

## Colonel and Mrs. Earl P. Hopper, Sr.

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The United States Air Force Mortuary Affairs office has provided you the "briefing book" compiled by the Central Identification Laboratory, Hawaii (CIL-HI) regarding the case of our son, Lt. Col. Earl P. Hopper, Jr., United States Air Force.

This briefing book outlines their premise that Earl P. Hopper, Jr. died in the crash of his F-4D aircraft on 10 January 1968. It outlines CIL-HI's case that Earl P. Hopper, Jr. should be reclassified "Body Returned/Recovered" based on the identification of 5 teeth/parts of teeth and 23 small unidentifiable bone fragments, some of which may not even be human, that were recovered during the crash site excavation.

All experts agree that the 23 bone fragments cannot be identified and are not relevant to the identification of remains in this case. The 5 teeth/parts of teeth do match Earl P. Hopper, Jr.'s dental records. There is no discrepancy with that identification. However, it is our contention that while the teeth are his, they do NOT constitute his total mortal remains and he should not be declared accounted for based solely on them.

We believe the case we lay before you will provide ample evidence in the form of US military documents and documentary intelligence that Earl P. Hopper, Jr. survived the loss of his aircraft, was alive years later and our government knew it then and knows it now.

Once again we find ourselves in the difficult position of proving Lt. Col. Earl P. Hopper, Jr. did not die in his loss incident.

The only item that identified this crash site as the wreckage of Lt. Col. Hopper's aircraft is an engine plate bearing the serial number of the left engine. This plate was not found on the engine, but at least 30 feet away from where it originally sat. According to a local farmer who was interviewed by JTFFA personnel, the engine was rolled downhill years after the loss in preparation for him to farm the area.

Four of the five teeth/tooth fragments do match to Lt. Col. Hopper's dental records, we all agree on that. There are no records to compare to the fifth tooth fragment, the front facing only of the #8 tooth. According to our experts, they have never seen teeth that match so completely as these. The question is not are these his teeth, the real question is under what circumstances did they come out of his head? The question also arises because the teeth match the records so accurately and completely using the most advanced computerized three-dimensional comparison method, where have they been all these years? Certainly, if they had been exposed to the elements for all these years, one would expect to have a normal amount of deterioration that would have altered the shape of the teeth, especially the roots, to one degree or another making such an exact match questionable if they had been in the ground for such a long period of time.

The USG's contention is that Earl P. Hopper, Jr. was not able to eject his crippled aircraft and died in it when the Phantom impacted the ground. They further imply that the wreckage and equipment found had been burned or scorched by fire that happened at the time of loss. The reality is this aircraft crash-landed in this area because it simply ran out of fuel. The fire damage was done years later by the local farmer who employed "slash and burn" farming procedures, not because the Phantom "crashed and burned" as government personnel would now like us to believe. Only this meager amount of human material supports their case.

It is our contention that regardless of whether Earl ejected from the aircraft at altitude or rode it down, he survived his loss. We intend to lay out the US military intelligence trail that supports our position from date of incident through May 1984 when he was reported to be one of three American Prisoners of War that could have been returned to US control at that time. But first, please take a look at the government's case from another perspective.

### **The USG's case**

This is the third crash site identified by JTFFA personnel as the wreckage of Rematch 3, the call sign of Earl's aircraft. While there is no known connection between this loss and the first two crash sites, information gathered during those

other JFA's has been incorporated into DPMO's scrub sheet, which is used by all USG agencies and laboratories as the ready reference containing a history of the case.

The DPMO analyst who prepared this scrub sheet is Malinda Cook, one of the holdovers from the old DIA analytic section that was taken in tact in its entirety from DIA and put under DPMO. The old DIA analytic section, including the people who staffed it, was commonly referred to by many knowledgeable family members and concerned citizens as "The Snake Pit."

To tell you the truth, it was not until preparing this rebuttal package did we really examine the data presented in the scrub sheet in depth and in relation to the JFA field reports. As two individuals with years of knowledge and experience in this issue on many different levels, we can categorically state that Malinda Cook's work ethic and ability as an "analyst" leaves much to be desired. We are including our bios for your review so you will have an understanding of who we are.

For example: The reference to "a redheaded pilot" being captured is from a witness statement taken during the survey of the second crash site that was identified as this aircraft. If this report relates to this aircrew, then it could only be documenting Earl's capture. The aircraft commander, Keith Hall, had sandy blond hair with no trace of red in it. Earl, on the other hand, had brown hair with distinctive auburn tones to it. Further, when he spent a good bit of time in the sun, it brought out the auburn highlights even more.

To an Asian, of the two men involved in this incident, Earl could have been the one they would have considered a "redhead." Further, the actual physical location of each man once on the ground placed them miles apart. The other pilots' witness statements referencing "beeper signals coming from two different locations" also support this.

Ms. Cook combines accounts from different witnesses into this Scrub sheet in a manner in which it makes it sound like all information gathered is about the same aircrew, the same crash site and the same series of events. This is a figment of her warped and less than honest imagination. We know Malinda Cook and have dealt with her both directly and indirectly for many years. Our opinion of her is based on her caliber of work as well as her well-established work ethic. Or more to the point, her well-documented lack of work ethic.

Another glaring example of the commingling of data from the three different crash site surveys/excavations is found in the statement that the witness who saw the redheaded POW after capture is the same witness who originally found the last crash site after searching for it for seven years. The witness says – or at least according to Malinda Cook's version of his story – "he found a helmet there, a badly burned parachute and seat, and a pistol, all of which were given to district authorities." According to the scrub sheet, "He said he also found a small unidentifiable bone fragment, which he later lost, near the wreckage."

When you review the different crash site field reports, please note that the helmet, pistol, burned parachute and seat reportedly found by this witness were found at a totally different location and not the location of the third crash site, which is the site now attributed to Earl's aircraft.

From the same paragraph in the scrub sheet, "Second witness learned of wreckage in 1977; was one of several who scavenged the site. Said wreckage was strewn over a 200 meter area; large portion appeared to have been washed away." There is no question this information is not connected to the last crash site, which is the site now designated to be the wreckage of Earl's aircraft.

We strongly recommend you examine all the JFA field reports relating to the search for the wreckage of Earl's aircraft and the three different sites that at one time or another were believed to be connected to his aircraft's wreckage. Please pay close attention to the location of all three sites and the data gathered in association with each one. Then compare that information to the convoluted nonsense presented in the scrub sheet by Ms. Cook.

Another misrepresented piece of information incorporated into the scrub sheet is the phrase "before entering a 5,000-foot undercast of clouds, the aircraft broke into three large pieces." That is a mutated, convoluted statement made by only one of the other six pilots in the other three aircraft of Rematch flight. If that statement is correct and accurate, then how did those "three large pieces" with different weights, shape configurations, and glide ratios fall over 5,000 feet and come to rest in exactly the same small well-defined area? Another pertinent question, if it broke up at altitude, why didn't the aircraft go into a steep dive and immediately crash? It certainly would not have glided to a landing as it obviously did. Remember, the F-4 was nicknamed "The Flying Brick" for a very good reason. If it had no power, it had no glide configuration at all.

JTFFA excavated this site, which is the last of the three sites associated with the wreckage of Earl's aircraft, 5 times. The teams' found/recovered cockpit-related items, both engines, both afterburners, the tailhook assembly, one of the main

landing gear struts, both wings, the main stabilizer fin, the elevators, etc. – in other words, a whole aircraft. This is a very shallow crash site wherein the aircraft did not burrow in at high speed, but rather “landed,” or more accurately “pancaked in,” on the steep hillside.

During the 44<sup>th</sup> JFA, the first trip into this site, it was surveyed and nothing found that would identify the wreckage as anything other than that of an F-4. There is no indication that the two engines were examined for data plates to confirm the identity of this site wreckage.

During the 45<sup>th</sup> JFA, the second trip into this site, the team found two teeth (#11 and #29) along with a small clump of dirt and a small piece of melted plastic that they misidentified as bone fragments. CIL-HI staff rapidly caught that error. The team also allegedly found the engine plate referenced earlier. However, there is no indication that the engine plate was compared to either engine to see if its tear markings fit the tear markings on the engine itself. Likewise, there is no indication that either engine was ever examined for data plates.

From the time we received the 45<sup>th</sup> JFA report, we have frequently asked verbally and in writing if that engine plate was taken over to the engine to make sure the corner markings, which are held in place by very sturdy brads, matched up? To date we still have not received an answer to that simple question. In fact, to our knowledge, neither engine was ever examined for engine plates. There is no record of it. Every time we have asked about an engine plate being found on the other engine, we receive no answer beyond, “We don’t know.”

***In reviewing the 45<sup>th</sup> JFA field report and Air Force Casualty’s cover letter while preparing this rebuttal package, we found that in the cover letter dated February 18, 2000, the engine number is given as “GE-E-439906.” On the last page of the 45<sup>th</sup> JFA field report, the serial number is given as “8439953” or “E439953.” This reference is made in such a manner that it is easily passed over. It also begs the question, were the engines actually examined and this number found on one of them? If that is the case, then that number categorically documents that fact that this aircraft wreckage does not correlate to Earl’s Phantom. And if that is the case, then how did Earl’s teeth/parts of teeth get into this site area? And where did the engine plate bearing the correct number of the left engine come from?***

***A second question raised by wording in the Air Force Casualty cover letter dated February 18, 2000, states, “when items are sent to LSEL, the artifacts are disassociated with their location; this information subsequently lost.” This breaking of the “chain of custody” for all recovered items flies in the face of all normal accepted chain of custody practices. This is true of any field investigation whether it be conducted by a police department in relation to a crime or USG agencies in search of answers in POW/MIA field investigations.***

During the next three JFAs – the 48<sup>th</sup>, 49<sup>th</sup> and 53<sup>rd</sup> – to our knowledge no one ever examined either of the engines for data plates. During the DPMO update that was held in Las Vegas in January 2001 we met with Col. Dave Pagano, the commander of CIL-HI and Mrs. Ann Bunch, the anthropologist who participated in 2 of the 5 site excavations. Once again we asked if the engines had been examined at any time. Once again the answer was “I don’t know.” Ann Bunch stated that “this is an extremely steep site area, and possibly the reason for not examining the engines could have been because the team leader did not want to put any team member in danger of being hurt if the engine accidentally became dislodged during an examination.”

One of the items we are submitting to you is a videotape made by one of the JTFFA team members that contains about 10 minutes of footage shot at this crash site. When you review it, you will see that one engine is lodged in a clump of bamboo and the other is sitting in the open on a relatively flat section of ground. Both engines are readily accessible and neither is in a dangerous position. Further, this videotape shows all the major aircraft components resting in this small well-defined location thus graphically refuting the story that the aircraft broke into 3 large pieces at altitude or that it made a “high speed impact landing.”

One last point before we move on. After the 45<sup>th</sup> JFA was completed, the field report stated absolutely and unequivocally that the data plate “exclusively correlated this site to Refno 0981.” We were told there is no question this is the wreckage of Earl’s aircraft, the engine data plate proves that without question. However, in the last three JFA reports, each one states, “there is nothing that exclusively correlates this site to Refno 0981.”

The attitude of the ranking JTFFA personnel who attended the National League of Families of POW/MIAs annual meeting that followed the conclusion of the 45<sup>th</sup> JFA is another relevant factor you should be made aware of. We were flatly and emphatically told the site is his, the two teeth are his, he is dead, accept it, and his advise to us was to move on – period. These statements were made long before JTFFA’s work was completed and any material evidence examined. They may have been made because that person truly believed what he was saying, or they could have been made to “help the

family adjust to the concept that their son was really dead.” They could have been made for a variety of other reasons, too. However, the only affect of those statements was to strike terror in our hearts.”

During the last three JFAs, three more teeth fragments (#8, #18 and #19) and 23 extremely small and unidentifiable bone slivers and fragments were recovered along with wreckage and life support equipment. You have LSEL’s evaluation of that material before you as part of the government’s case. In addition to discussing what was found and recovered, we intend to address what was not found.

In every other field report we have read from other crash site excavations where multiple JFAs are involved, and we have read many, there is always reference to item(s) found during previous JFAs that confirm the identity of the site to the specific Refno. That is standard operating procedure. This begs the question, why the reversal? Why were they so absolutely positive of the identification of this wreckage being from Earl’s Phantom based on the data plate in their report after the second JFA, then very tentative and uncertain in their wording after the third, forth and fifth JFAs? What did they discover that obviously set them back on their psychological heels?

### Items found

Non-human items found that supports the USG’s premise are “from head to foot.” On the face of it, and based on these items, it appears that one crewman was in the aircraft at the time it found its final resting spot. These items include:

- Helmet chin and nape strap pieces
- G-suit material
- Digital zippers/zipper teeth from a flight suit
- Portions of a web belt
- Part of a harness
- Parts from a survival vest
- Metal boot plates from a pair of jungle boots
- Parts from an ejection seat
- Assorted buckles, etc.
- A glove – or part of one – with “possible soft tissue attached”
- The major portion of a mangled RT-10 radio

Now, look at it from another view. This is all generic material that constitutes items of convenience. There are parts of a helmet chin and nape strap, but no other part of a helmet. No shards of plexiglass from the helmet’s visor. No pieces of the helmet itself. There are a few metal artifacts from an oxygen mask and the microphone assembly that is part of it, but no oxygen mask or oxygen hose.

There are the metal insoles from a pair of jungle boots (flight boots?), but there are no pieces of canvas, leather or rubber from the soles. There are eight metal boot eyelets and an extremely small piece of the interior heel padding, but nothing else.

There are small pieces of G-suit material, but none of the standard metal hooks and snaps or other fasteners. The same thing holds true of the web belt, harness and survival vest. There are no pieces of cloth stitched to the small sections of zipper as has been commonly found at other crash site excavations where this type of material is present.

Why were certain pieces of all these “head to foot” items found while other parts, which are just as strong, durable and critical, not recovered? Logic dictates that a helmet, or pieces of a helmet, is much more durable than a helmet chin or nape strap. Logic dictates that at a minimum other parts of boots would have survived and been recoverable if the metal boot inserts were found.

All of the buckles are generic in nature. All are corroded, but none of them are bent or mangled in any manner, way shape or form. Certainly some would have been torked or bent out of shape in some manner in a crash or crash landing particularly when restraining a 185 to 200-pound pilot.

The seat parts that were recovered add another dimension to the discussion of what was found. For example, there were only certain select small pieces recovered such as the metal front half of the seat bucket that is located at the bottom of the seat bucket itself where the secondary ejection handle is located. This particular piece looks like it was just taken off of a bucket. There is no back part of the seat recovered or even part of one. There is part of the guillotine that is located on the breech on the right side, but there is no handle for it. There are no parts of the main beam assembly, only the

linkage from across the top. Logic and common sense tells us that more of the seat should be present if Earl rode this aircraft to the ground and landed in it.

The glove and the “possible soft tissue attached” were listed only once and that was in the 45<sup>th</sup> JFA field report. It has never been referenced again. There is no record of tests being performed on it to verify if the “possible soft tissue” was in fact human tissue. IF it is human tissue, there is no record that it was Earl’s tissue. We have DNA from Earl’s mother along with access to four brothers and other maternal-line family members. CIL-HI and Casualty have never come to us requesting DNA samples to compare against for the purpose of identification.

In reality, there is no proof that this glove is Earl’s – only more supposition presented in such a way that one draws the conclusion that the “glove and tissue” are his. This particular item of convenience presents a less than honest implied view of Earl’s supposed “death.” It also leaves us with the impression that truth is the first casualty in the USG’s rush to judgement to declare Earl “remains recovered.” We are sorry if this statement offends you; however, we are fighting for the legal rights and the legal life of this man.

The presence of a mangled generic RT-10 radio implies circumstantial “proof” that Earl rode the Phantom in and died in the crash. However, there is no way to tie that radio directly to Earl. Is it the radio attached to his parachute that would automatically go off once his parachute deployed? Is it the only personal radio Earl possessed? Aircrews frequently carried more than one RT-10 radio because of its notorious proclivity for failure. Is this a backup radio of Earl’s? Could it be a backup radio of Keith’s? When enemy forces were closing in on Earl’s position, did he destroy his radio to keep it out of their hands? Does it even belong to a member of this aircrew? Is this just another item of convenience that has no bearing on whether or not he survived his loss?

There are only two items that can loosely be classified as “personal effects” that were recovered – a generic military watch casing and a nickel. There is no watchband, or more to the point, no metal buckle for the watchband. If the watch casing survived, one would logically expect that at least the metal buckle would, too.

A single nickel – this is a nice touch reminiscent of the fighter pilots’ superstition, “Throw a nickel on the grass, save a fighter pilot’s ass!”

### **Items not found**

Particularly in this type of a surface wreckage site, one would expect to find a sizable number of personal effects such as:

- Dogtags, dogtag chain
- ID card
- Geneva Convention card
- Pieces of his blue overseas cap
- Rank insignia from his overseas cap
- Sunglasses
- Writing pens
- Blood chit
- Small shot record
- E & E map
- Aircraft checklist
- Any other paperwork normally carried in the aircraft or on the pilot during a mission
- Money
- Pistol, pistol belt and leather holster
- Canopy
- Main portion of the ejection seat
- Many more cockpit-related items

If Earl rode the Phantom in and died in it, where are these items? Logic and common sense indicates that some or all of them/parts of them would have been contained within the confines of the cockpit wreckage area. The only item remotely connected with this list was a small section of a generic area map. Where were the rest of these items?

Except when flying covert missions, and this one was not a covert mission, pilots were required to wear their dogtags all the time. They were required to carry their ID card and Geneva Convention card at all times. They were required to wear their overseas cap when outside going to and from the fighter ramp and not in the aircraft itself, and they usually carried

their cap in a flight suit pocket when it was not on their head. Blood chits were made out of silk simply because of the material's incredible durability and value, and it was also carried in a flight suit pocket. Pilots often carried their small shot record as proof of various inoculations so they would not have to endure another shot, such as for tetanus, should something unexpected happen.

Pilots always carried pens in the flight suit sleeve pocket constructed specifically for that purpose. They carried them because they always had a need for one – in and out of the air. Unless you were on a night mission, it was not uncommon for pilots to carry their sunglasses. The reason is obvious.

Pilots always carried a small amount of money with them in case they were diverted to another base and had to RON. They were not a stupid group of people – they loved their creature comforts. If it was a choice between having to eat “chow hall gruel” and carrying a few dollars so that you could enjoy having a nice thick juicy steak at the O Club, along with a drink or two, what do you think these men - and Earl - would do? A single nickel does not constitute “money” in the common sense use of the word.

There was no E & E map, aircraft checklist or other paperwork normally carried in an aircraft cockpit or on a pilot. In fact, there was virtually no personal cockpit-related items found at all. Again, in this type of a crash/crash landing, logic and common sense would dictate that more items would have been present. Likewise, if Earl had been unable to eject because of system failure, it would have most likely been because the canopy did not separate from the aircraft. If the canopy did not separate from the aircraft, then it would have trapped all these relevant items inside the cockpit with Earl. Logic and common sense dictates that at least parts of some or all of these items would have been recovered during the excavation process if Earl had been trapped in the cockpit and died in it.

While .38 caliber shell casings and projectiles were recovered, there was no trace of his pistol, leather pistol shoulder harness or leather holster. If he rode the aircraft in and died in it, certainly there would be at least pieces of these found beyond a small part of a web belt.

### **Other Items Not Found**

By all standards, this is an extremely shallow crash site. Based on the type and quantity of remains recovered from other crash sites, including high speed straight in impacts wherein one would expect to find limited and fragmented remains, this site is unnerving by what was not found. For example, one would expect to find teeth imbedded in at least part of a jaw along with other pieces from a skull. One would also expect to find ribs, vertebra, the pelvic bone, and good-sized sections of long bones. None were found.

CIL-HI contends they took 12 of the 23 very small bone fragments and glued them together to form a roughly “4-inch section of femur.” We have seen and held all the material recovered from this site including the teeth and bone fragments. When looking at this 4-inch section of material, one can see how some of the pieces fit together. However, others do not. In fact, in some areas, specifically the entire backside of the bone that is not shown in CIL-HI's photographs, the only thing that makes the pieces fit together is the glue itself. There is no core, only the outer shell. There are no landmarks to determine what this bone is and where it is really from. Likewise, there is no way to determine who or what it is from, or how long it was in the ground. Does this bone fragment belong to an American who was in Vietnam during the 1960s or is it an “ancient Vietnamese bone” from another time?

That intriguing concept was stated by a JTFFA Sergeant to one of our Grandsons who was stationed at Wheeler at the time. He and two other members of his unit went to the JTFFA compound to retrieve equipment loaned to JTFFA for an excavation. When the Sergeant learned Matt was Earl's nephew; he was thrilled to share all he knew from being part of the work done at that excavation site. He called another Sergeant over who had also been part of this site's excavations.

Between the two them, they recounted that when the bone was recovered, the Vietnamese said it was an ancient Vietnamese bone from an ancient burial site. According to the two Sergeants', the Anthropologist, or another ranking member of the team, said, “no, it's at a crash site so the bone has to belong to an American.” This type of rush to judgement that is based only on supposition and a preconceived notion that the bone could only belong to an American is unacceptable. The two Sergeants recounted a real event to a family member. Their information shines the light of reality into a very dark corner of the attitude of some excavation personnel. It is our hope that those two Sergeants will not be chastised or punished in any way for telling the truth.

This is the type of “crash landing” where virtually all pieces of the aircraft were found on the surface of the ground, not burrowed deep into it. If a pilot rode the aircraft to the ground and died it, this is the type of “crash landing” where a much

larger quantity of bones and larger pieces of bones, personal affects and related items far beyond items of convenience would readily be found. Common sense indicates that larger, heavier and denser bones could and would survive better than teeth/teeth fragments. Dogtags, ID and Geneva Convention cards, rank insignia, etc. are durable items that have survived much more catastrophic crashes than this one. Further, this is the type of “crash landing” that is very survivable.

### **Ejection sequence problems with the F-4 aircraft during this timeframe**

The original problem with the backseater ejecting before the frontseater was it caused negative Gs pressure on the front canopy keeping it from coming off. Because of this problem, the original ejection sequence was for the frontseater to eject first. This procedure caused problems for the backseater because of flying debris, etc.

With the frontseater ejecting first, the backseater has an advantage that enhances his ability to eject. This is because the additional direct airflow over the aircraft is sufficient to jettison his canopy regardless of whether or not it has been unlocked.

Once the canopy goes, it unlocks the innerlock block located on the top back of the seat, the seat moves forward approximately 3 inches and the seat fires. The canopy railing is the key. If it is gone, then the rest of the ejection sequence can continue.

Part of the linkage for the innerlock block and firing system at the top of the seat was recovered proving that it was not seriously damaged thus preventing ejection.

The ejection sequence is quite simple:

- The crewman pulls the ejection curtain or secondary handle
- The initiator blows the canopy off
- The innerlock block disengages
- The seat moves forward roughly 3 inches
- The seat fires

Cockpit canopies on the Phantom are held in place only by “J” hooks. Once Keith Hall ejected, the air pressure coming from the front would have quickly overstressed and broken those hooks. Once the “J” hooks broke, that same air pressure would have rapidly taken Earl’s entire canopy off , including the railing, allowing the ejection sequence to continue and his seat to fire.

### **Once on the ground**

Once on the ground a pilot is going to disconnect his parachute, then take off his helmet and mask. The chances are he will take off his torso harness to which his parachute connects. Depending on many other variables, he may or may not take off his G-suit.

His survival vest is one thing he would undoubtedly leave on. His pistol belt and leather holster with pistol would also be left on. The only circumstances under which he might temporarily remove them would be to check himself over for any injuries – cuts, abrasions, bruises, etc.

An interesting side vignette to the fate of a pistol - according to a local witness, a pistol was found and turned in to a village official, but it disappeared. Given the well-known Vietnamese proclivity for keeping track of everything no matter how large or small, important or unimportant, this seems out of character at best.

### **Supposition becoming fact – how recovered items are handled**

During the course of an excavation, all non-human remains recovered are sealed in plastic bags. The immediate identification of the item is made by JTFFA team members in the field and written on the bag with a marker. These identifications are frequently based on supposition – and educated guess based in part on the knowledge level of the individual team members. The item may or may not be identified correctly. Further, the importance of the item and the relevance to survival may not be evident during the excavation.

Once the excavation site is closed, these bags are placed in a box(s) and sent to LSEL for storage. LSEL personnel have to receive written permission to examine material sent to them from an excavation site before they can perform their examination. If that permission is not granted, then the material remains in storage and the field personnel's list of items recovered begins to mutate from supposition toward fact.

This mutation of supposition to fact continues along through the whole process between the crash site excavation field report(s) and the final CIL-HI briefing packet with the list of tentatively identified items becoming the US Government's factual list of items. This transformation occurs without the items recovered ever being examined, evaluated or tested. Furthermore, the family members are never told that what they are being presented as fact, in reality is merely the best guess of a JTFFA team member that was made out in the field, not by trained and experienced experts in a laboratory.

This form of supposition becoming fact happened to the material recovered from this crash site. The items listed in the CIL-HI briefing packet presented to us had not been examined by LSEL personnel, or any other government or private sector expert for that matter. In reality, with the exception of the Soviet manufactured shell casings, LSEL was not given permission to examine anything removed from this crash site until long after the briefing packet was presented to us.

### **Soviet manufactured ammunition**

Another example of how supposition becomes fact when the laboratories are not allowed to conduct their work properly rests in how recovered items from a crash site or battle site excavation are handled.

For example, in Earl's case, 3 spent Soviet manufactured ammunition shell casings were recovered from the crash site. They were placed in the same bag with .38 caliber pistol shell casings, .38 caliber bullets and .20mm tracer rounds from the aircraft's centerline cannon. Many of the .38 caliber shell casings are missing their headcaps so there is no way to know if they were fired or not. The bag was simply marked "ammo." No one outside of the JTFFA field personnel saw the ammunition casings until we visited LSEL and the personnel at the laboratory showed us the courtesy of allowing us to see the material sent to them for storage.

LSEL's specialists said to us, "We're sorry, we have not been given permission to examine this material so we are all looking at it for the first time together." This was a rare gift and great kindness on the part of the LSEL staff that was extended to us. You need to understand how important it was for us to not only see this box of material, but to also watch how these men dealt with the material as the various bags were viewed for the first time. Every one of these men is a consummate professional who did not lie, hedge or bend the facts as he saw them. If they did not know what an item was, they immediately said so. If they knew what an item was not, but could not immediately identify what it was, they said so. The 3 spent Soviet manufactured shell casings were discovered at the time the bag containing them was examined. We immediately requested they be examined and that limited permission was granted.

LSEL personnel gave us great faith in the fact that the system can work – if it is allowed to work.

The importance of those 3 shells is that only communist officials, communist military forces or communist police were allowed to possess firearms, and specifically Soviet manufactured and supplied weapons. This is an isolated crash site in the rugged mountains of northwestern North Vietnam near the Laotian border. The closest village is a Montagnard village – ethnic tribesmen hated by the communists during and after the war who were only armed with homemade spears and crossbows. Communist forces did not have ammunition to waste particularly in an isolated region where it was more difficult for them to be resupplied. The only thing worth expending ammunition on would have been a live American they were attempting to capture. In this particular loss incident, there is ample military generated intelligence that the pilot – Earl - survived and was captured. This will be discussed in depth later.

Once again, when an excavation site is closed, all the bagged evidence is transported to LSEL. However, until the laboratory is given permission to examine the material, it remains boxed in storage in that facility. In our case, we requested, and were finally granted, permission to have all the material examined by LSEL.

If we had not visited LSEL, the shell casings would not have been found. If they had not been found, no one would have known that the Soviet ammunition placed communist personnel at the crash site and kicked wide open the door to provide supporting evidence to the additional USG generated intelligence that Earl survived and had been captured. And once captured, were those five teeth/teeth fragments knocked out during a retaliatory beating? That is certainly one logical explanation to the illogical pattern of where each was recovered.

Further, if LSEL is not allowed to examine the material sent to them from an excavation in a timely manner, the list of bagged evidence that the JTFFA personnel tentatively identified and which is supposition at best, is presented to the family as fact. Likewise, it is presented to the Identification Board as fact. This is established policy that is fraudulent on its face as well as in its application. This same policy of passing off supposition as fact without proof is a policy decision forced upon the laboratories involved in the recovery/identification process by policy makers at a much higher level.

In other cases, important evidence analysis that is generated by the experts at these laboratories is ignored and/or stricken from the official final reports in order to remove any doubt about the final findings of the case. Officials of the laboratory responsible for the analysis sign the conclusions presented in these reports; again forcing them to take responsibility for the conclusions generated by some nameless, faceless policy maker/enforcer.

The results of these deceptive practices shifts the blame from the policy makers who drive the conclusions that close cases based on supposition instead of fact to the people in CILHI, JTFFA, LSEL and AFDIL who are responsible for doing all the work.

The intent of these policy makers is to close cases by any means possible rather than coming to honest and accurate conclusions. The reality and the reason why there is active interference in this process is grounded in the fear that conclusions derived from fact rather than supposition could lead to proof of survival rather than proof of death.

For the record, the only reason why we learned about the ammunition shell casings was because we visited LSEL. While at the laboratory, the personnel allowed us the courtesy of seeing the material removed from this site. It was also because of this visit that we learned exactly how supposition becomes fact.

This practice is wrong. It is a violation of the law as well as being a total affront to the men and women who remain unaccounted for. Whether this practice has been allowed to continue for expediency's sake, to monetarily cut corners or for some other purpose, we do not know. But what we do know is it needs to stop right now and right here.

Further, having tentatively identified material presented as identified material constitutes a form of fraud. Most families would not know the difference. Some may have an idea that things are not right, but do not have the knowledge level or have the avenue(s) available to them to follow up on their questions. In our case, we have the knowledge level and the determination to follow through. We also have amassed a wide range of credible USG gathered intelligence documenting the fact that Earl survived his loss, was captured, was alive years later and USG officials know it.

### **Wreckage Scatter Pattern**

None of the large pieces of wreckage that were left in place were twisted, torked or mangled out of recognizable shape. In fact, when you review the video footage taken at this site, please pay close attention to the condition of the different items. For example, the engines are intact. Even the one that had been rolled downhill into the clump of bamboo is in remarkable shape. Both afterburners are laid out on the ground as if they simply dropped out of the fuselage onto the ground. The upper portion appears to have collapsed into itself more from the passage of time and weather conditions than from the crash landing. The main landing gear strut looks more like it was removed from the wheel assembly and just laid aside.

Further, the wreckage scatter pattern itself does not make sense for this type of a crash landing. The wreckage is scattered behind the aircraft, not forward of it. An F-4D is a very large and heavy aircraft. The forward momentum and downward momentum of the Phantom would have had all parts of it or in it - including the engines, life support material, etc. - moving all in the same forward direction. In fact, the kinetic energy generated by the forward motion of all the parts of the aircraft would have only carried everything forward, not backward and down the hill. This is not just a matter of logic and common sense; this is a matter of the law of physics.

In addition to the scatter pattern not making sense, there is no record of JTFFA personnel interviewing witnesses or checking out nearby villages for the missing items that were possibly scavenged. Those items include, but are not limited to the metal skin from the fuselage, the cockpit instruments, personal items, etc. Part of the mission of the JTFFA personnel is to cross every "T" and dot every "I" they can find. This site is remarkable for many reasons including the huge holes in what was and was not done.

The questionable condition of this crash site brings up a number of related questions. With only items of convenience and a loose engine plate present in an extremely shallow crash site in a small well-defined area, why did the field personnel not thoroughly examine the two engines for engine plates? Why did none of the team members take the engine plate that

was found off the engine and some 30 feet away from where it originally sat over to both of the engines to see if it fit markings on either one?

We have asked these questions, and more, repeatedly ever since the second JFA results were sent to us. The only consistent answer we receive is "I don't know." When we question that non-answer, we receive only wishy-washy excuses that are lame at best. We are not stupid people. We are not going to stop asking the same questions until we get real answers just because these people don't want to answer them. What are they afraid of? What do they not want us to know? Did they check the engines only to discover this is the wreckage of another aircraft – possibly one where its crew had been rescued? Is there another explanation that would be just as unpleasant to the powers that be that want to get this case resolved at all costs?

After this crash site excavation was closed, we requested a site schematic with overlays for each of the JFAs showing when and where all relevant items were found including the bone fragments, teeth/parts of teeth, life support equipment, the various types of ammunition, etc.; and where found in relation to the main pieces of identifiable wreckage. We further requested that the depth at which each item was found be noted. With the schematic with overlays we hoped to gain a much greater understanding of the crash site, the excavation and the story it could tell us about the last minutes of this aircraft. We were searching for answers to longstanding questions then just as we are today. We are still searching for real answers that still are not forthcoming.

The first schematic provided by CIL-HI did not indicate where any of the possible human material was found. There was a list of some 17 items that were not identified and there was no indication of at what depth anything was recovered. Because the first schematic arrived in early December and Colonel Hopper was going through chemotherapy, we did not examine the CIL-HI report other than to see that it "was the requested material." By the time the envelope containing this schematic "surfaced" again in the chaos of medical treatment some 6 weeks or so later, we discovered that it was a poorly prepared and incomplete report.

We are including the e-mail we sent to CIL-HI through Air Force Casualty regarding this matter. It explains the situation far better than we can here. The end result was Mr. Johnie Webb hand-carried a second report to us that was delivered during the DPMO family regional meeting in Albuquerque in February 2000. While it still was not exactly what we requested, we do believe it is the best they could do given the field records available to them. We believe you will find it to be quite revealing in some ways while raising many more questions in others.

In addition to the problems with obtaining the schematic and the information relating to it, we have never been able to obtain a written report evaluating the wreckage scatter pattern. We still want to know what information the JTFFA, CIL-HI and other USG experts gleaned from evaluating the crash site wreckage scatter pattern layout. In other words, what did the location of items – the possible remains, wreckage, life support equipment, the shallowness of the excavation, etc., tell them? These are all questions commonly asked during a modern day civilian or military crash site investigation. We want the same type of information to be provided to us. We want to know what the USG experts have to say about this crash site. What they found and what it means to the ultimate fate of Earl.

It is not only frustrating, but terribly angering, to make a specific and detailed request for information and be told that it will be forthcoming only to receive what can only be categorized as a half-assed piece of garbage. The quality of CIL-HI's work was discussed in depth with Mr. Webb at that time. It is not relevant to repeat it here.

### **The History of Live Prisoners of War**

In order to understand the current Prisoner of War/Missing in Action Issue as we know it today - and why it is relevant to Earl's loss and the briefing packages presented to you in this case - you need to understand the communist perception of human life along with how the communist's deal with prisoners under their control after all wars. You also need to understand how the Vietnamese dealt with the French after the 1<sup>st</sup> Indochina War, which was also known as the French Indochina War.

Please take the time to thoroughly read The Senate Foreign Relation's Committee's Minority Report - the Interim Report, their Final Report and the Rand Corporation's (a CIA think tank) report/evaluation of the French Indochina War, which includes their conclusions regarding how the Vietnamese would handle our POW/MIAs at the end of our Vietnam War. There is no question our government fully understood how the North Vietnamese would deal with us and our men and women who were under their direct control. In the end, Anita Lauve Nutt, the Rand Corporation analyst responsible for that report, was proven totally accurate in her evaluation and projections.

Please note that these documents were prepared by USG entities and are extremely well documented with references to classified, declassified and public documents. In the case of the Senate Foreign Relations Committee report, it is undoubtedly the greatest indictment of the USG handling of this vital issue by a USG entity using USG generated documents/intelligence.

In 1992-1993, the Senate Select Committee on POW/MIA Affairs (SSC) was established to continue an investigation into this issue. While flawed and incomplete, it proved to be the vehicle to make public additional evidence of Live POW/MIAs in Southeast Asia. The SSC also was the vehicle used to enter into the official record sworn depositions and testimony documenting Prisoners of War being “quietly and sensitively” returned to the United States under a Secret Returnee Program akin to the Witness Protection Program.

In addition to the USG studies and reports, there have been countless investigative reports written by skilled and experienced reporters/journalists. These articles are all based in the documented reality of Live American Prisoners of War left behind in Southeast Asia. They include interviews with ranking USG personnel at all levels of government involvement that have/had direct knowledge of live men and women left behind in enemy hands. A reasonable cross section of articles/reports is included for your review.

Three former Secretaries of State – Henry Kissinger, Melvin Laird, Ed Schlesinger; and former National Security Advisor Robert “Bud” McFarlane - have given sworn testimony, written statements, speeches and interviews wherein they flatly acknowledge American Prisoners of War were abandoned at the end of the Vietnam War. There is no question in the minds of these former ranking USG officials that these POWs were still alive in Southeast Asia. The only questions are who are they? Where are they? What is it going to take to get them out?

Also included for your review are specific documents submitted to the Senate Select Committee on POW/MIA Affairs regarding satellite imagery of names and authenticator codes of POWs taken outside known prison camps in North Vietnam and Laos as late as June 1992 documenting the presence of Live Prisoners of War.

A second document is the SSC Memo for Record outlining the illegal destruction of documents entered into the record of the SSC hearings. This memo also graphically documents the less than honorable attitudes exhibited by some of the committee members along with staff members and their legal council.

The last SSC document is David S. Sullivan’s succinct evaluation of the Committee and it’s accomplishments, and/or lack of them. It is exceptional in its honest straightforward examination of the Committee’s efforts. Mr. Sullivan was a senior professional staff member of the US Senate Committee on Foreign Relations and personal staff member of the US Senate Committee on Armed Services.

Were attempts made by our government to find hard intelligence about living POW/MIAs? Absolutely. Unfortunately, while the evidence was collected, analyzed and provided to the highest levels our government, it has not been acted upon. Or at least it has not been acted upon in an official, visible manner.

Eventually a sizable amount of this information became available to the public, some of which is provided to you in our documentation. This includes the video taped sworn testimony of Major Mark Smith and SFC Melvin McIntire, the Special Forces Detachment, Korea’s commanding officer and his intelligence sergeant respectively, before the Senate Veterans Affairs hearing in January 1986. Also testifying was Lt. Col. Bob Howard, a Congressional Metal of Honor recipient and their immediate boss in their military chain of command.

In addition to the videotape, the transcript of the question and answer session from the hearing is included for your review wherein each man is questioned about the intelligence parameters of SFDK and specific living prisoners they had knowledge of. Their direct first hand knowledge came from their assignments to the Special Forces Detachment, Korea (SFDK) from 1981 through 1984, and their unit’s mission to search for information pertaining to Live American Prisoners of War throughout Southeast Asia during that period of time.

Earl Pearson Hopper, Jr. is one of those living POWs tracked and documented by SFDK by name and prison camp location. Further, he is identified to be one of the three men that could have been recovered on 11 May 1984 had their mission been allowed to continue. This is not supposition on our part. It is matter of sworn fact. It is documented hard intelligence supported by living first hand witnesses and sworn testimony under oath that carries with it the penalty for perjury of hard time jail time if the information presented is not truthful. Likewise, Earl is not the only American prisoner who was documented to be alive well into the 1980s and early 1990s.

We are including the bios of other men US intelligence collected information on and for whom the families still wait. Some of these men’s remains recovery packages have come before you, or before another Board such as yours. And while you

– or they – accepted CIL-HI’s presentation, many of the families have not. Like us, they refused to accept as little as one tooth fragment or a few extremely small unidentifiable bone fragments as the total mortal remains of their loved one.

***Fully understand this: This is not a game to us and we are not playing – not with you or with anyone else.***

### **10 January 1968 to 27 January 1973**

Earl’s aircraft was the #3 aircraft in a flight of 4 F-4Ds conducting a MiGCAP mission for a flight of F-105s that were on an Ironhand strike mission against the Hoa Lac MiG base located some 19 miles west of Hanoi. There was another flight of 4 F-4Ds assigned to this strike package that was also providing MiGCAP for the Ironhand aircraft. From the time Earl’s aircraft was damaged by the SAM that exploded a hundred feet below and to the right of it, several important points have been known right from the beginning.

- 1) Keith Hall, the aircraft commander, had direct contact with Earl after their Phantom was damaged. If Earl had been injured in any way, that fact along with the extent of his injuries, would have immediately been made known by Earl to Keith. In turn, Keith would have made that information known to the other flight members.
- 1) Both crewmen had problems with their ejection systems. According to Keith Hall, when Earl’s system failed, he told Keith, “You go first.”
- 2) Five of the other six flight members saw multiple objects leaving the aircraft before it entered a 5,000-foot undercast of clouds. Some of the pilots called two canopies while others called two canopies and an ejection seat before the objects and aircraft entered the undercast of clouds. Another called multiple objects, but was unable to identify any of them. Likewise, because of the cloud cover, no deployed parachutes were seen.
- 3) Five of the other six flight members, as well as personnel from the Jolly Green rescue helicopter and A1Es that were already inbound, heard two emergency beeper signals emanating from two well-defined locations in the rugged jungle covered mountains. According to statements/reports, that distance was as great as 20 miles.
- 4) At the time Rematch 3 went down, it was the only aircraft in this area at this point in time.
- 5) One of beepers was strong, and it was determined to be Keith Hall’s signal. The second beeper was much weaker and operating on nearly the same cycle. Once voice contact was established with Keith, one of the other pilots reported that Keith’s transmission was temporarily overridden by the weaker beeper signal adding additional confirmation to the existence of the second beeper signal from Earl.
- 6) Keith Hall was captured roughly 20 minutes after reaching the ground. The second beeper was officially tracked for three consecutive days, and references to that fact are readily available in Colonel Henehan’s letters to the family. In fact, in the Squadron Commander’s 16 January 1968 letter he states, “on the following day an F-4D from Ubon received an emergency signal while over flying the same location. He (gave Earl’s authenticator code) asked for another response of fifteen seconds duration and got it.” Earl was the only man down in this area at this time.
- 7) Colonel Henehan goes on to report that later “a B-66 has gone down in the same general vicinity...that there are twelve people down in the area, including ours, all of them have established radio contact with Rescue Forces.” The crew of the B-66 was close enough to be considered in the general area, but far enough away that there was no confusion which signals belonged to what crew. The B-66 also went down long enough after the F-4 that its crew’s beepers could in no way be confused with the two beeper signals from the Phantom’s crew.
- 8) The 12 men who were on the ground in the general vicinity were the 6-man aircrew from the B-66, a 4-man aircrew from a rescue helicopter that was downed while going after one of the B-66 crewmen and Earl’s 2-man aircrew. The other men were all safely rescued shortly thereafter leaving only Earl and Keith Hall in jeopardy.
- 9) References to two beepers being heard from the crew of Rematch 3 are also documented in the bio prepared by the Air Force Casualty section in the early 1990s, a copy of which is provided for your review. Also included are a variety of other pertinent documents generated by the Department of the Air Force all of which keep confirming the same relevant facts – that Earl was out of the aircraft, alive on the ground and communicating through beeper signals.

If there had been any serious confusion over whether or not Earl's beeper was heard, that fact would have been made known immediately. If there was any serious doubt that he survived the downing of his aircraft, that fact would have also been readily made known right from the beginning, and Earl would have been listed Killed in Action/Body Not Recovered, not Missing in Action.

At no time during the years between the loss of Rematch 3 and Operation Homecoming, did the military ever indicate that Earl might not have survived the loss of his aircraft. As with other Prisoners and Missing, the Air Force always believed there was an excellent chance he had been captured and would return with the others.

### **After Operation Homecoming to Present**

Keith Hall returned to US control during Operation Homecoming with 590 other American Prisoners of War, most of who were held by communist forces in North Vietnam and South Vietnam. Nine military men were captured inside the territorial boundaries of Laos by North Vietnamese troops and moved into the North Vietnamese prison system within two to three weeks of capture. There were a small number of American forces captured in southern South Vietnam near the Cambodian border and moved into prison camps in Cambodia by NVA and VC forces.

No Prisoners of War being held by the Pathet Lao or Khmer Rouge were returned to US control at the end of the war. Using the survival rate in North Vietnam of 40%, and using all-source intelligence data, the USG expected at least 200 to 250 Prisoners of War to be returned by the Pathet Lao and another 40 or so to be returned by the Khmer Rouge.

Likewise, no "war wounded (amputees) and mentally handicapped (those who physically survived, but mentally did not)" were returned by any communist forces.

Within days of the last prisoner's official release, then President Nixon made his now infamous speech, "We have achieved Peace with Honor, all of our POWs are home." He knew that statement to be a lie, as did ranking members within his administration.

During this same timeframe the returned POWs were being debriefed at length. In Keith Hall's debriefing, he recounts an incident that took place in August 1970 – over 2 ½ years after capture – in which he was interrogated by the guards specifically about Earl. The only information they were interested in was personal information --- was he married? Did he have children? Where did he go to school? What were his hobbies? This is the type of information the communists would be interested in only if they were looking for something to use against a prisoner, in this case, Earl. The reality is if Earl were dead, the North Vietnamese would not have had any interest in obtaining this type of information about him from Keith.

Further, after this length of time, they were not interested in "filling out a ledger" about the second crewman in that aircraft. The Vietnamese would have accomplished that much earlier in Keith's captivity. Since this was the first time the two men flew together, and Keith knew virtually nothing about him, his response to all questions was, "I don't know." When the guard prepared to leave, Keith asked him if Earl was also incarcerated there? The guard just looked at Keith, and sarcastically said, "I don't know." Was this a statement of fact, or a payback statement for Keith's perceived lack of cooperation?

Later that same month, April 1973, General Ogan, a Department of Defense spokesman, addressed a large group of POW/MIA family members including members of this family. During his speech he told the families not to worry, "...within a year we will have all your problems taken care of." The USG's solution to the families' "problem" was to declare all the POW/MIAs killed under a Presumptive Finding of Death status change within one year. The legal actions involved on all sides of the status change issue are well known and do not need to be repeated here.

By the time President Reagan was sworn into office in January 1981, there were only 126 Prisoners of War and Missing in Action whose status had not been changed to KIA/PFOD. Earl Hopper, Jr. was one of those men. A status review hearing for him had been held in February 1980, but his status had not been changed. This in itself was unusual because most men's statuses were being changed within 60 to 90 days of the hearing. This was roughly the length of time it took for the branch of service to process the paperwork.

A full transcript of the status review hearing is included in our package. While all of it is relevant, and we think would be of interest to you, specific pages are tabbed for your inspection. These pages document specific information about his survival, classified information presented to the Board members that the Legal Officer, the family and their attorney were not allowed to read. For the record, the family has never been provided copies of these documents either in their entirety

or in redacted form. Over the years we have requested copies of them, but none have been provided. Today there are no documents to be found. Nor is there any record indicating the content of these classified documents.

On 14 July 1982, the date on which Earl Hopper, Jr.'s status was changed to KIA/PFOD, he was one of five men still carried in the live category of Prisoner of War or Missing in Action, and the only man left from North Vietnam.

Now, consider this: Is the reason why an arbitrary status change was not immediately forthcoming for this man because our government knew he was alive and a Prisoner of War? What other possible reason would our government have for not carrying through with the established policy of changing a man's status as quickly as possible after a status review hearing? What information did our government possess about Earl that forced them to react like Dracula when shown a cross? Did they know he was still alive in Southeast Asia? Did they know he was under the control of the Russians and possibly had he been transferred with other Prisoners of War to Russia or other Soviet Block countries? As an Air Force Academy graduate, Earl read, wrote and spoke Russian. With his background and training he was exactly the type of POW the Soviets were interested in.

Once the notification of change of status was made, Mr. Valenzuela, the local casualty officer from Luke Air Force Base, brought out all the papers Earl, Sr., as his son's primary next of kin, needed to sign. One of the documents he already had prepared for signature was to file for the \$5.00-a-day POW compensation pay allotted by our government to Prisoners of War for inadequate food and housing. Colonel Hopper told him he could not sign it because his son was Missing in Action not a Prisoner of War. Mr. Valenzuela encouraged him to sign it anyway to see what the USG would do.

Submitting that form triggered a Department of Justice review under the auspices of the Foreign Claims Compensation Board. The 3-man Board's ruling in its entirety is included herein. Please read it carefully because its conclusions are vital. They concluded that "based on a complete review of Earl's case, including the classified documents presented to the status review board members," they determined that "Earl was a Prisoner of War from date of loss through 1 April 1973 – the arbitrary cut off date for the last known POW to come home." Understand that this is a legal ruling by the Department of Justice totally separate from the military system and that it is based on hard documents, not supposition or speculation.

Further, as a result of this ruling, the USG paid the family nearly \$10,000.00 in that \$5.00 per day compensation pay. You know as well as we do the USG does not part with that kind of money unless they have a darn good reason to do so.

Shortly after President Reagan took office in 1981, the Vietnamese sent a communiqué to him through the Chinese government and the Canadian government "offering to sell back 57 Prisoners of War for 4 billion dollars." This was roughly the amount of money President Nixon promised the North Vietnamese in a secret letter delivered by Henry Kissinger to Phan Van Dong as an enticement to sign the Paris Peace Accords. The SSC was presented ample evidence about the Vietnamese offer to Ronald Reagan, and is part of the major hearing transcripts.

We are told by men who were present in the National Security Council meeting where this offer was discussed, that after a lengthy discussion, the President wrote on the bottom of the communiqué, "No, we will not pay for POWs." And signed it "R. R." However, based in large part because of this offer, Ronald Reagan authorized an intense intelligence-gathering mission that was assigned to the Special Forces Detachment, Korea.

Rather than taking the time to lay out in our words the work of SFDK, please watch and listen to the sworn testimony of Major Mark Smith, SFC Melvin McIntire and Lt. Col. Robert Howard. The 52-minute tape will give you greater insights than any words we could provide you with here. Following the sworn testimony is a 30-minute presentation by Major Smith that was a part of a major symposium held at Colorado State University. It will add a few more details to the sworn testimony that are both relevant and important to this case.

In addition to the videotape and written transcript, we have included a letter from Mark Smith wherein he identified the men he was informed were ready to come out on 11 May 1984. Earl P. Hopper, Jr., Thomas T. Hart III and Jacob E. Mercer were those three men. Another prisoner held in the same area was Joel Birch, a fellow crewman of Tom Hart. Interestingly, shortly after their aircraft was shot down, the severed hand of Joel Birch was recovered from the crash site area. He was declared "remains recovered" based only on the identification of that hand through fingerprint comparison. Capt. Birch has always been listed Killed in Action/Body Recovered. Because of this classification, no one in our government has ever searched for him as a POW/MIA. Capt. Joel Birch is a painful example of the breakdown in the POW/MIA accounting process/system.

For your information, we were not only present at that Senate Veterans Affairs hearing where Mark Smith, Mel McIntire and Bob Howard testified, both of us also testified under oath. Colonel Hopper testified in his capacity as a nationally recognized leader in the POW/MIA movement as well as Chairman of the Board of Directors of the National League of

Families of POW/MIAs. Mrs. Hopper (then Skelly) testified as a nationally recognized private sector research/analyst knowledgeable in individual cases, various USG agencies databases dealing with POW/MIAs and how those agencies handle/mishandle their data.

During a break in the hearing Major Smith and Mrs. Hopper had a private conversation in which she asked him point blank who those three men were. In spite of the fact that this information was probably/undoubtedly still classified, he told her that one of them was Earl Hopper, Jr.

After the formal hearing during the day was recessed, a classified hearing was called to order that evening. In addition to the Senators who sat on that Committee, then Congressmen Billy Hendon and Bob Smith (now Senator) were in attendance.

In addition to being Chairman of the Board of the League of Families, Earl Hopper, Sr. worked for Congressman Hendon as a special advisor on the POW/MIA issue. Because of this, Earl Hopper, Sr. held an active Top Secret Clearance, a copy of which is included for you.

After the hearing recessed for the night, Congressman Hendon called Colonel Hopper back to the office for an urgent meeting. The Congressman provided Earl Hopper, Sr. with specific, detailed information about the Colonel's oldest son that he learned during the classified hearing.

The next morning Colonel and Mrs. Hopper went to see Senator Dennis DeConcini, the senior Senator from Arizona and the Vice-Chairman of the Senate Veterans Affairs Committee. After verifying Colonel Hopper's security clearance, he added additional information/details about Earl Hopper, Jr.

We want you to clearly understand that SFDK was not the only USG authorized mission to search for live POWs. However, it is the only USG activity we know of that collected specific information about Earl.

We told you earlier in this document, this is not playtime and we are not playing. The evidence that Earl Hopper, Jr. not only survived his loss, but was alive years later – at least through May 1984 - and our government and its intelligence community has known it for years is remarkable. This evidence is substantial, consistent and well documented from date of loss through the spring of 1984 – a total of over 16 years.

If he survived the first 16 ½ years of captivity, he most certainly found the will to survive and could easily have survived the next 16 ½ years. He will be 58 years old on 21 July 2001.

One last intriguing event in Earl's case you need to be aware of. In preparation for the National League of Families annual meeting in 1991 or 1992, we were notified that Earl's entire casualty file, along with 25 other Air Force POW/MIAs' casualty files, were no where to be found anywhere in the Air Force Casualty office where they were always maintained. We were asked to loan Air Force Casualty the file we maintained so they could reconstitute their records on Earl, which we did.

To date none of these 26 missing Air Force casualty files has ever been found. Mr. George Adkinson was our casualty officer at the time. He is also the person who notified us of the file's disappearance. If you wish to discuss this matter with him, it can be arranged. He has retired from government service, but is readily accessible since he still resides in the greater San Antonio area.

While we know about the 26 missing Air Force casualty files, we have no idea how many files from the other branches of service also turned up missing from their casualty offices at the same time. As with so many other things, this begs the questions whose records were missing? What happened to them? Who surreptitiously removed them from the casualty sections? For what reason(s) were they removed? Where were they taken? Where are those records today? Where are those men today whose records vanished without a trace? Are they somewhere in Southeast Asia, in one of the former Soviet Block countries, in the United States or are they in another part of the world?

Over the years since those records disappeared, we have asked casualty personnel if they have ever learned anything about the fate of those missing records? The response we get from them is that the records' disappearance is as a great a mystery today as in was when they vanished.

### **The Most Difficult Reality to Grasp**

Each of you needs to understand that from our perspective the most difficult reality to come to grips with as a family is not Earl's death, or that of any POW/MIA, but that he is alive.

In death there is peace of mind in knowing that he is not suffering, in pain, isolated, terrorized, tortured, and stripped of all human comfort and dignity. In death there is great comfort in the sure knowledge that he is at peace with his God.

Knowing that he is alive means coming to grips with the total reality of what his life has been like since the date of shootdown. We fully understand what his life has been like as a Prisoner of War in the hands of a brutal and barbaric enemy. It is not a pretty or pleasant picture.

### **The Conditions In Which POWs Survive Today**

It is our understanding that since the end of the Vietnam War, more specifically since the late 1970s, some of these men have had "local citizenship" forced upon them along with Asian names. Some have been "allowed" to move into a village – or more accurately stated, they've been paroled to a village - and have also been "allowed" to take Asian wives and have families.

It is our belief these POW/MIAs should not be condemned for how they have been forced or allowed to live their lives since the end of the Vietnam War. The reality is they served this nation honorably and faithfully. They found themselves under the control of an unscrupulous communist regime that intentionally held them back at the end of hostilities for their own purposes. These men and women have suffered enough at the hands of our former enemy. They should not suffer any longer.

- We believe these Americans should be brought home now.
- We believe their Asian families need to come to this country with them. This should include their extended family members.
- We believe the current conditions under which they live should not interfere with their safe return to this country nor be held against them in any manner, way, shape or form.

### **The Ramifications of Your Actions**

If you determine these 5 teeth/parts of teeth constitute the total mortal remains of Lt. Col. Earl P. Hopper, Jr., and declare him to be remains recovered based on them; you close and lock the door on any further pursuit of him by this government.

All future information received by agents of our government both abroad and here will be dismissed out of hand as fabrications because "his remains have been returned and identified."

Has this situation happened in the past? Absolutely. See the attached letter from Air Force Casualty with an attached list of POW/MIAs with their current status noted to the right of each name. Anyone looking at that list would automatically ignore those men who are listed as "BR" or "NR."

Please note that Thomas T. Hart III is one of the men classified as NR - Negotiated Remains Returned. His remains were "identified" based on 7 small and totally unidentifiable bone fragments recovered from another crash site excavation. These bone fragments were rubberstamped as his total mortal remains by another Board such as yours under the misguided assumption they were showing Capt. Hart's family "great kindness by ending their years of uncertainty."

In reality, sham answers are no kindness and end nothing. Ann Hart is a good friend whom we've known for many years. Among other things, she served on the National League of Families Board of Directors for years with Colonel Hopper. Three of the families of this aircrew, call sign Spectre 17, filed a lawsuit against the USG in order to have the fictitious identification rescinded. The court ruled in favor of the families. However, once the USG removed the men from the unaccounted for list, it considers its obligation to them completed.

The hard reality is our government is more interested in discharging its responsibility to the POW/MIAs and their families by any means possible rather than fulfilling its legal and moral obligation to them. These servicemen and civilians paid the ultimate price with their freedom and/or their lives while honoring their commitment to this government. They deserve a whole lot better than they have gotten to date. Do not just take our word for it. Check it out yourselves. Tom Hart's bio is included for your review along the bios of other men discussed in this document.

### **Returned POWs after April 1973**

Bobby Garwood was a confirmed Prisoner of War who was captured in 1965, 12 days before he was due to rotate home from his tour of duty in Vietnam. Whether you think he stayed behind of his "own free will" in 1973 or was a Prisoner of War intentionally held back by the North Vietnamese does not matter. The facts are:

- He was a confirmed Prisoner of War who was not released with the others during Operation Homecoming.
- From 1973 through 1979, the communists repeatedly said, "There are no Live Americans anywhere in Vietnam."
- While in Hanoi in 1978, he was able to smuggle a note to a foreign diplomat giving his identity, that he was a POW and for him to please notify US authorities.
- The diplomat destroyed the note fearing repercussions should he be caught with it, but did report its contents to the USG.
- Without the note, the USG chose to take no action to obtain Bobby Garwood's release.
- In 1979 Bobby was able to slip another note to a Finish Diplomat.
- The diplomat smuggled the note out of Hanoi and handed it to USG officials.
- When presented physical evidence in the form of a document written with his own hand, the USG was forced to take action to obtain Bobby's release.

In order to save face and protect itself from the legal, ethical and moral ramifications of wantonly and knowingly abandoning American Prisoners of War for political expediency, the USG chose to legally and politically crucify this man. Is he Lilly white? No. However, neither is he the scoundrel the government spin-doctors have made him out to be.

What Bobby Garwood is is a returned Prisoner of War who spent 14 years of his life in the hellholes of Vietnam. His greatest "crime" is that he survived and found a way to get himself out of Vietnam. By doing so he became an "embarrassment" the USG could not/did not want to contend with. He was absolute proof that the communists lied about holding American POWs after Operation Homecoming. Further, he was absolute proof of American POWs remaining in enemy hands in Southeast Asia that the USG could not ignore.

It is a pity our government took the coward's way out in 1979. Rather than facing the truth and going after the rest of the Live Prisoners of War, many of whom Bobby Garwood was able to provide at least some first hand live sighting information about, the USG chose to "kill the messenger" and politically bury the POWs.

How many of you recognize the name "Mateo Sabog?" He is the Army Sergeant who was erroneously listed first as an AWOL/Deserter, then Missing in Action, and finally to KIA/PFOD. His existence in rural Georgia using the name "Bobby Fernandez" can only be traced as far back as 1985. There is no record of him by any name in the US between the date he vanished in Vietnam and 1985. In 1996 he applied for Social Security benefits under his real Social Security number. At first he was turned away because "that Social Security number belonged to a POW/MIA – a man declared dead."

He pursued his claim, and for some unknown reason, the authorities chose to run his fingerprints. To the amazement of some, and the chagrin of others, the fingerprints proved him to be Mateo Sabog, a Vietnam era POW/MIA. His bio is also included for your edification. Identifying Mateo Sabog through the use of fingerprints is remarkable in its own right since

we, the POW/MIA families, were told that all fingerprint records for POW/MIAs mysteriously disappeared from the FBI database where they were stored in 1991 or 1992.

It will give you the details of the US Army Sergeant's disappearance along with all follow up actions. This includes the fact that CIL-HI was in the process of identifying a second set of remains as his through dental record comparison at the same time he was applying for Social Security benefits in Georgia.

Is Mateo Sabog an AWOL/Deserter who found an alternate way home or a secretly returned Prisoner of War? He had 24 years on active duty and had already out-processed from his unit in preparation to return to the US after completing his second tour of duty in Vietnam. Common sense dictates it is highly unlikely he would voluntarily forfeit his return ticket to "the land of the big BX" and his military retirement for a second-rate life in sunny Southeast Asia without his well-earned retirement benefits and income.

If Mateo Sabog wanted to spend the rest of his life in Vietnam, all he had to do was file his retirement papers. He would have had his pension and all the benefits that went with it in addition to the life he chose – if that was in fact his desire.

The USG's reaction to Mateo Sabog's existence becoming public knowledge is revealing. He was immediately "brought back on active duty" so he could "receive medical treatment at a hospital" on a closed military installation. The secondary reason stated by a USG spokesman was so the Sergeant's "paperwork" could be "properly" processed for his "retirement."

The USG only allowed one "press conference" to be held with Mateo Sabog for the purpose of his addressing the many questions swirling around his reappearance. The photographer and only person allowed near Mateo during this "press conference" was a member of the US Army. The press conference was tightly controlled by the USG in a secure room in the hospital that the public and the news media did not have access to. A USG spokesman read a prepared statement that provided no information at all to the many questions about where he had been since his disappearance in Vietnam, how he got out of Vietnam and into the US, etc. Further, the USG spokesman allowed no questions of Mateo. The stated reason provided by the spokesman was "to protect Mateo's privacy."

Shortly thereafter, and under extremely tight security, Mateo was flown by military aircraft to Hawaii where, we are told, he resides with his family. All attempts to locate and talk directly with him either in person or by telephone by anyone in the POW/MIA movement or the news media has proven unsuccessful.

Is Mateo Sabog a free man who values his privacy or is he a man – a secretly returned Prisoner of War – who has now been "paroled" into the custody of his family for "safe keeping?"

What do you think would have happened if he had not surfaced in Georgia when he did? How many other mis-identifications have there been? How about Tom Hart? Jacob Mercer? Joel Birch? Harley Hall? Dan Borah? Peter Matthes? Mark Judge? Hugh Fanning? How about the others?

At a minimum Mateo Sabog's miraculous return from the dead ought to give you food for thought and a solid example of how supposition can masquerade as fact.

The information known about the secret returnee program certainly is more substantial and credible than fictitious. However, the sad reality of it is those secretly returned Prisoners of War have been forced to trade one form of captivity for another. It is our understanding they have not been allowed to see or have interaction with their families. In most cases the families have no clue they are alive and have been returned to this country. The families continue to survive in a continuing world of uncertainty while the men continue to endure an existence of controlled isolation. A sizable number of these men have had fraudulent remains recovered/returned. Some of the families have accepted the USG's declaration and honorably buried their loved one. Other families have not accepted the fraudulent remains as the mortal remains of their man and continue to fight an even greater uphill battle than they faced before.

Is Earl Hopper, Jr. going to be the next "breathing body" to have his remains legally returned and identified based on smoke-and-mirror supposition? We sincerely hope not.

It is our responsibility to fight for Earl's rights and a true and real accounting of him by either his safe return home alive or the return of his remains if dead. For us the description of "remains" means more than a handful of teeth/parts of teeth he could easily live without. It means a sufficient amount of identifiable bones that are of the type and quantity a human being cannot live without – skull, ribs, vertebra, pelvis, etc. – that are scientifically proven to be his.

Earl and the rest of the POW/MIAs deserve our very best efforts. They will get no less than that from us. What will they get from you?

Your job is to confirm truth rooted in reality and documented facts, not rubberstamp garbage posing as fact.

The following questions need to be thoroughly answered before you render your verdict.

### **Questions to be answered**

In addition to the questions posed in the body of this document, we request complete answers to the following questions.

#### **Board Members**

- 1) Do you personally believe that some live Prisoners of War were not returned during Operation Homecoming?
- 2) Do you personally believe some of the Prisoners of War could be/are live today?
- 3) Do you personally believe they have a legal and moral right to be returned to this country regardless of status?
- 4) Do you believe our government has the legal and morel responsibility to return living POWs to this country regardless of the political ramifications of their return?

#### **DPMO Scrub Sheet**

- 1) Who is responsible for ensuring the information presented in the DPMO scrub sheets that are prepared for each unaccounted for American is truthful and accurate?
- 2) When information is intentionally misrepresented in a POW/MIA's scrub sheet, which is obviously the situation we are dealing with in this case, what recourse is there available to you and to us to get the scrub sheet corrected in a timely manner?
- 3) In the section entitled "US Government Information," there is no indication that the USG has gathered post-war intelligence specifying Earl was alive in captivity through the work of SFDK or any other USG authorized mission. This implication that there is no post-war information about Earl's survival is simply not true. Why the omission of this vital information?
- 4) How many other POWs tracked by SFDK by name and location have post-war intelligence information left out of their records and the scrub sheets?
- 5) Who is responsible for deciding what information to include in Earl's scrub sheet and what information to ignore?
- 6) What actions are available to you and to us against the person responsible for this blatant piece of misinformation, Malinda Cook?
- 7) How many other scrub sheets has she intentionally altered to imply something other than the reality of the loss incident, follow up intelligence and information relating to the individual's real fate?
- 8) DPMO was established to be an "umbrella organization" wherein all information pertaining to unaccounted for Americans would be brought together in one place for the betterment of the POW/MIAs and to help facilitate their return home – both alive and dead. Who is responsible for ensuring this organization is prosecuting its' mission correctly?
- 9) How can you conduct your mission correctly if the information provided to you by DPMO in the form of their scrub sheet, which is your immediate ready reference to the history of Earl's case, is not complete and accurate?

- 10) Do you have any avenues available to you to request an investigation into the conduct/misconduct of Malinda Cook in her capacity as a DPMO analyst?
- 11) What are you going to do to make sure DPMO presents you with accurate and complete information about a case that you are reviewing?

### **Crash Site**

- 1) Was the engine plate identified as being from the left engine ever compared to either engine to confirm if it actually came off that engine? If not, why not?
- 2) Were the two engines ever examined for data plates? If not, why not?
- 3) What were the full findings of the examination of both engines?
- 4) How did the engine plate come off the engine?
- 5) With the two engines sitting on the surface of the ground, how did the engine plate get to a depth of roughly 2 feet underground? The depth Mrs. Ann Bunch now tells us that it was found when we asked her that question while at the regional meeting.
- 6) Like the engine plate, how did the teeth/teeth fragments and bone fragments find their way underground when much heavier and larger pieces of wreckage were found on the surface? By their weight alone, the wreckage would be much more likely to penetrate the ground.
- 7) Was the tail section – afterburners, etc. – ever examined for identifying plates? If not, why not?
- 8) How do the experts explain finding only items of convenience at this crash site?
- 9) How do the experts explain the lack of personal affects at this crash site?
- 10) What happened to Earl's dogtags, ID and Geneva Convention cards, rank insignia, pens, money, sunglasses, etc?
- 11) If Earl did not survive the loss of his aircraft, explain the second beeper that was heard coming from a totally different location than Keith Hall's beeper signal and voice contact.
- 12) Explain Earl's beeper being tracked long after Keith was captured.
- 13) In this type of a crash landing, if Earl died in it, explain why only 5 teeth/parts of teeth survived?
- 14) Explain the condition of the teeth matching his dental radiographs so completely if they had been in the ground all these years.
- 15) Explain why no teeth were found in a jaw or part of one.
- 16) Explain why there are no skull fragments or larger more substantial portions of bones found, particularly in light of this type of a crash landing.
- 17) Why did the Vietnamese believe the bone fragment were "ancient Vietnamese bones" and why the American anthropologist or another ranking team member on site insisted they were American bones long before they were examined to determine what, in fact, they are?
- 18) Explain the wreckage scatter pattern and why it makes sense or does not make sense.
- 19) Explain the placement of the teeth/teeth fragments within the wreckage scatter pattern.
- 20) Explain the placement of the unidentifiable bone fragments in relation to the teeth/teeth fragments and the aircraft wreckage.

- 21) Explain the existence of 3 spent Soviet manufactured shell casings at this rugged and isolated site. Please do not insult our intelligence by saying they were from another period of time, another war or another battle. The location alone precludes that as a reasonable explanation.
- 22) Where were the Soviet manufactured shell casings found in relation to the .38 caliber shells and bullets? Where were these items found in relation to the teeth/parts of teeth and unidentifiable bone fragments? And where was all of this material found in relation to the major pieces of aircraft wreckage?
- 23) Answer the questions presented earlier about the RT-10 radio and it's relevance to Earl's death or survivability.
- 24) Explain the relevance between where the radio was found in relation to the human material and the various types of ammunition.
- 25) Explain why all recovered ammunition was listed by JTFFA personnel in their field reports as being .38 caliber when they had an EOD specialist on the team who could readily distinguish between the different types of ammunition found?

### **Beeper Signal/Communication/Keith Hall**

- 1) If Earl rode his aircraft in and died in the crash, how do you explain the weak beeper signal that was heard by other flight members and SAR personnel?
- 2) How do you explain the F-4D out of Ubon that picked up his beeper, gave Earl's authenticator code, requested a 15-second beeper response and got it?
- 3) How do you explain the weak beeper signal overriding Keith's voice communication?
- 4) Why were the North Vietnamese so interested only in personal information about Earl over 2 ½ years after his loss if they were not looking for something to use against him?
- 5) If the Air Force did not believe there were two beeper signals, which documented both crewmen alive on the ground after the loss and communicating with other aircrews, why did they include that information in their own information bio compiled in February 1989?
- 6) Why did it take the USG over 2 ½ years to change his status to KIA/PFOD at a time when it was only taking 60 to 90 days to change the status of other men whose status change hearings were conducted around the same time or after Earl's hearing?
- 7) Why was the classified information provided only to the 3 Colonels during the status review hearing and not to the legal officer, the family or the family's attorney?
- 8) Why is there no trace of those documents today? Were they destroyed? If so, why? What information could have been contained in them that was so volatile that it warranted their destruction rather than their release?
- 9) Who is responsible for the probable destruction of those documents?

### **Live Prisoner of War Intelligence as it Relates to Lt. Col. Earl P. Hopper, Jr. after 1973**

It is our contention the USG knew specific, and probably detailed, information regarding Earl being alive in captivity long after the end of the war that has not been given to the family in spite of the USG's contention that "all information is provided to the families." That is based on the documented history of this case, which was laid out for you earlier.

To his credit, President Reagan authorized multiple operations to locate and document Prisoners of War. One of those operations was under the control of the Special Forces Detachment, Korea. In January 1986, sworn testimony was given to the Senate Veterans Affairs Committee.

- 1) If the POW/MIA mission requirement was not part of SFDK's assignment, why would detachment personnel be allowed to conduct on-going POW/MIA intelligence gathering trips to Thailand from 1981 to 1984?

- 2) Likewise, as team members received names, prison camp locations and related data pertaining to specific individuals and that information was reported up their chain of command, what happened to that documentation? Where is it today?
- 3) Why have the families of the men tracked SFDK personnel not been informed of the information about their loved one? We know the families of several of the men SFDK collected information on. Of those we know, none of us has ever been provided that intelligence information either in its entirety or in redacted form – why?
- 4) Major Mark Smith, SFC Mel McIntire and Lt. Col. Bob Howard all testified under oath. If they were lying, why were perjury charges not filed against them?
- 5) It is our understanding that there was a CID investigation entailing 22 charges against these men. The chief CID investigator was WO Tracy Usry. His investigation cleared Mark Smith, Mel McIntire and Bob Howard of all charges. WO Usry also investigated General Leuer on 3 charges stemming from his activity, which included the destruction of documents pertaining to live Prisoners of War. It is our understanding that General Leuer was found guilty of all three charges and given the option of facing a court-martial or retiring. He chose to retire.
- 6) Where are the CID records today? What information is contained in them that verifies the existence of live POWs in general and Earl in particular?
- 7) Why have these records been kept away from the families?
- 8) What are you doing to do to facilitate these men's release?

We strongly request that the engine plate bearing the serial number of the left engine be examined by a reputable metallurgist to determine, if possible, how it came off the engine. Other questions regarding this engine plate include what caused the puncture hole in the upper left quadrant of the plate that was made from the back to the front of it? Is there residue on the engine plate from any foreign substance? Does it show signs of stress or stress fractures? Is there anything else the specialist can tell us about this item that we have not thought of to ask, but that is relevant to this case or would be of interest to all of us?

We also strongly request that if the engines were not examined for data plates, or if the engine plate that was found off the engine was not compared to either one or both engines, that a team return to that crash site. We also strongly recommend the team take a video camera with them to film the entire examination process so there will be no question in the future about the examination process and the results of their examination.

The most important question for you to answer if you determine Earl died in the loss of his Phantom is for you to explain the existence of all of the detailed, specific and long lasting USG generated intelligence track of him by name being a live Prisoner of War from the date of loss through May 1984 at a minimum?

If you determine 5 teeth/parts of teeth constitute Earl's total mortal remains, we want a detailed explanation of how and why you came to that conclusion. We want that explanation to include what criteria and justification each of you used to come to that conclusion.

It is our belief that Earl survived his loss, was one of the three Prisoners of War SFDK could have returned on 11 May 1984 had its personnel been allowed to carry through with their mission, and that there is a very good probability his is alive somewhere in the world today.

It is our fervent hope that you will see the merit of the case for survival we have outlined for you using USG generated documents and intelligence and that you will not change his status to remains recovered/returned based solely on those 5 teeth/teeth fragments and 23 unidentifiable bone fragments.

It is also our hope that you will allow us the opportunity to address you in person about the fate of our son. We believe we can answer some of your questions as well as you answering some of ours. We would also welcome having a CIL-HI representative present along with anyone else you wished to have in attendance.

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Earl P. Hopper, Sr.

Patricia B. Hopper