the end of the Vietnam War. As a result, when people charge that there was 'a government conspiracy to hide the truth from the American people,' there is at least some factual basis for their belief."

Although Kohl prefers to say that the government "did not tell the whole truth" rather than the government "lied," he acknowledges that the resulting credibility problem is about the same. "Why should people believe we are telling the truth now about how we misled people in the past?"

The answer, Kohl says, is that in this case "we are making virtually all the information upon which we relied available to the American people. They do not have to believe us: they can read the same records we did."

The implication, however, is that when information is not made available, there is a powerful evidentiary basis for believing that government "does not tell the whole truth." Given the vast expanse of government secrecy, this is a damning assertion.

And it is not without consequences for public debate. In the POW debate, all kinds of scurrilous charges have been leveled against all kinds of people, to the detriment of rational argument. According to a rather condescending article in the *Washington Times* (8 February

1993, p. D1), "Nothing is too crazy or unbelievable to those held hostage by the [POW/MIA] issue," which has become "a lightning rod for weirdness." Last December, for example, a fistfight erupted in a Senate Office Building between a staffer and a POW activist.

By its complacency and willful inaction, the government secrecy bureaucracy has encouraged this degeneration of political discourse.

4. It takes scandal to compel government action.

The Senate Committee is entitled to the self-satisfaction it displays when it reports that "The result of the Committee's efforts has been the most rapid and comprehensive declassification of materials on a single subject in American history. More than one million pages have already been declassified and the Committee is confident that remaining documents will be made available."

Unfortunately, however, the Committee did not even ask the larger systemic question of why its investigation was needed in the first place. Why is it that huge volumes of aging government documents are still kept secret?

By focusing on a narrow, if important, problem, and only after years of public outrage, the Committee brought about only a narrow solution.

As in the JFK assassination controversy, the disgraceful lesson seems to be that if you want to obtain improperly classified government information-- and you don't have access to classified leaks from the Executive Branch-- you have to create scandal, you have to make wild accusations, you have to circulate conspiracy theories, and maybe even stage a fistfight in the Senate. Mere reason is impotent.

The Clinton Administration has not yet weighed in on the problem of excessive government secrecy, although a new draft Executive Order is in the initial stages of preparation.

LOFTY THUNDER: Busted

Does the Defense Department establish one secret nuclear rocket program after another just so that public interest groups may have the satisfaction of exposing them? Probably not. But there they are.

Recently, the traces of yet another black Air Force nuclear rocket development program have been detected. It is called LOFTY THUNDER and it was established as a successor, along with the unclassified Space Nuclear Thermal Propulsion program, to the failed Timberwind nuclear rocket program.

The status, budget, and precise focus of LOFTY THUNDER have not yet been leaked. Because it is an unacknowledged special access program, the Air Force will "neither confirm or deny the existence or nonexistence" of the program, which is their way of confirming its existence.

Back in the USSR

Meanwhile, a US industry and government delegation to the former Soviet Union last fall discovered the decaying remnants of a vigorous nuclear rocket program.

"Perhaps the most surprising facility we visited was the NRE [Nuclear Rocket Engine] production facility under construction at SF Nikiet, Zarechny.... It is clear that the USSR had plans to produce significant numbers of NREs and not just a few for Mars exploration! My best guess is that they had plans for military use of these systems," according to an internal government trip report.

At another facility where nuclear engines were being ground-tested in the 1980s, "a concrete building" was placed over the facility by a large crane "when US reconnaissance satellites were moving overhead."

The trip report also mentions aircraft nuclear propulsion, asserting that "Unlike the US, the USSR actually flew (36 flights in 1962) a reactor on board a

military bomber." In fact, however, the US conducted multiple flights of a GE test bed reactor aboard a B-36 aircraft beginning in September 1955.

Black Programs Evade Live Fire Test Law

Not only do highly classified weapons acquisition programs receive sharply diminished oversight, they also evade important quality control measures like those required by the Live Fire Test (LFT) law. That law, which entails subjecting a system prototype to simulated enemy fire, is intended to discover design weaknesses early in a program's development phase so they can be remedied before the system enters full scale development. But "black" programs, like the failed A-12 naval aircraft, are apparently exempt.

"The A-12 was a highly classified program and, therefore, it was not a covered system according to the LFT law," notes a National Research Council committee in a new report entitled "*Vulnerability Assessment of Aircraft*."

"The committee is concerned that future black programs will face the same problems with respect to the LFT law that occurred with the A-12." (p. 46).

The Live Fire Test law was passed in 1987 after the U.S. Army was accused of not conducting realistic vulnerability testing of its Bradley Fighting Vehicle (*Aerospace Daily*, 1/29/93, p. 162).

"Non-Lethal Weapons" Enter the Black

An illuminating article in *Defense Electronics* (February 1993, pp. 41-46) surveys the field of "non-lethal weaponry" and reports that several formerly unclassified aspects of this class of emerging technologies have been retroactively classified.

Curiously, the new secrecy has stymied advocates of non-lethal weaponry, who claim their efforts to promote the technology have been frustrated by Pentagon officials who do not want to draw attention to it.

"They absolutely do not want any kind of Congressional oversight, no accountability, because they are scared to death that [Rep. Patricia] Schroeder will get hold of it and use it to gut the DOD budget," said Chris Morris of the U.S. Global Strategy Council, a proponent of non-lethal weaponry (DE, p. 43).

Among the new technologies are laser rifles and other "non-lethal, temporary performance degrading, anti-personnel optical munitions," and non-penetrating, high frequency "acoustical bullets," that cause blunt object trauma "like being hit by a baseball."

DOE Fusion Power Secrecy Persists

The newsletter of Fusion Power Associates (February 1993) reports that excessive Energy Department secrecy continues to obstruct the development of inertial confinement fusion (ICF) for energy.

"David Banner, head of the physics section, International Atomic Energy Agency in Vienna, speaking at FPA's annual meeting, stated the agency was engaged in coordinating activities among the nations working on ICF, including preparation of a book on inertial fusion. U.S. classification policy has been a major impediment to international collaboration in this field, he said."

The FPA newsletter also reports that former Energy Secretary Watkin's long-promised declassification action on inertial confinement fusion was scuttled by the National Security Council.

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