

1 towards me, I kind of moved over to the vet's
2 shop right nextdoor to me, the veterinarian
3 clinic, because they have got a big light out
4 there. Because I wanted more light. Two of the
5 men stopped about midway in the parking lot, there
6 was two taller men and a little short guy came
7 over there and we talked. And he talked
8 perfect English. And when I say perfect English,
9 just as good as you and I except he did not have
10 a southern drawl.

11 Q I want to interrupt you there, too, and ask you to
12 clarify something, if you will. Read the first
13 sentence point fifteen on Exhibit No. 5, if you
14 will read that, please.

15 A There at the very top?

16 Q It is a continuation of point fifteen.

17 A I think something is missing here. One of the men
18 asked me if I had a --

19 Q What I am looking at here is two of the men were
20 tall and large, muscular, and the other one was
21 of average height and weight.

22 A Yeah.

23 Q So by average, what do you consider average height?

24 A Two men were tall. When I say tall, to me a person tall
25 is over six foot, okay?

1 Q And so an average height would be about --

2 A Five six, five seven, that is an average height
3 person, that is what was taught to me. Anything
4 over six foot tall, when I went to school in
5 the police academy was anything over six foot
6 was considered tall. An average person's height
7 either male or female would be five six, five
8 seven.

9 Q That was just for clarification.

10 A All right.

11 Q Just for clarification, okay. So the three men that
12 you saw there in the parking lot, you spoke with
13 the shorter one?

14 A Shorter one of, right, he spoke good English, did not
15 have no accent or nothing.

16 Q Do you recall what the other two looked like,
17 anything about their appearance?

18 A They all had short hair, okay? And the other two, I
19 did not get a real good look at.

20 Q Did any of them have any facial hair?

21 A One had a beard, I know one had a beard.

22 Q Do you recall were they light skinned, dark skinned?

23 A I could not tell. They was in the dark at the time,
24 it is late at night, it is like 8:00, 8:30.

25 Q Anything about their clothing that was out of the

1 ordinary?

2 A No, they was dressed in what I would call civilian
3 appearance, pants, shirt, no coat on, anything
4 like that. It was a warm night that night, by
5 the way. This guy here, he had -- I am
6 referring to this guy here because this is the
7 guy I believe I talked to.

8 Q You are pointing to --

9 A The guy that is supposed to be Medvid.

10 Q In photograph number seven?

11 A This guy, yeah, this guy was really easy to recognize.

12 Q But you are also talking about the shorter of the
13 three men?

14 A Yeah. This is the guy who spoke the English. This man
15 appeared to be thirty-fiveish, thirty-three,
16 thirty-five years old, ruddy complexion, okay,
17 thick eyebrows. Anyway, he had a bright orange
18 shirt on, you could not miss, okay? And that is
19 how I noticed him right away.

20 But anyway, we spoke and he asked if I had seen
21 anybody wandering around. And I asked him why.
22 He said, "One of our comrades fell off the ship
23 and may have injured himself and may be walking
24 around, wandering around, and we are looking for
25 him." And that is when I started finding two and

1 two was four in my mind. I said wait a
2 minute, these guys are looking for this other
3 guy that just left. That is when I said in my
4 own best interest I had better say no, I had not
5 seen anybody.

6 Q Did you ever see any of these three men again?

7 A Yes, I did see one of the tall men.

8 Q Where was that and when was that?

9 A That was when we went with the Agricultural
10 Commission to --

11 Q Is this the Senate Agricultural Committee?

12 A Committee, yeah, I am sorry. Terrence Wear,
13 Jack Sullivan.

14 Q David Sullivan?

15 A We went to Reserve, Louisiana, where the ship was
16 moved from Belle Chasse up to Reserve where he
17 was going to load the grain. I went up there
18 twice, I went up there a Thursday night and they
19 went on board the ship to try to serve the
20 subpoena. And the captain told them that come
21 back later. And to make a long story short, we
22 went back the next day and we were standing
23 along the dock, they have got Soviet crewmembers
24 all along the ship. And we went, when we first
25 got there, they have two uniformed Soviet

1 officers at the end of the gangplank preventing
2 anybody from going aboard the ship. That is when
3 this Russian diplomat came down, a big tall man
4 about six five, six six.

5 MR. HEATH:

6 Had you ever seen him before?

7 THE WITNESS:

8 No, he was from Washington from what I can
9 understand.

10 BY MISS CART:

11 Q At this point, Mr. Wyman, would you take a look at these,
12 these are photocopies of photographs which
13 appeared in the newspaper. Do you recognize any
14 of the people in any of these photographs?

15 A Yeah. Well, I know this big tall dude here.

16 Q Is he --

17 A The Soviet diplomat here, that is the big man about
18 six five, that is the MARSHAL KONEV over there.
19 I do not recognize this guy. It is hard to tell
20 in this photograph.

21 Q In the subject title, this is the man that is
22 identified as the Soviet diplomat?

23 A Yeah, yeah. I remember him, he spoke a broken but a
24 good enough English you could understand him.
25 He did not speak a perfect English.

1 Q Do you recognize -- this is Exhibit 12.

2 A These are terrible photographs, though.

3 Q They are very poor quality.

4 A It is hard to tell in these photographs here, it
5 really is. Now you may have checked back with
6 some of the news reporters who took a lot of
7 photographs. Now during the time we was there
8 you have a Soviet officer, you had a picture of
9 the gangplank scene there on the MARSHAL KONEV
10 docked, I do not know if you have a
11 photograph of that at Reserve. No, that is not
12 going to be that either. It is docked right up
13 against the dock. I mean, I can reach out and
14 touch the ship, that is how close I am now.

15 Q For the sake of clarification, let's run through these
16 other photographs real quick and give them an
17 introduction into evidence.

18 A If you have a better photograph of that I would like to
19 see that there.

20 Q I am trying to get one now, I have not been able to
21 obtain one so far.

22 I would like you to take a look at these photographs,
23 there are nine photographs, and tell me if you
24 recognize any of those photographs.

25 A Well, this first photograph appears to be the

1 MARSHAL KONEV. Same thing on number two.

2 Q Do you recognize any of the gentlemen in the
3 photograph marked number three or number four?

4 A No. Who were they supposed to be?

5 Q I would like you to take one look at this photograph
6 that we will mark Exhibit 15. Do you
7 recognize anyone in that photograph?

8 A No.

9 Q All right. When you were at Reserve --

10 A The MARSHAL KONEV was sitting at Reserve at the grain
11 elevator in this position docked against the
12 dock.

13 Q Lengthwise against the dock?

14 A Lengthwise against the dock with the forward part of
15 the ship pointed north. Okay, where the smoke-
16 stack is for clarification pointed south in the
17 back of the ship.

18 Q That was --

19 A It was right up against the dock. In fact, you could
20 walk, they have a gangplank at the rear by the
21 smokestack and I am just looking at that for
22 identification.

23 Q For identification purposes then we are referring to
24 photograph number eight of Exhibit No. 14,
25 although this photograph was not taken at the

1 cargo grain elevator?

2 A Right. Now that gangplank --

3 Q It can be seen from this photograph?

4 A Yeah, was lowered on to the dock at Reserve. Okay,
5 so in other words, that is how it tied up to the
6 ship. Actually, you could stand on the dock and
7 reach across about two and a half, three feet,
8 and touch the ship. So the ship was against the
9 dock like that.

10 Q So when you were --

11 A At Reserve.

12 Q Yes, you were there on the dock?

13 A On the dock. In fact, I was right up there where the
14 Soviet diplomat, when he came down, I was
15 standing right there with the police officer and
16 Wear and Sullivan.

17 Q This is the Soviet diplomat identified in Exhibit
18 No. 12?

19 A Right, the big tall fellow, six foot five guy. They
20 had two Soviet uniformed officers from the ship
21 there. When we came there, they went up and
22 brought down the Soviet diplomat. He said we
23 cannot go on board ship. They wanted to go into
24 negotiations so Sullivan and Wear and the Soviet
25 diplomat went back in the cars and went back

1 across the levee into the office of the grain
2 elevator. We stayed out there for hours.

3 Now while I was out there, the Soviet crewmen were
4 coming and going and sitting and standing on
5 the rail. I noticed they had women on board
6 the ship, too, it was not just a man crew. And
7 as we was out there, one of the Soviet officers
8 went back up on board the ship. Then while we
9 were there an hour or so later, a man came, comes
10 down the gangplank in blue jeans and a shirt with
11 a beard. And I recognized him as being one of
12 the men that came that night looking for Medvid.
13 He took the place of the Soviet officer who then
14 went up into the ship and never came back down.
15 And he stood guard out there at the gankplank.

16 Q Did he ever see you, notice you?

17 A He noticed me, in fact, he kind of unnerved me a little
18 bit because I could not tell who was taking
19 pictures of me up there at the time. But they
20 took several pictures of me. In fact, I walked
21 away and went down and they purposefully
22 followed me down and they took pictures of me.
23 They sort of unnerved me a little bit.

24 Q Did you see either of the other two men at the time?

25 A I really did not see the other two men. I saw him for

1 sure I can remember. My memory -- you are
2 talking about a year and something.

3 Q This is the shorter --

4 A No, I do not remember if I seen him or not. I will
5 be honest with you, it was almost a year and
6 a half ago. At the time I might have said I
7 might have noticed him. But right now my
8 memory I recall seeing him definitely because
9 like I say, if you look at the photographs that
10 these guys were constantly taking, you can
11 probably pick him up because he is standing at
12 the end of the gangplank in blue jeans and like
13 a plaid shirt.

14 Q And he had a beard?

15 A He had a short beard.

16 Q If we can go back a minute to your meeting with
17 Lieutenant Geltz that evening, did you
18 recognize the man in the photograph?

19 A The man in the photograph, I told Jim, I said I think
20 I have seen this man before.

21 Q And did you tell him where you thought you had seen
22 him?

23 A Yes. And I asked Jim to kind of describe this guy
24 after I done said no, this is not Medvid, as
25 far as I am concerned, this is not Medvid. I

1 said Jim, could you describe this guy a little
2 bit to me? He said well, he was a small little
3 runt, that is how he put it. He had a sort of an
4 olive skin complexion, dark skin complexion. And
5 he said, you know, that he was not -- I said,
6 you know, any particular thing about him? He
7 said no, that he was just short and he was not
8 very heavy, about one hundred and fifty pounds or
9 so, maybe one hundred and forty, you know. He
10 did not know exactly, but he was a very small
11 individual compared to everybody else out there.
12 And he met several of these guys in these
13 photographs, okay? And I asked him then, I said
14 well, Jim, how tall was this guy? He said well --
15 Jim stands about six foot and he is just a tad
16 shorter than me. That is why I said I knew how
17 tall this guy was, but later, you know, later I
18 found out. He said no, he kind of had a olive
19 skin complexion and kind of a ruddy complexion
20 and he had black hair.

21 Q How did you leave your meeting that evening?

22 A Well, we talked about it and he says, you know, it kind
23 of floored him that we said that was not Medvid,
24 okay? So he was caught in a Catch 22 situation.
25 He said I need to tell somebody this. I said

1 well, you can go to your captain of your base out
2 there or whatever it is, your, you know,
3 commanding officer. He said no, I do not think
4 that would be a good idea. I said I have
5 contact with these people I met from
6 Washington, you know, I had their phone numbers
7 and everything. Well, he said we will make the
8 call and talk to them and see and tell them what
9 you found out. So I called up Lucier, Jim
10 Lucier, and told him what happened. And then --

11 Q Jim Lucier is with Senator Helms' staff?

12 A Right. Then they wanted to make, try to make an
13 arrangement. They did not want something to
14 happen to that photograph, okay? So that is
15 when the next night James came over to the house
16 and, you know, I arranged for them to talk on the
17 phone. I said look, it is up to you, you-all get
18 together on this and, of course, poor Jim got in
19 a world of trouble over this.

20 Q For taking the photograph?

21 A For taking the photographs which was his job, by the
22 way.

23 Q Did you ever have any further contact with Lieutenant
24 Geltz?

25 A Oh, yeah, we have talked on and off about this thing

1 since it happened, since after it happened.
2 But he got in a world of trouble like I said.
3 The Navy slammed him hard. And then I told him
4 not to worry, I said before you get out, before
5 you get out the Navy I guarantee they are going
6 to drop all those charges against you. I says --
7 his wife got in trouble. I said do not worry,
8 I am telling you just take your time and wait.
9 You can ask him that for a fact. I said they
10 are going to ask you, sour grapes as the saying
11 goes. And that is what they did.

12 Q Did he show you any of the other photographs that had
13 been taken that day?

14 A No, not at that time. We are referring back to when we
15 had first met? No. He only had the one
16 eight by ten.

17 Q When did you see or did you see --

18 A Yeah, I seen his other ones from various different
19 sources of the other photographs. In fact,
20 there is several people have copies of these
21 photographs, several, several.

22 Q When did you first see the Matt Rose photographs that
23 are marked as Exhibit 11?

24 A Okay, Matt Rose, which one is --

25 Q The glossy prints, I am talking about.

1 A Which one is one?

2 Q This one.

3 A This one here, the frontal shot? Orest Baranyk.

4 Q Baranyk?

5 A Okay, he had arranged for Matt Rose because --

6 Q Who is Orest?

7 A Orest and I talked, I said Orest, you know, they
8 published that photograph there, there is going to
9 be other photographs of the man. I said if they
10 are published, that photograph there, there has
11 got to be maybe a frontal shot. We talked on the
12 phone.

13 Q Mr. Wyman, the -- can I backtrack a moment? How did
14 you first meet?

15 A I met Orest at the Courtroom, after the Courtroom was
16 over.

17 Q This is when you appeared in Court on November 6th?

18 A Right.

19 Q What is your understanding of his involvement in the
20 case?

21 A He was a member of the Ukrainian American Society.
22 And he was quite involved in the case and all
23 like that. In fact, the attorney that was
24 Kulas, okay, and him was personal friends.

25 Q So he was an interested --

1 A Involved in the case, yes, he was interested in the
2 case.

3 But anyway, we talked and he says -- we got to
4 talking, I said somebody ought to check it out
5 and see what other photographs Matt Rose has.
6 I said The Times-Picayune has, you know,
7 concerning this photograph because they had
8 taken one click, click, click, click, click,
9 click to shoot the whole roll out just about.
10 So he did, he had a frontal view. And see, the
11 reason why the Government has been given
12 misinformation on this all this time, you go
13 back when you are doing your job, you go back
14 and find out what they give in information when
15 Medvid first jumped ship from that time on.
16 They gave misinformation as to why this
17 photograph was published. Why, because they --

18 Q That is photograph number two?

19 A They said the guy on the far right is Medvid. So why
20 did The Times-Picayune publish this
21 photograph because that was identified to them as
22 Medvid.

23 Q The man on the far right?

24 A So now the Medvid photograph is not, you cannot tell,
25 you see. With this photograph I can tell a lot

1 from.

2 Q All right, you are talking about the man that is
3 second from the left?

4 A Right, second from the left from the bottom in
5 photograph number one.

6 Q It is a much clearer photograph?

7 A Oh, yeah, much clearer photograph, yeah. In fact,
8 I have met this guy, too, the guy at the
9 bottom.

10 Q Who is he?

11 A He is the Soviet ship captain. And I am going to give
12 you a piece of information you probably do not
13 even know. Remember that Soviet ship, those two
14 Soviet ships hitting in the, what is it, the
15 Black Sea or whatever? It is just recently a
16 while back. Okay, this is the Soviet ship
17 captain that was in charge of the other ship
18 that got in trouble, that is the same guy there,
19 same captain. So that is kind of ironic
20 because he is in the slammer over there now.
21 That is true. His name, I got his name wrote
22 down. It appeared in the paper and
23 everything. I picked up on it because I
24 follow those kinds of things.

25 Q Getting back to the actual photographs for a second.

1 A Okay.

2 Q You said you had been talking with Orest Baranyk?

3 A Right. He is the one that arranged with The
4 Times-Picayune to get copies of the Matt Rose
5 photographs.

6 Q Did he make arrangements to get copies of both
7 photographs?

8 A All the photographs, yes.

9 Q How many photographs?

10 A Well, there was only two that came out like this.

11 I say all the photographs, I am talking about
12 both photographs, we had the frontal and the
13 side view.

14 Q So from what you recall, these are copies of the
15 photographs that Orest Baranyk was able to
16 obtain?

17 A Right, I assume they are.

18 Q Did he obtain them or did he make arrangements for --

19 A He made arrangements for me to go over there and pick
20 them up and I did. And, in fact, when I had this
21 photograph, okay --

22 Q This is Photograph No. --

23 A Both of these photographs, we had both of these.

24 That is when another man by the name of
25 Mr. Jack Landau came into the picture.

1 Q Who is Jack Landau?

2 A He is a freelance reporter out of Washington, D.C.
3 And he called me and got, you know, wanted to know
4 the story and everything else like that. And
5 he had gotten in contact with Curly Spurlock.

6 Q And Curly Spurlock is the Border Patrol Agent who put
7 Medvid back on the ship?

8 A Right. And I was telling --

9 Q He had arranged for him to be put back on the ship?

10 A But he arranged -- Mr. Landau arranged for Spurlock
11 and myself to get together at my home and he
12 wanted to see the photographs that we had.
13 Okay, to see the Matt Rose photographs.

14 Q He wanted Spurlock or Spurlock --

15 A No, Spurlock wanted to see what we had. Okay, so
16 Mr. Spurlock comes and calls me in and talks on
17 the phone, chit-chat, and all that like and he
18 comes over to the house. Wayne is there, myself
19 is there and --

20 Q Do you recall about when this was?

21 A The date?

22 Q The date.

23 A Oh, this is after the ship is gone and everything.

24 Q Was this after you had met with Jim Geltz?

25 A Yes, way down the road we are talking about maybe --

1 Q A couple of weeks?

2 A A couple of weeks after the ship had sailed, yeah.

3 Yeah, I would think so, yeah.

4 So he come over to the house and was extremely
5 nervous. We gave him a cup of coffee, he
6 introduced himself, I introduced myself. and all,
7 and we started talking and I am trying to find
8 a common ground with him. So he drinks about
9 three cups of coffee and smokes about a pack
10 of cigarettes in about thirty minutes. So, you
11 know, he kind of eases down a little and without
12 any talking, we are just talking generalities,
13 we are not even talking about Medvid or
14 nothing, nothing about the photographs or
15 nothing, just trying to relax him and talk and
16 get a background of him. He told me he was in
17 the Marine Corps which I was an ex-Marine, too,
18 reserves, and he was an embassy guard, that is
19 what his job was. And, you know, we kind of hit
20 a common ground. He kind of calmed down a little
21 bit. And I says you want to see the
22 photographs? He said yeah. So I show him the
23 photographs. He said oh, man, I left my glasses
24 home. I said well, that is kind of strange, you
25 want to look at photographs and you leave your

1 glasses to see? I said you want to see them,
2 here, I said here, try mine. And he said yeah,
3 I can see out of them. And he used mine
4 because mine is just reading glasses and the
5 top is clear. So he looked at the photographs
6 and he says well, I really cannot tell you one
7 way or the other. He says it appears, it does
8 not appear and it appears to be the same guy.
9 I said well, that is not telling me nothing.
10 I said in your honest opinion, what do you think
11 it is? He says I cannot really get a decision
12 on it. And I got to talking and he relaxed and
13 I says, you know, it is a shame because by this
14 time I think they was already talking about
15 reprimanding him for sending him back. I said
16 it is a shame that, you know, you are the one
17 getting blamed for this. He said well, I just
18 did my job. And furthermore, the minute they
19 tried to, you know, get me, he says, I have
20 enough evidence to burn the State Department
21 and Immigration. He said that twice.

22 Q Did he explain what he meant?

23 A I asked him that. He says he was going to start
24 talking and then he just shut up and he says no
25 when the time comes, he said, when the time

1 comes I have, he says I have enough and he made
2 that statement twice. He made that statement
3 sitting at the table and after he was leaving
4 and we were standing on outside on my back porch
5 and he was on the ground he made that statement
6 again, that emphatically, he said, I did my job.
7 And he made sure we understood that. And he
8 said, and he looked at me square in the face
9 when he said that, I just did my job. In other
10 words, just saying like I did what I was told to
11 do. That is the kind of opinion I got out of it.
12 And he said, but I do have enough evidence to
13 burn the State Department and Immigration if they
14 try to get me. And by the way, he has not been
15 gotten to.

16 Q At that point he did not elaborate as to what he meant?

17 A No, he did not. For the record, and I want to go on
18 the record that if this man was supposed to be so
19 punished for doing what he did, how come to this
20 day he is not punished? Okay? When a Federal
21 Judge threw out the INS which was just a bunch of
22 malarkey, it is a cover-up, they prosecuted him,
23 slapped him on the wrist and the Federal Courts
24 threw it out. So he never did get punished for
25 this deal is what I want to clear the air on and

1 that is a fact.

2 Q I am trying to go a little bit further.

3 In a previous interview with the Commission staff,
4 you advised us that you did meet with Spurlock
5 later on?

6 A Yes, we did meet later on. I'm just going to go into
7 some things, not a whole bunch because, you
8 know, this is all kind of -- it is important but
9 it is not really. Because it was to me the
10 first time when I met the man, I think the man
11 was sincere. He felt guilty for what he did.
12 Because at the end of his -- on the INS report
13 reason for jumping ship there is a message
14 there that everybody is missing. He put
15 reason for jumping ship, political and moral
16 reasons. Now why on God's earth would he put
17 that down there unless he was trying to tell
18 everybody something, okay? If the man jumped
19 for political and moral reasons, why on God's
20 earth did you send him back to the ship?

21 Q Did he ever explain that to you?

22 A I asked him on that and he never would even
23 elaborate too much on that. He says, he kind
24 of gave me the impression that -- the second
25 meeting he did not seem as comfortable as the

1 first meeting.

2 Q Okay, do you recall when, about when the second
3 meeting took place, was it several weeks or
4 months?

5 A Several weeks. I think it was several weeks after.
6 Yeah, several weeks after. I think I met him
7 a total of three times after that.

8 Q Do you know what prompted the second meeting, was
9 there any one thing that brought you together
10 or did you call him or did he call you?

11 A No, he called me, every time he called me. I did not
12 call him.

13 Q And did he tell, give you a reason for wanting to
14 meet?

15 A Talk about the deal, the Medvid case.

16 Q Do you remember where you met him?

17 A In New Orleans, in New Orleans.

18 Q At --

19 A One time it was at the Beef Baron Restaurant on Canal
20 Street.

21 Q Was that the second meeting or the third meeting, do
22 you recall?

23 A Probably third meeting. One time we met just in his
24 car, okay? And we sat on the corner of
25 Claiborne and Canal and talked.

1 Q Do you think that was the second meeting?

2 A Second meeting there, and that was a brief meeting,
3 too. It seemed like, the second meeting to me
4 seemed like he was still being sincere, okay?
5 And but he was extremely nervous at that time.
6 We was only there five minutes that time.

7 MR. HEATH:

8 Was he trying to establish something at that
9 meeting?

10 THE WITNESS:

11 He was trying to tell me something at that time
12 but it appeared to me that, like the way he
13 was acting like he was being followed, you
14 know. That is the impression I got.
15 Because when I got there, he got nervous,
16 okay? And we really did not talk that
17 much. When we got in the car he says,
18 you know, I want to get together with you,
19 he says not under these circumstances.
20 I said well, why the hell did you ask me
21 to come way across the damn river to meet
22 you over here? He said well, I am on
23 duty right now. He said it is better for
24 me to meet on duty than off duty.
25 Because they almost go and come as they

1 please, I guess, I do not know. So but he
2 got real nervous, he said well, this is not
3 a good time to meet. He says I will call
4 you later. I guess, I guess maybe see if
5 I would meet him.

6 BY MISS CART:

7 Q Did he tell you anything at that meeting?

8 A Not really, not too much at that time except that --
9 well, again, I am not going to go into
10 speculation, okay?

11 Q Well, did he ever discuss what had happened while he
12 was on board ship with Medvid?

13 A To a degree he did discuss it, yeah.

14 Q Did he discuss it at that meeting or the third
15 meeting?

16 A Next meeting, next meeting, next meeting was a much
17 longer meeting. This to me is real
18 speculative so I do not want to go into it
19 really, to be honest about it. Because, you
20 know, I am not going to be, I am not going to
21 say something that I cannot back up one hundred
22 percent, okay? And I felt at the time -- let me
23 put this in the published record, okay? I feel
24 that meeting there and the meeting after that to
25 me was they were trying to set me up some kind of

1 way, discredit me.

2 Q Who was trying to?

3 A The Government or who you want to put on it, you know,
4 at the time. Because they had tried to
5 discredit me from Day One, the Government did.
6 And I feel towards the end there that they had
7 got to Spurlock and he had fell in with them.
8 I mean under no choice, I mean if I was in his
9 situation I would probably do whatever the
10 Government told me to do anyway. Your job, your
11 career and you are playing with some heavy weight.

12 Q Did Spurlock ever tell you that he believed that the
13 man he saw on the ship was not the same man that
14 he picked up that evening?

15 A Okay, say that one more time so I can quite
16 understand what you are getting at?
17 In other words, you are trying to --

18 Q Did Spurlock believe that a switchover occurred?

19 A In the first beginning, the first meeting that we had --

20 Q At your house?

21 A Not at the house, no, the second, the third meeting it
22 seemed to me he was a little sincere in that
23 meeting, I do not know if it was that meeting.
24 I think we either met three or four times
25 afterwards. The last meeting was definitely

1 trying to set me up, they was trying to make me
2 to go run to the newspaper, make a babbling
3 fool out of myself because I am not going --

4 Q Do you feel like he fed you misinformation then at
5 that meeting?

6 A Misinformation -- at the end of the third meeting I
7 think he was sincere. He never got back, when
8 they took Medvid off the ship, okay, he never
9 got back on the ship and he never got near
10 Medvid after that. But he felt that the guy
11 that he saw in there in the sick bay, because
12 he never was able to get close enough to him by
13 the way and the man was laying with his face
14 turned like this, that he felt --

15 Q His face was turned --

16 A Towards the wall, towards the wall. The room was
17 about a 22-foot long room, okay, the sick bay on
18 the ship. They had, you know, bunks on one side
19 of the room and they had a medicine cabinet at
20 the end and on the other side of the wall a door
21 at the other end and a door at this end. And when
22 he came in he was told to sit there in this chair
23 and not move. Americans were on board the ship,
24 by the way.

25 Q When he arrived?

1 A When he arrived there, yeah.

2 Q Did he indicate to you who they were?

3 A He thought the people on board the ship were
4 Immigration and State Department, okay?

5 Q So he indicated to you that he was not --

6 A That he was not the same person there by no means,
7 shape or form.

8 Q Their party that boarded the ship was not the first
9 American to board the ship, that somebody else
10 was already on board the ship?

11 A Well, we are getting a little confused there. When he
12 got back to the ship, it was not till the
13 following day when he came back on duty that
14 afternoon.

15 Q This is on Friday, October 25th?

16 A Right. He came on board the ship about three, 3:30
17 that afternoon.

18 Q When he boarded the ship, he indicated to you that when
19 he boarded the ship --

20 A There was Americans already on board the ship at that
21 time. And he was told to go in that room, that
22 was Medvid over there in the sick bay, to sit
23 right there and do not move, the Soviet
24 ship.

25 Q Did he indicate to you that he got a full face look at --

1 A No, he never did walk over there. The doctor was in
2 there constantly monitoring Medvid at the
3 time. He said that they was in there, I think
4 if my memory serves right, an hour, hour and a
5 half, while he was in there at that time the
6 doctor must have took his blood pressure ten
7 times. And, in fact, he left the, you know,
8 the blood pressure machine --

9 Q Gauge?

10 A Gauge on his arm, on Medvid's arm, on the guy's arm,
11 okay? He had told me that the doctor kept
12 coming over there and then the Soviet ship
13 captain came in and the doctor talked a
14 little bit and he was told that he could not
15 stay in here no more, that he had to leave the
16 room by the Soviet captain who spoke a broken
17 English. He then stepped outside for a second
18 and conferred with the other officials. He
19 said well, look, you do what the man says and
20 that is the last he saw of him, that was it.

21 MR. HEATH:

22 Did Ernest Spurlock ever mention to you that he
23 had taken a photograph in chambers?

24 THE WITNESS:

25 I am not going to speculate on -- okay, I have

1 told you that off the record, something
2 like that.

3 I would like that stricken from the record.

4 MISS CART:

5 You can take that out.

6 BY MISS CART:

7 Q Can you stipulate to the other meeting places that you
8 had with Ernest at least?

9 A It was all across the river.

10 MR. HEATH:

11 Did you meet at the same place, you mentioned
12 the Beef Baron Restaurant?

13 THE WITNESS:

14 Basically the same place, I think that is the
15 Beef Baron every time.

16 BY MISS CART:

17 Q But you met him at least four or five times?

18 A Yeah, to get down to the nitty gritty on it. I know
19 the last two times, I know the last time for
20 sure to me was definitely appeared to me to be
21 some kind of a set-up type deal.

22 MR. HEATH:

23 Where did you meet at that time?

24 THE WITNESS:

25 That I would say the Beef Baron, you know.

1 Again, it has been a year and
2 something.

3 BY MISS CART:-

4 Q We understand that it has been a long time.
5 How was he trying to set you up, can you elaborate on
6 that for us?

7 A No, I would rather not go into that because again, it
8 is speculative.

9 Q Would it have been in his interest to discredit you?

10 A Sure, Sure. He was interested in discrediting me
11 because I was basically the only witness
12 hollering foul, you know, that something is
13 wrong, that the Russians had made a switch
14 with the man and that either the State
15 Department was that ignorant or stupid, which I
16 think they are anyway, and/or they were in on
17 the switch, very simple.

18 Q Did Spurlock indicate to you how he recognized the man
19 on the ship when he arrived, if he did not get a
20 clear look at his face?

21 A You know, he says ---

22 Q Were there any marks on him?

23 A Well, the guy appeared to have been hit or beat up on,
24 okay?

25 Q Where did he appear to have injuries?

1 A Eye, one eye was like --

2 Q His left eye?

3 A Yeah, left eye, he was laying like this with his head
4 towards the bulkhead.

5 Q He was laying on his --

6 A He was laying on his back but like if you are laying
7 down sleeping, okay, and you have got your head
8 straight back or you are laying with your head
9 turned to like a forty-five degree --

10 Q To the right?

11 A To the right, he said it looked like that eye was
12 swollen up, kind of swollen a little bit. And he
13 did remember hearing that they had a scuffle
14 because he told me, he says the second meeting,
15 just a little bit, we got to talking about what
16 happened and he says yes, says when we signed the
17 order to send him back to the ship and they come
18 over to pick him up, the shipping agent, okay,
19 they did not bring him back to the ship, the
20 Immigration, I mean the Border Patrol people did
21 not bring him to the ship. They called the ship-
22 ping agent, he is the one that brought him back
23 to the ship, him and a security guard. And he
24 told him, his last parting shot to them, Spurlock
25 said he said that is what made him mad, he said

1 that if he gives them any trouble whatsoever,
2 any resistance going back to the ship, to bring
3 him back to Border Patrol Headquarters and you
4 know what happened after that.,

5 Q So Spurlock appeared to be very upset?

6 A Yeah, he was upset about that. In fact, he was
7 emphatic about that and this was either the
8 first or second meeting this came out. After
9 that, you know, like I say, you know, you go
10 down to what the man told me in the beginning
11 when I think the man was sincere before he was
12 gotten to. And the thing that he wrote down on
13 his own paper Government document that is for
14 public record, that seems to be telling us
15 something you know right then and there. And
16 then why would you send a man back to the ship
17 after saying that?

18 Q Mr. Wyman, I would like to go back to your initial
19 description of Miroslav Medvid.

20 A Yes.

21 Q Is there anything else that you can remember about his
22 appearance or his looks that was unique that you
23 can point to?

24 A Well, he had -- to give you a little more facial
25 description, he had a horseshoe, I mean a

1 horseshoe eyebrow, his eyebrows kind of --

2 Q They were arched?

3 A Arched, right.

4 Q Very arched?

5 A Arched normally, you know, where some people's
6 eyebrows are not arched, they go out. He had
7 a dimple like a Kirk Douglas chin, it goes out
8 like a little bump on his chin and fair skinned,
9 short hair but sort of a dirty blond hair.

10 Q Is there anything else about his complexion?

11 A Complexion was not, it was not too, it was not ruddy,
12 I do not believe it was ruddy.

13 Q Was it smooth?

14 A Kind of smooth a little bit. It had, he had,
15 appeared to me, maybe how a young man would have
16 pimples and go away and they leave the little
17 scars type thing. I could not say scars, but
18 like he recently had pimples and they are
19 clearing up.

20 Q Blemishes?

21 A Blemishes, and they are clearing up.

22 Q Okay. I want to show you some other photographs that
23 were taken from a newspaper article, again
24 these are not as clear as I would like. I am
25 trying to get glossy prints, but I have not been

1 able to obtain them yet.

2 Have you ever seen either of those photographs which
3 we will mark as Exhibit 16 and do you recognize
4 anyone in those photographs?

5 A You know, to me this photograph is not good at all.
6 It does have some of the characteristics, these
7 two photographs here of Medvid. But the one
8 thing I notice here real quick about this, this
9 is a much younger man. This guy, this man
10 reminds me of a guy like eighteen years old.

11 MR. HEATH:

12 It reminds you of Medvid at an earlier age?

13 THE WITNESS:

14 Yeah, it looks like about an eighteen year old,
15 seventeen year old kid. .

16 BY MISS CART:

17 Q Does this appear ---

18 A The photograph is not really good enough to really
19 tell, it is too grainy. This is just a
20 photocopy of the photograph and it is too
21 grainy to tell. But it appears to me it could
22 very possibly be him, but at a much earlier age.

23 Q Have you see these before?

24 A I have seen these. I think they had the same kind of-
25 thing, you got photocopies like this and I do not

1 remember who, but I did see it before. .But the
2 same situation, I wish I could see a good
3 photograph of this, I could tell you a lot
4 more. But the man does not -- this looks like a
5 much younger man right there, you know, the
6 first photograph.

7 Q Than the man you saw?

8 A Than the man that I saw, yeah.

9 MR. HEATH:

10 Can I ask one question?

11 Getting back to the association you had
12 with Jim Geltz, did he ever mention to you
13 in any of your conversations that he had
14 encountered a military security type at a
15 bar or at any establishment that
16 approached him about his involvement in
17 this case?

18 THE WITNESS:

19 No, that was my nephew Wayne.

20 BY MISS CART:

21 Q What did Wayne tell you?

22 A Who?

23 Q Wayne.

24 A Wayne told me that -- he goes to his favorite watering
25 hole --

1 Q Which is where?

2 A The Knaughty Knight or something like that on the
3 Westbank. I think that is what it is. So
4 while he is there, the barmaid says Wayne,
5 you ought to meet this guy over here, they
6 are talking about the Medvid case.

7 Q You do not know who she would be, do you?

8 A No, I never been in the place, I do not know. Maybe a
9 long time ago when I was younger, but not in the
10 last ten years or so. But she brings the guy
11 over and they get together and they are talking
12 about -- he introduces himself, in fact, he even
13 writes down his name and what it is, he is in
14 security, Naval Security at the military base
15 that they did the interview of Medvid. And he
16 was the guard on the door where Medvid slept at.

17 Q Oh, inside LBQ?

18 A Yeah, his name is Barraclough. In fact, he wrote it
19 down and gave Wayne that. And that is when
20 Wayne thought, knew what is going on. Because
21 Wayne asked him to describe Medvid to him.

22 Q Was this a chance encounter?

23 A Chance encounter? I ~~wouldn't~~ say chance encounter
24 because, you know, he got too shook it seemed to
25 me to be chance encounter.

1 Q Who, Barraclough got shook?

2 A Because my nephew Wayne asked him to describe Medvid
3 and he did. He said well, the guy is about
4 five six, five seven, about one hundred and
5 forty, one hundred and forty five pounds.
6 And he had olive skin, black hair, man in his
7 early thirties. And Wayne said man, that is not
8 the guy I knew as Medvid. And when he told him
9 to describe him, Wayne said about five ten, one
10 hundred and seventy five pounds, blondish hair,
11 light skin, the guy got up and went over and made
12 a phone call. And when he came back, the guy
13 said somebody wants to talk to you about that.
14 And Wayne said no, see you later. And he got up
15 and went and got in his truck and went home,
16 I mean his car, and went home.

17 Q So your memory of the conversation did not include
18 anything about his, Barraclough's threatening
19 Wayne or telling him not to do anything?

20 A No, not really, not that I remember at that time. Wayne-
21 I do not want to get into that but there was
22 something later on happened, okay, and Wayne
23 asked me never to talk about it. It was not
24 this guy here, though.

25 Q Okay, well, all right.

1 Have you ever been told not to discuss this case by
2 any Government official?

3 A Not really. But I was told by --

4 MR. HEATH:

5 In the beginning, not --

6 THE WITNESS:

7 Because it was funny at the time going back to a
8 conversation I had with Spurlock,
9 Spurlock said that McMahon was a head
10 hunter out of Dallas. And that he was
11 here to take charge and to take control
12 of the situation. But he is a head
13 hunter, that is how he said it, that is
14 how he described McMahon, he is a head
15 hunter.

16 BY MISS CART:

17 Q Have you ever been threatened as a result of
18 anything you have said about the Medvid case?

19 A I do not want to get into that because it has
20 happened, yeah. I ain't going to go into
21 specifics, but that has happened in the last
22 three months..

23 MR. HEATH:

24 Can you tell us about it?

25 THE WITNESS:

1 No, I am not going to go into really --

2 BY MISS CART:

3 Q Can you tell us off the top if that was an --

4 A I do not know if it was anything to do with the
5 Government, but this is the first time that
6 somebody has actually called me and said if you
7 do not forget about this thing and shut up
8 about it, something is going to happen.

9 Q Mr. Wyman, in addition to the statements which we
10 produced as exhibits in the beginning of this
11 deposition, and in addition to the interviews
12 which you have granted, is there anyone else
13 that you have talked to or have given a written
14 statement to?

15 A Yes, I have. In the last month and a half I have given
16 three statements.

17 Q Do you recall who those statements were given to?

18 A No. I gave them just the basics, though, I would
19 not really go into any elaboration on it. I
20 said I will give you what is already public
21 records, I wanted to get into, to find out
22 who they were.

23 Q Did they give you any indication who they were?

24 A One guy I think is writing a book out of L.A., okay?
25 I think I have his name wrote down somewhere in

1 shop. And I just went over the basics up to
2 where Wayne took him to New Orleans and no
3 further than that. And I will not go no
4 further with nobody unless I know who I am
5 talking to because I do not know who they are.
6 And these other guys, they went as far as that
7 point there and I said let's stop, I am not
8 going to give you no more information because
9 they were starting wanting to ask me about the
10 speaking with Spurlock. I said we do not go
11 no further till I know who the hell you are.
12 And they would not identify themselves. And I
13 said that is it, the conversation is ended
14 because I am not going to give you no
15 information if I do not know who I am giving
16 this to.

17 Q In addition to Jack Landau, did you talk to any other
18 reporters at length about any of this?

19 A I talked to The New York Times, they sent reporters
20 down here, Brinkley was one of them and another
21 man was with him. We talked at length with him
22 and not really any detail to the other
23 reporters, not really. Jack Landau was the main
24 one, really.

25 Q Did you ever talk with John Barron of Readers Digest?

1 A Yeah, yeah. In fact, I am not going to go into great
2 detail, okay, talking about what you was trying
3 to get at a while ago about a photograph. Barron
4 came down and tried to buy that photograph.

5 Q This is something you thought was misinformation that
6 was provided to you?

7 A Right, misinformation.

8 MR. HEATH:

9 I see. We are talking about the alleged
10 photograph that might have been taken on
11 the boat while Medvid was on the bed?

12 THE WITNESS:

13 So he come down and tried to buy that
14 photograph from Spurlock. But anyway,
15 Barron, he worked for the Government at
16 one time if my memory serves right in the
17 intelligence branch. I do not know who,
18 I do not know CIA or whatever it was. But
19 to me he still reminded me of a person
20 being in the military because once a
21 military man, always a military man, you
22 do not really change. Because any time a
23 guy comes in that is working with another
24 company and representing being an editor
25 of that and he comes down here in civilian

1 clothes which I call a shirt and pants
2 but with his beautiful big black shiney
3 military shoes on, it just did not add up
4 right, okay?

5 Anyway, another thing, too, is he was talking
6 about getting these photographs analyzed,
7 supposedly.

8 BY MISS CART:

9 Q These are the Geltz photographs?

10 A Yeah, Geltz. And he sent them off to what I can
11 understand to a company in California which was
12 found out to be a company that does nothing but
13 Government work for the Government and they --
14 boy, I tell you, this is a real joke, all they do
15 is analyze space photographs. They do not do this
16 kind of work. And you are going to send it to a
17 lab and get things analyzed there? It just did
18 not make sense. There is other labs, there are
19 other labs in the city of New Orleans that can
20 take and make and analyze photographs. And when
21 the FBI said that statement that they cannot
22 identify the person in this photograph, they are
23 full of you know what. Because with the
24 equipment they have today, they can take that
25 photograph and say how high and how much

1 every one of these men weigh. Because I know
2 that for a fact because I am no dummy. I am an
3 ex-policeman and we had equipment that can do
4 that. And when they make a statement like that,
5 that tells me something really stinks in the
6 hierarchy.

7 Q Do you wish to make any other statements?

8 A Yeah. That if something does happen in the next few
9 months or so, just remember I did tell you that
10 something was coming down. Now this is the
11 truth, this is the first time I got a phone
12 call like that and it kind of shocked me, really.

13 Q Did you report it to the authorities?

14 A What do you report? It was like it came on, I
15 answered the phone, it was a man, I said hello.
16 He said is this Joe Wyman? I said yes, it is.
17 He said if you know what is good for you, you
18 will stop talking about the Miroslav Medvid case.
19 It is history, it is done. If you do not stop
20 talking about it, something is going to happen
21 and that was it, he hung up, bump. And that was
22 it. I did not tell my wife.

23 Q That is the only phone call?

24 A That is the only phone call I got that told you, you
25 know, threatened me, in other words. This

1 happened recently and that is, it is kind of
2 old ball thing because it seemed like from the
3 beginning if somebody was going to threaten you
4 they would do it then. But this was recently.
5 Maybe at the time this happened is at the time
6 all these other things were going on with the
7 other statements, okay?

8 Q When these other people were coming to you and asking
9 you to give statements?

10 A Right, right, right, that is when it happened. I do
11 not know where this came from, but it does
12 shake me up a little bit. I mean, wouldn't it
13 you?

14 Q Okay, that is all I have.

15 MR. HEATH:

16 I do not have anything additional.

17 We want to thank you for spending the time after
18 so many interviews, one more time.

19 THE WITNESS:

20 Like I said, I may be a little off on the dates
21 and times a little bit because like I say,
22 it has been over a year and something.

23 But I am not mistaken about what this man
24 looked like, that is imbedded in my mind.

25 MR. HEATH:

1 Thank you.

2 MISS CART:

3 Thank you.

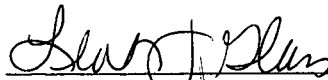
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5 (WHEREUPON: The deposition was then concluded.)
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1 REPORTER'S CERTIFICATE

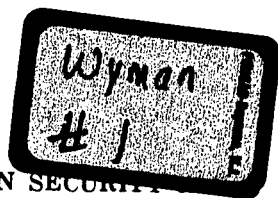
2
3 I, LEAH J. GLASS, Certified Shorthand
4 Reporter in and for the State of Louisiana, do hereby
5 certify that the within witness, after having been first
6 duly sworn by the Reporter, to testify to the truth, the
7 whole truth and nothing but the truth did testify as
8 hereinabove set forth in the foregoing pages;

9 That the testimony was reported by me in
10 shorthand and transcribed under my personal direction and
11 supervision, and is a true and correct transcript, to the
12 best of my ability and understanding;

13 That I am not of counsel, nor related to
14 counsel or the parties hereto, and in no way interested in
15 the outcome of this event.

16
17
18 
19
20 LEAH J. GLASS

21 Certified Shorthand Reporter
22
23
24
25



CHAPTER 45—COMMISSION ON SECURITY COOPERATION IN EUROPE

Sec.

- 3001. Commission on Security and Cooperation in Europe; establishment.
- 3002. Function and duties of Commission.
- 3003. Membership of Commission; appointing authorities.
- 3004. Testimony of witnesses, production of evidence; issuance of subpoena; administration of oaths.
- 3005. Presidential report to Congress; semiannual submission; contents.
- 3006. Commission report to Congress; periodic reports; expenditure of appropriations.
- 3007. Authorization of appropriations.
- 3008. Compensation of staff personnel; limitations.

§ 3001. Commission on Security and Cooperation in Europe; establishment

There is established the Commission on Security and Cooperation in Europe (hereafter in this chapter referred to as the "Commission").

Pub.L. 94-304, § 1, June 3, 1976, 90 Stat. 661.

Historical Note

Legislative History. For legislative 1976 U.S.Code Cong. and Adm.News, p. history and purpose of Pub.L. 94-304, see 1159.

§ 3002. Function and duties of Commission

The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

Pub.L. 94-304, § 2, June 3, 1976, 90 Stat. 661.

Historical Note

References in Text. The Final Act of part four of the Helsinki Declaration the Conference on Security and Cooperation in Europe, which deals with follow-up to the Conference in Europe, referred to in text, means reference and possible steps to encourage

compliance with its purposes and undertakings. The Declaration was signed on Aug. 1, 1975 by the nine members of the European Economic Community and the 35 participants to the Conference included all the European States, both Communist (except Albania) and non-Communist, the United States, Canada,

and several non-participating Mediterranean states.

Legislative History. For legislative history and purpose of Pub.L. 94-304, see 1976 U.S.Code Cong. and Adm.News, p. 1159.

§ 3003. Membership of Commission; appointing authorities

The Commission shall be composed of fifteen members as follows:

(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Defense Department appointed by the President of the United States.

(5) One member of the Commerce Department appointed by the President of the United States.

Pub.L. 94-304, § 3, June 3, 1976, 90 Stat. 661.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 94-304, see 1976 U.S.Code Cong. and Adm.News, p. 1159.

§ 3004. Testimony of witnesses, production of evidence; issuance of subpoena; administration of oaths

In carrying out this chapter, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

Pub.L. 94-304, § 4, June 3, 1976, 90 Stat. 661.

22 § 3004

FOREIGN RELATIONS

Ch. 45

Historical Note

Legislative History. For legislative 1976 U.S.Code Cong. and Adm.News, p. history and purpose of Pub.L. 94-304, see 1159.

West's Federal Forms

Administrative subpoenas, enforcement of, see § 6004 et seq.
Subpoena of witnesses, see § 3081 et seq.

§ 3005. Presidential report to Congress; semiannual submission; contents

In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report, the first one to be submitted six months after June 3, 1976, which shall include (1) a detailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

Pub.L. 94-304, § 5, June 3, 1976, 90 Stat. 661.

Historical Note

References in Text. The Final Act of the Conference on Security and Cooperation in Europe, referred to in text, means part four of the Helsinki Declaration which deals with follow-up to the Conference and possible steps to encourage compliance with its purposes and undertakings. The Declaration was signed on Aug. 1, 1975 by the nine members of the European Economic Community and the 35 participants to the Conference in-

cluded all the European States, both Communist (except Albania) and non-Communist, the United States, Canada, and several non-participating Mediterranean states.

Legislative History. For legislative history and purpose of Pub.L. 94-304, see 1976 U.S.Code Cong. and Adm.News, p. 1159.

§ 3006. Commission report to Congress; periodic reports; expenditure of appropriations

The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this chapter on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

Pub.L. 94-304, § 6, June 3, 1976, 90 Stat. 662.

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 94-304, see 1976 U.S.Code Cong. and Adm.News, p. 1159.

§ 3007. Authorization of appropriations

(a) There is authorized to be appropriated to the Commission for each fiscal year and to remain available until expended \$550,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this chapter, such appropriation to be disbursed on voucher to be approved by the Chairman of the Commission.

(b) For purposes of section 1754(b) of this title, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use funds in accordance with such sections.

Pub.L. 94-304, § 7, June 3, 1976, 90 Stat. 662; Pub.L. 94-534, Oct. 17, 1976, 90 Stat. 2495; Pub.L. 95-426, Title VII, § 702, Oct. 7, 1978, 92 Stat. 992.

Historical Note

1976 Amendment. Subsec. (a). Pub.L. 95-426 substituted "\$550,000" for "\$350,000". Subsec. (b). Pub.L. 94-534, § 1(2), added subsec. (b).

1976 Amendment. Subsec. (a). Pub.L. 94-534, § 1(1), designated existing provisions as subsec. (a).

Legislative History. For legislative history and purpose of Pub.L. 94-304, see 1976 U.S.Code Cong. and Adm.News, p. 1159. See, also, Pub.L. 95-426, 1978 U.S.Code Cong. and Adm.News, p. 2424.

§ 3008. Compensation of staff personnel; limitations

The Commission may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

Pub.L. 94-304, § 8, June 3, 1976, 90 Stat. 662.

Historical Note

References in Text. The provisions of Title 5 governing appointments in the competitive service, referred to in the text, are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Legislative History. For legislative history and purpose of Pub.L. 94-304, see 1976 U.S.Code Cong. and Adm.News, p. 1159.

Legislative History. For legislative history and purpose of Pub.L. 99-93 see 1985 U.S. Code Cong. and Adm. News, p. 329.

CHAPTER 44—JAPAN-UNITED STATES FRIENDSHIP

§ 2905. Administrative powers of Commission

In order to carry out its functions under this chapter, the Commission is authorized to—

[See main volume for text of (1) to (3)]

(4) direct the Secretary of the Treasury to make expenditure of the income of the Fund, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to the Fund to carry out the purposes of this chapter, including the payment of Commission expenses if needed, except that any amounts expended from amounts appropriated to the Fund under section 2902(e)(1) of this title shall be expended in Japan;

[See main volume for text of (5) to (11)]

(As amended Pub.L. 97-241, Title V, § 503(a), Aug. 24, 1982, 96 Stat. 298.)

1982 Amendment. Par. (4). Pub.L. 97-241 substituted “, any amount of the contributions deposited in the Fund from nonappropriated sources pursuant to paragraph (2) or (3) of this section, and not to exceed 5 percent annually of the principal of the total amount appropriated to

the Fund” for “and not to exceed 5 per centum annually of the principal of the Fund”.

Legislative History. For legislative history and purpose of Pub.L. 97-241, see 1982 U.S. Code Cong. and Adm. News, p. 651.

§ 2906. Management of the Friendship Trust Fund

[See main volume for text of (a) to (d)]

(e) Payments for implementation of programs and necessary expenses of Commission; appropriation of amounts; exceptions

In accordance with section 2905(4) of this title, the Secretary shall pay out of the Fund such amounts, including expenses of the Commission, as the Commission considers necessary to carry out the provisions of this chapter, except that amounts in the Fund, other than amounts which have been appropriated and amounts received (including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received) by the Commission pursuant to sections 2905(2) and (3) of this title, shall be subject to the appropriation process.

(As amended Pub.L. 97-241, Title V, § 503(b), Aug. 24, 1982, 96 Stat. 298.)

1982 Amendment. Subsec. (e). Pub.L. 97-241 inserted “(including amounts earned as interest on, and proceeds from the sale or redemption of, obligations purchased with amounts received)” following “amounts received”.

Legislative History. For legislative history and purpose of Pub.L. 97-241, see 1982 U.S. Code Cong. and Adm. News, p. 651.

CHAPTER 45—COMMISSION ON SECURITY AND COOPERATION IN EUROPE

- | | |
|---|---|
| <p>Sec.
3003. Commission membership.</p> <p>(a) Selection and appointment of members.</p> <p>(b) Commission Chairman and Cochairman.</p> <p>3007. Appropriations for Commission.</p> <p>(a) Authorization; disbursements.</p> <p>(b) Use of foreign currencies.</p> <p>(c) Official reception and representational expenses.</p> | <p>Sec.</p> <p>(d) Foreign travel for official purposes.</p> <p>3008. Commission staff.</p> <p>(a) Personnel and administration committee.</p> <p>(b) Committee functions.</p> <p>(c) Staff appointments.</p> <p>(d) Commission employees as congressional employees.</p> <p>3009. Printing and binding costs [New].</p> |
|---|---|

§ 3002. Function and duties of Commission

The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to human rights and Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

(As amended Pub.L. 99-7, § 2, Mar. 7, 1985, 99 Stat. 19.)

1985 Amendment. Pub.L. 99-7 inserted "human rights and" after "relating to".

Effective Date of 1985 Amendment. Section 6 of Pub.L. 99-7 provided that:

"(a) Except as provided in subsection (b), this Act and the amendments made by this Act [enacting sections 3003(b), 3007(d), and 3008(a) and (b) of this title, amending this section and sections 3003(a), 3007(a), and 3008(c) of this title, and enacting provisions set out as a note under section 3003 of this title] shall take effect on the date of

enactment of this Act [Mar. 27, 1985] or April 15, 1985, whichever is later.

"(b)(1) The amendment made by subsection (b) of the first section [enacting section 3003(c) and (d) of this title] shall take effect on the first day of the One Hundredth Congress [which will convene in January 1987].

"(2) Subsection (d) of section 8 of the Act entitled 'An Act to establish a Commission on Security and Cooperation in Europe', approved June 3, 1976 [section 3008(d) of this title] (as added by section 5 of this Act), shall be effective as of June 3, 1976."

§ 3003. Commission membership

(a) Selection and appointment of members

The Commission shall be composed of twenty-one members as follows:

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five Members shall be selected from the majority party and four Members shall be selected, after consultation with the minority leader of the House, from the minority party.

(2) Nine Members of the Senate appointed by the President of the Senate. Five Members shall be selected from the majority party of the Senate, after consultation with the majority leader, and four Members shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Department of Defense appointed by the President of the United States.

(5) One member of the Department of Commerce appointed by the President of the United States.

(b) Commission Chairman and Cochairman

There shall be a Chairman and a Cochairman of the Commission.

(As amended Pub.L. 99-7, § 1(a), Mar. 27, 1985, 99 Stat. 18.)

Amendment of Section

Pub.L. 99-7, §§ 1(b), 6(b)(1), Mar. 27, 1985, 99 Stat. 18, 20, provided that, effective on the first day of the 100th Congress [which will convene in January 1987], this section is amended by added at the end thereof the following:

"(c) At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Chairman of the Commission.

"(d) At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the House Members as Cochairman of the Commission. At the beginning of each even-num-

bered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members as Cochairman of the Commission."

1985 Amendment. Subsec. (a). Pub.L. 99-7, § 1(a), designated existing provisions as subsec. (a) and in subsec. (a) as so designated substituted "twenty-one" for "fifteen" in the provisions preceding par. (1).

Subsec. (a)(1). Pub.L. 99-7, § 1(a), increased from six to nine the number of Members of the House of Representatives appointed by the Speaker, increased from four to five the number selected from the majority party, increased from two to four the number selected from the minority party, and struck out provision directing the Speaker to designate one of the House Members as chairman.

Subsec. (a)(2). Pub.L. 99-7, § 1(a), increased from six to nine the number of Senators appointed by the President of the Senate, increased from four to five the number selected from the majority party, increased from two to four the number selected from the minority party, and added provision requiring consultation with the majority leader prior to naming the Senators selected from the majority party.

Subsec. (a)(3) to (5). Pub.L. 99-7, § 1(a), reenacted pars. (3) to (5) without change.

Subsec. (b). Pub.L. 99-7, § 1(a), added subsec. (b).

Effective Date of 1985 Amendment. Amendment of subsecs. (a) and (b) of this section by Pub.L. 99-7 effective Apr. 15, 1985, see section 6(a) of Pub.L. 99-7, set out as a note under section 3002 of this title.

Designation of Chairman and Cochairman for Duration of 99th Congress. Section 1(c) of Pub.L. 99-7 provided that: "On the effective date of this subsection [Apr. 15, 1985], the President of the Senate, on the recommendation of the majority leader, shall designate one of the Senate Members to serve as Chairman of the Commission for the duration of the Ninety-ninth Congress, and the Speaker of the House of Representatives shall designate one of the House Members to serve as Cochairman of the Commission for the duration of the Ninety-ninth Congress."

§ 3007. Appropriations for Commission

(a) Authorization; disbursements

(1) There are authorized to be appropriated to the Commission for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Appropriations to the Commission are authorized to remain available until expended.

(2) Appropriations to the Commission shall be disbursed on vouchers approved—

(A) jointly by the Chairman and the Cochairman, or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 3008(a) of this title.

(b) Use of foreign currencies

For purposes of section 1754(b) of this title, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use funds in accordance with such sections.

(c) Official reception and representational expenses

Not to exceed \$6,000 of the funds appropriated to the Commission for each fiscal year may be used for official reception and representational expenses.

(d) Foreign travel for official purposes

Foreign travel for official purposes by Commission members and staff may be authorized by either the Chairman or the Cochairman.

(As amended Pub.L. 96-60, Title IV, § 401, Aug. 15, 1979, 93 Stat. 403; Pub.L. 99-7, §§ 3, 4, Mar. 27, 1985, 99 Stat. 19.)

1985 Amendment. Subsec. (a). Pub.L. 99-7, § 3, substituted provisions authorizing appropriations as may be necessary to carry out the Commission's duties and functions for provisions which had formerly authorized appropriations of \$550,000 for each fiscal year, substituted provisions requiring joint approval of vouchers by the Chairman and Cochairman for provisions which had formerly required only the approval of the chairman, and added provisions under which vouchers can also be approved by a majority of the members of the personnel and administration

committee established pursuant to section 3008(a) of this title.

Subsec. (d). Pub.L. 99-7, § 4, added subsec. (d).

1979 Amendment. Subsec. (c). Pub.L. 96-60 added subsec. (c).

Effective Date of 1985 Amendment. Amendment by Pub.L. 99-7 effective Apr. 15, 1985, see section 6(a) of Pub.L. 99-7, set out as a note under section 3002 of this title.

107 FOREIGN RELATIONS

22 § 3009

Legislative History. For legislative history and purpose of Pub.L. 96-60, see 1979 U.S. Code Cong. and Adm. News, p. 982.

§ 3008. Commission staff

(a) Personnel and administration committee

The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior Commission member from the minority party in the House of Representatives, and the senior Commission member from the minority party in the Senate.

(b) Committee functions

All decisions pertaining to the hiring, firing, and fixing of pay of Commission staff personnel shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of his senior staff person; and

(2) the Chairman and Cochairman each shall have the authority to appoint, with the approval of the personnel and administration committee, at least four professional staff members who shall be responsible to the Chairman or the Cochairman (as the case may be) who appointed them.

The personnel and administration committee may appoint and fix the pay of such other staff personnel as it deems desirable.

(c) Staff appointments

All staff appointments shall be made without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and general schedule pay rates.

(d) Commission employees as congressional employees

(1) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of Title 5. —

(2) For purposes of section 3304(c)(1) of Title 5, staff personnel of the Commission shall be considered as if they are in positions in which they are paid by the Secretary of the Senate or the Clerk of the House of Representatives.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be effective as of June 3, 1976.

(As amended Pub.L. 99-7, § 5, Mar. 27, 1985, 99 Stat. 19.)

References in Text. The provisions of Title 5 governing appointments in the competitive service, referred to in subsec. (c), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

1985 Amendment. Subsecs. (a), (b). Pub.L. 99-7 added subsecs. (a) and (b).

Subsec. (c). Pub.L. 99-7 designated existing provisions as subsec. (c) and, in subsec. (c) as so designated, substituted "All staff appointments shall be made" for "The Commission may appoint

and fix the pay of such staff personnel as it deems desirable."

Subsec. (d). Pub.L. 99-7 added subsec. (d).

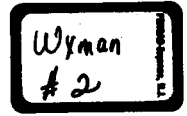
Effective Date of 1985 Amendment. Enactment of subsecs. (a) and (b) and amendment of subsec. (c) of this section by Pub.L. 99-7 effective Apr. 15, 1985, see section 6(a) of Pub.L. 99-7, set out as a note under section 3002 of this title.

Enactment of subsec. (d) of this section by Pub.L. 99-7 effective June 3, 1976, see section 6(b)(2) of Pub.L. 99-7, set out as a note under section 3002 of this title.

§ 3009. Printing and binding costs

For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(Pub.L. 99-190, § 134, Dec. 19, 1985, 99 Stat. 1322.)



99TH CONGRESS
2D SESSION

S. RES. 353

Authorizing expenditures by committees of the Senate.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, FEBRUARY 24), 1986

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar

MARCH 13 (legislative day, MARCH 10), 1986

Considered, amended, and agreed to

RESOLUTION

Authorizing expenditures by committees of the Senate.

1 *Resolved*, That this resolution may be cited as the "Om-
2 nibus Committee Funding Resolution of 1986".

3 AGGREGATE AUTHORIZATION

4 SEC. 2. (a) In carrying out its powers, duties, and func-
5 tions under the Standing Rules of the Senate, and under the
6 appropriate authorizing resolutions of the Senate, there is au-
7 thorized in the aggregate \$43,597,366, in accordance with
8 the provisions of this resolution, for all Standing Committees
9 of the Senate, the Special Committee on Aging, the Select

1 (5) in section 10(b) strike out "\$2,333,631" and
2 insert in lieu thereof "\$2,293,631".

3 (6) in section 12(b) strike out "\$2,434,509" and
4 insert in lieu thereof "\$2,397,509".

5 (7) in section 13(b) strike out "\$4,440,229" and
6 insert in lieu thereof "\$4,233,825".

7 (8) in section 14(b) strike out "\$4,246,242" and
8 insert in lieu thereof "\$4,029,487".

9 INVESTIGATION BY THE COMMISSION ON SECURITY AND
10 COOPERATION IN EUROPE

11 SEC. 23. (a) It is the sense of the Senate that the Com-
12 mission on Security and Cooperation in Europe (hereafter in
13 this section known as the "Commission") should—

14 (1) conduct an investigation to determine—

15 (A) whether any officer or employee of the
16 United States violated any law of the United
17 States or any State or local law, including any
18 statute, regulation, ordinance, or procedure pro-
19 mulgated pursuant to law, in connection with the
20 defection attempt of Miroslav Medvid;

21 (B) the instances in which an individual
22 (other than the individual referred to in clause
23 (A)), who was a national of the Soviet Union or a
24 Soviet-bloc Eastern European country, requested
25 political asylum in the United States and was re-
26 turned to the authorities of his country in viola-

1 tion of any United States, State, or local law, in-
2 cluding any statute, regulation, ordinance, or pro-
3 cedure promulgated pursuant to law; and

4 (C) whether the treatment accorded to indi-
5 viduals described in clauses (A) and (B) requires
6 changes in the laws of the United States; and

7 (2) submit a report, not later than one year after
8 the date of adoption of this resolution, to the House of
9 Representatives and the Senate on the findings of such
10 investigation, including any recommendations for
11 changes in the laws of the United States.

12 (b) Salaries and expenses in connection with the imple-
13 mentation of this section shall be paid from the contingent
14 fund of the Senate out of the Account for Miscellaneous
15 Items, subject to the following terms and conditions:

16 (1) The aggregate amount of salaries and ex-
17 penses payable under this section shall not exceed
18 \$200,000.

19 (2) Such salaries shall be payable only for not
20 more than five individuals at any time—

21 (A) who shall be employees of the Senate
22 and shall be under the policy direction of the
23 Chairman and Cochairman of the Commission;
24 and

. 27

1 (B) who shall be appointed to perform serv-
2 ices in the conduct of activities under this section,
3 on or after the date of adoption of this resolution,
4 and who shall have their compensation fixed at an
5 annual rate, by the Secretary of the Senate, upon
6 the joint recommendation of the Chairman and
7 Cochairman of the Commission.

8 (3) Payment of expenses shall be disbursed upon
9 vouchers approved jointly by the Chairman and Co-
10 chairman of the Commission, and no voucher shall be
11 required for the disbursement of a salary of an individ-
12 ual appointed under paragraph (2).

13 (4) For purposes of determining whether and to
14 what extent any travel or other official expense in-
15 curred by the Commission in carrying out any activity
16 under this section is payable from the contingent fund
17 of the Senate, such expense shall be treated as if it has
18 been incurred by a standing committee of the Senate
19 and as if the Commission and its staff were members
20 and staff, respectively, of such a committee.

21 (5) Any expense under this section may be pay-
22 able only if—

23 (A) the Committee on Rules and Administra-
24 tion of the Senate approves;

1 (B) such expense is of the type for which
2 payment may be made if incurred by a standing
3 committee of the Senate;

4 (C) such expense is not attributable to the
5 detailing of employees; and

6 (D) the payment of such expense is otherwise
7 in accordance with all laws, rules, and regulations
8 governing expenses of standing committees of the
9 Senate.

10 (6) Not more than \$20,000 of the funds made
11 available by this subsection shall be available for the
12 procurement by the Secretary of the Senate, upon the
13 joint recommendation of the Chairman and Cochairman
14 of the Commission, of services, on a temporary basis,
15 of individual consultants, or organizations thereof, with
16 the prior consent of the Committee on Rules and Ad-
17 ministration of the Senate. Such services may be pro-
18 cured by contract with the providers acting as inde-
19 pendent contractors or, in the case of individuals, by
20 employment at daily rates of compensation not in
21 excess of the per diem equivalent of the highest gross
22 rate of annual compensation which may be paid to em-
23 ployees of a standing committee of the Senate. Any
24 such contract shall not be subject to the provisions of

29

1 section 5 of title 41, United States Code, or any other
2 provision of law requiring advertising.

3 (c) None of the funds may be obligated from the contin-
4 gent fund of the Senate to carry out any provision of this
5 section on or after a date 30 days after—

6 (1) the date on which the report described in sub-
7 section (a)(2) is submitted, or

8 (2) a date one year after the date of adoption of
9 this resolution,

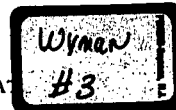
10 whichever comes first.

11 (d) For purposes of this section, the term "Soviet-bloc
12 Eastern European country" includes Bulgaria, Czechoslova-
13 kia, the German Democratic Republic, Hungary, Poland, and
14 Romania.

○

May 14, 1986

CONGRESSIONAL RECORD — SENATE



S 5921

do not spend it all then you turn it back to the Treasury."

□ 1510

Senator QUAYLE has introduced legislation along those lines. I have co-sponsored that legislation. I think that is exactly what we need, and we need it by both Members of the Senate and Members of the House if we are going to be successful in getting this open-ended entitlement reformed and under control.

So, again, I congratulate the authors, Senator Ford and Senator MATHIAS, for bringing this resolution forward. I would certainly like to see it strengthened, if possible, in statutory form or at least in a concurrent resolution where it would apply to the House as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1540

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 158

(Purpose: To make technical amendments to Senate Resolution 353 of the Ninety-ninth Congress)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from New Hampshire (Mr. HUMPHREY) proposes an amendment numbered 1958.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . . . Section 23 of Senate Resolution 353 of the Ninety-ninth Congress (as agreed to by the Senate on March 13, 1986) is amended—

(1) by striking out in subsection (a)(2) "adoption of this resolution" and inserting in lieu thereof "May 14, 1986"

(2) by amending subsection (c) to read as follows:

"(c) None of the funds may be obligated from the contingent fund of the Senate to carry out any provision of this section on or after a date 30 days after the date on which the report described in subsection (a)(2) is submitted."

Mr. HUMPHREY. Mr. President, back in March, the Senate adopted an amendment sponsored by Senator Dole and Senator Dixon.

The PRESIDING OFFICER. The Chair advises that the committee amendment is pending. It will take unanimous consent to set it aside.

Mr. HUMPHREY. I ask unanimous consent that the committee amendment be set aside.

Mr. MATHIAS. Mr. President, reserving the right to object, does the Senator want to set the committee amendment aside or amend it?

The PRESIDING OFFICER. Does the Senator want to set the committee amendment aside or would he like to amend it?

Mr. HUMPHREY. The Senator from New Hampshire wishes to amend the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. HUMPHREY. Mr. President, in March, the Senate adopted a resolution in the form of an amendment sponsored by Senator Dole, Senator Dixon, and me, the intent of which was to establish a Senate panel to investigate the case of Miroslav Medvid, the Ukrainian sailor who jumped ship back in October. Some weeks were necessary to iron out administrative difficulties following the Senate's adoption of that amendment. The purpose of the amendment which I have now submitted is to restore the 1-year charter; that is, to make us whole with respect to time.

It is that simple. It is a technical amendment to a Senate resolution passed in March. I understand it is agreeable to the majority and the minority floor managers.

Mr. MATHIAS. Mr. President, the Senator is correct. There is no objection registered with me. I have no objection on this side.

Mr. FORD. Mr. President, there is no objection to the Senator's amendment on this side. It merely extends the resolution by 2 months. That takes the slack out of the 2 months' delay in working out the budget and the approval by the Rules Committee. I think the distinguished Senator from New Hampshire, under the circumstances, is entitled to 2 months.

This side has no objection. The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment. The amendment (No. 1958) was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay this motion on the table.

The motion to lay on the table was agreed to.

FIRST COMMITTEE AMENDMENT

Mr. MATHIAS. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is the first-reported committee amendment.

The amendment is as follows:

On page 2, line 3, strike "costs for mass mailings", and insert "official mail costs";

Mr. FORD. Mr. President, we have no objection to the committee amendment on this side. We are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

The first committee amendment was agreed to.

REMAINING COMMITTEE AMENDMENTS

Mr. FORD. Now what is the pending business, Mr. President?

The PRESIDING OFFICER. The second reported committee amendment is now the pending business.

Mr. FORD. Mr. President, my distinguished colleague (Mr. MATHIAS) will agree with this, I hope. These are just technical amendments that change lines to strike words like "costs for mass mailings" and insert in lieu thereof "official mail costs."

I wonder if we might take these en bloc.

Mr. MATHIAS. Mr. President, the Senator from Kentucky makes a practical suggestion as he usually does. I suggest that we take all the committee amendments en bloc.

Mr. FORD. I ask unanimous consent that we consider all these amendments en bloc.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The committee amendments are as follows:

On page 2, line 11, strike "costs for mass mailings", and insert "official mail costs";

On page 3, line 7, strike "the costs of mass mailings", and insert "official mail costs";

On page 3, line 13, after "costs", insert "(for the Senate)";

On page 3, line 17, strike "(other", through and including "mailings)" on line 18;

On page 3, line 18, strike "Senators,";

On page 3, beginning on line 22, strike "for the costs of official mailings", and insert "for official mail costs";

On page 4, beginning on line 23, strike "the costs of mass mailings", and insert "official mail costs";

On page 5, line 8, strike "3210(a)(5)(D)", and insert "3210(a)(6)(E)";

The PRESIDING OFFICER. The question is on agreeing to the committee amendments en bloc.

The committee amendments were agreed to en bloc.

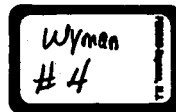
Mr. FORD. Mr. President, the pending business now is the resolution itself; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MATHIAS. Mr. President, I should propose that in the next few minutes, we act on the resolution but, in order that any Senator who wishes to speak may have that opportunity, I shall suggest the absence of a quorum. I suggest that it not last more than a minute or two. Then I shall ask unanimous consent to call it off and proceed with the vote.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.



Form I-215B
(Rev. 9-1-72)Y

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

RECORD OF SWORN STATEMENT IN AFFIDAVIT FORM

AFFIDAVIT

IN RE: 416 058 032 MBOVIC MIROSLAV FILE NO.
EXECUTED AT BELLS CHASE, LA. DATE October 28, 1985
Before the following officer of the U.S. Immigration and Naturalization Service:
MURKEL D. MAXON S/A
in the English language. Interpreter N/A used.

I, JOSEPH H. WYMAN, acknowledge that the above-named officer has identified himself to me as an officer of the United States Immigration and Naturalization Service, authorized by law to administer oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. He has informed me that he desires to take my sworn statement regarding:

ANY AND ALL KNOWLEDGE OF A RUSSIAN CREWMEMBER OR DESERTER, YOU MAY HAVE ENCOUNTERED ON OCTOBER 24, 1985.

Q. Did you have occasion on Thursday evening October 24th, 1935 to speak to a Russian CREWMAN

A. YES ABOUT 7:00 TO APPROX. 7:30 PM. WHILE I WAS ABOUT TO CLOSE MY STORE. MY NEPHEW AND MYSELF WERE OUTSIDE THE BUILDING LOCATED AT 348 BELLECHASSE HWY. SOUTH BELLECHASSE, LA. WHEN A MAN CAME RUNNING UP TO US SPEAKING A ~~FOREIGN~~ FOREIGN LANGUAGE DRESSED IN CUTOFF BLUE JEANS AND A T SHIRT WITH TENNIS SHOES. THIS MAN WAS SOAKING WET AND GESTURED THAT HE HAD JUMPED OFF A SHIP AND SAID NOW ORLANS OR SOMETHING THAT SOUNDED LIKE IT. I THEN POINTED AT HIM AND SAID NOW ORLANS YOU? AND HE NODDED YES. HE WAS CARRYING A SMALL BROWN JAR THAT CONTAINED ALL HIS PAPERS & WATCH. AT THAT POINT I TOLD MY NEPHEW WAYNE WYMAN THAT I THOUGHT HE WAS A RUSSIAN CREWMAN TRYING TO GET TO THE U.S. I THEN CONTINUED TO REASSURE THE RUSSIAN THAT EVERYTHING WAS O.K. BUT HE KEPT LOOKING AROUND BEHIND HIM AND WAS EXTREMELY NERVOUS. I THEN TALKED TO WAYNE ABOUT TAKING HIM TO NOW ORLANS WHERE HE WANTED GO. THEY THEN LEFT IN THE CAR AND THAT WAS THE LAST TIME I SAW THE RUSSIAN.

I have read (or have had read to me) the foregoing statement, consisting of 3 pages. I state that the answers made therein by me are true and correct to the best of my knowledge and belief and that this statement is a full, true, and correct record of my interrogation on the date indicated by the above-named officer of the Immigration and Naturalization Service. I have initialed each page of this statement (and the correction(s) noted on page(s)).

Signature Joseph H. O'Leary

Subscribed and sworn to before me at 348 Deane Circle Highway South
Ellis Chase Wisconsin
 on October 23, 1985

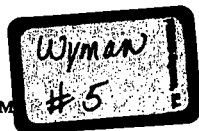
Michael M. Maher
 Officer, United States Immigration and Naturalization Service

Witnessed by:

RECORD OF SWORN STATEMENT

APPENDIX 5

SWORN AFFIDAVITS OF MESSRS. JOSEPH AND WAYNE WYMAN



In the Parish of ALTOUREMULE,
TOWN OF BELLE CHASSE, STATE OF LOUISIANA
I, Joseph WYMAN, duly sworn

hereby give the following statement
of my own free will and accord:

1. My name is Joseph Wyman and I reside in Belle Chasse, Louisiana.
2. Today is November 1, 1985, and I am providing this statement to Agent R. Jjin of Phoenix, Arizona.
3. On October 24, 1985, a Thursday, at 7:30 - 8:00 P.M., I was closing my jewelry store when I noticed a man running up the parking lot and over to my nephew, Wayne Wyman.
4. My nephew asked me to come closer because this man was speaking in a foreign language.

5. I then walked over to them and the man appeared very excited and I noticed that he was looking west. It was not raining that night. The man was babbling or trying to speak in a foreign language.

The only thing I was able to understand was "NOVI ORLEAN".

I understood this to mean New Orleans, and then understood the language to be some Southern European dialect.

6. I then asked the man if he was Russian. He responded, by beating his chest with his fist, and saying 'Ukrainian'.
7. The man appeared extremely nervous and kept looking South, the direction from which he came.

8 The man was dressed in the following manner: He had on brown shorts, blue pullover shirt, sneakers and black socks.

The man was carrying a brown jar which I later learned from my Nephew, contained the man's papers, watch and a small red object.

9. I then spoke with my nephew and tried to calm the man down.

~~My nephew said that the~~

10. I then asked the man and said:

"You, New Orleans". He said "YES".

I asked him again "You, Defect, New Orleans". The man responded "YES"

11. I'm not sure if the man understood

what I meant, but, based on the facts before me, I felt this man was trying to defect to the United States.

12. Based on my past experience as a Jefferson Parish Deputy Sheriff, I felt this man was trying to defect to the United States.

13. I then asked my Nephew to take the man to New Orleans where he wanted to go. ~~from~~

I then asked the man, "New Orleans?" and gestured "where". He responded "Policia".

14. My nephew agreed to take him to New Orleans and they both left in my nephew's car.

15. Approximately 3-5 minutes later, there

man approached me and only one man spoke. Two of the men were tall and large muscled and the other one was of ~~very~~ average height and weight.

16. One of the men asked me if I had a man walking around. I asked him "Why". He said "one of our ~~comrades~~ "Comrades" fell overboard and may be lost and wandering around looking for help.

At that time, I felt it was in my best interest, that I tell them "No"

I know these men were after him and I wanted to protect him.

I personally felt they were after the man.

17. The statement I have provided above is true and accurate to the best of my knowledge.

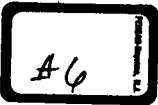
Joseph H. Wyman
~~JOSEPH H. WYMAN~~

Sworn to before me this

1st day of November, 1955.

George Pivaon, II

GEORGE PIVAON, II
 STATE PUBLIC FIELD OF PLACES STATE OF LA
 SPECIAL AGENT FOR LIFE



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
JAN 13 1 39 PM '86
LORRY G. WHYTE
CLERK

MYROSLAW WASYLOWYCZ * CIVIL ACTION
MEDVID, ET AL * NO. 85-5065
VERSUS * SECTION "F"
NEW ORLEANS POLICE *
DEPARTMENT, ET AL *

Transcript of proceedings taken in the above
numbered and entitled cause before the Honorable Martin L.
C. Feldman on November 6, 1985.

APPEARANCES:

FOR THE PLAINTIFF:

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Brooklyn, New York

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New Orleans, Louisiana 70130

JK
20

1 FOR THE DEFENDANTS:

2 U. S. Department of Justice
3 William F. Baity, Esq.
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24

25 REPORTED BY: TONI DOYLE TUSA, C.S.R.
OFFICIAL COURT REPORTER

I N D E X

PAGE NO.

JOSEPH H. WYMAN

DIRECT EXAMINATION	13
CROSS EXAMINATION	32
REDIRECT EXAMINATION	37

WAYNE EDWARD WYMAN

DIRECT EXAMINATION	43
CROSS EXAMINATION	57

IRENE PADOCH

DIRECT EXAMINATION	60
CROSS EXAMINATION	95
REDIRECT EXAMINATION	96

THOMAS M. RICHARD

DIRECT EXAMINATION	99
CROSS EXAMINATION	103

MICHAEL STEPHEN FLAD

DIRECT EXAMINATION	105
CROSS EXAMINATION	125
REDIRECT EXAMINATION	126

RAYMOND HAROLD GUTHRIE

DIRECT EXAMINATION	133
CROSS EXAMINATION	135

1 MR. JOSEPH WYMAN was
2 called as a witness, and after having first been duly
3 sworn, was examined, and testified on his oath as follows:

4 THE CLERK: Step this way,
5 please. Let me remind you, you are still under oath.
6 Would you be seated. State your full name and correct
7 spelling.

8 THE WITNESS: My name is Joseph H.
9 Wyman. W-Y-M-A-N is the last name. J-O-S-E-P-H is the
10 first name.

11 THE CLERK: Thank you.

12
13 DIRECT EXAMINATION
14

15 BY MR. WOLF:

16 Q. Where do you live, sir?

17 A. I reside in Belle Chasse, Louisiana, at 717 Belle
18 Chasse Highway South.

19 Q. Have you been in this area for long, sir?

20 A. All my life.

21 Q. What is your profession, sir?

22 A. Right now I'm a retail jewelry manufacturer and own a
23 jewelry store in Belle Chasse.

24 Q. What did you do before that?

25 A. Before that I was in the contracting business, and

1 before that I was a Jefferson Parish Sheriff's Deputy.

2 Q. Now, where is your jewelry store, sir?

3 A. It's located in Belle Chasse, on the main highway,
4 348 Belle Chasse Highway South.

5 Q. Who runs that store with you?

6 A. I own the store.

7 Q. Do you have other employees there?

8 A. Yes. I have other employees, my nephew Wayne Wyman,
9 who works as a jeweler.

10 Q. I would like to call your attention, sir, to October
11 24, 1985. Do you recall that evening?

12 A. Oh, yes, quite clearly.

13 Q. What day of the week was it? Do you remember?

14 A. It was a Thursday evening.

15 Q. What were you doing that evening around seven-thirty?

16 A. Well, I came back to the shop to close the shop up.
17 My nephew, Wayne, was working late. And as we closed the
18 shop up and he was getting in his car, a man came running
19 frantically down the parking lot towards my nephew. In
20 fact, he ran right up to my nephew's face, and it kind of
21 got me unnerved a little bit because, being in the jewelry
22 business, you have to be careful.

23 My nephew then asked
24 me, "Uncle Joe, come over here. I can't understand a word
25 this man's saying. He's speaking in a foreign language."

1 And that's when I walked over to see what was going on.
2 And the man was all -- really, "scared" is the proper way
3 to say it. And he kept just running on, you know, and
4 speaking -- then I could pick up the language a little bit
5 and see he was speaking like an Eastern Bloc, Your Honor,
6 type language.

7 Q. How long would you say that went on there, that
8 attempt to communicate with him?

9 A. When I first got up there, I tried to reassure the
10 man by putting my hands on his shoulders to calm down and
11 see if I could help him, see what was wrong, and that went
12 on for about four or five minutes. And he kept running on,
13 I mean, just blurting out language.

14 Q. What was his appearance, physically?

15 A. Well, he was dressed in like a brown shorts and he
16 had on like sneakers with black socks. And he had like a
17 blue pullover shirt and he was soaking wet.

18 Q. Do you know how he got wet?

19 A. Well, it wasn't raining that evening. And evidently,
20 you know, after talking to him for a few minutes, I noticed
21 he was carrying a container in his hand, a brown jar, and
22 it appeared that he had jumped ship.

23 Q. Could you tell what was in the jar?

24 A. No, I didn't see what was in the contents of the
25 jar. My nephew did and told me later what it was.

1 Q. So would you please continue, then, with this
2 conversation you were having with him?

3 A. I tried to find out what the man wanted, because I
4 could see he seemed really upset and really scared at the
5 moment. So I tried to reassure him. I put my hand on his
6 shoulder and tried to calm him down a little bit, and he
7 started blurting out again. The only words I could pick up
8 to understand were "Novi Orleans." And I mentioned "New
9 Orleans" and he nodded yes.

10 Then at that time I
11 started talking to my nephew and I said, "This man looks
12 like he wants a ride to New Orleans." And at the whole
13 time I am looking at my nephew he keeps looking back south
14 where he came from. I said, "Wayne, it looks like this man
15 might want a ride to New Orleans." I said, "You are
16 Russian?" And he said, "Ukrainian."

17 Q. You were gesturing he pointed to his chest and said,
18 "Ukrainian"?

19 A. Yes. The same thing he did, he put his fist on his
20 chest.

21 Q. Making emphasis?

22 A. Making emphasis.

23 Q. Is this located close to the river?

24 A. My shop is parallel with the highway, which is
25 parallel with the river, about a block and a half from the

1 river.

2 Q. Please continue.

3 A. And at this point he mentioned "policia," at that
4 point, which I can understand to mean police, being an ex-
5 policeman and heard this word before from other seamen when
6 I worked for the Jefferson Parish Sheriff's Office. So I
7 asked the man then, I said, "You, New Orleans?" And he
8 nodded, again, yes. Then I started talking to my nephew
9 about it and I said, "Wayne, it looks like this man just
10 jumped ship. He's a Russian seaman. And the way he jumped
11 ship, he's in trouble. It looks like this guy may be,
12 based on my past experience, might be trying to defect or
13 something."

14 So I asked him -- I
15 said, "You" and I pointed to him, put my hands on his
16 shoulders, and he was calming down a little bit. He was
17 still really scared. And I said "You defect New Orleans"
18 and he nodded yes, but I don't know if he understood the
19 word "defect." I know he responded to New Orleans because
20 he responded to that once already.

21 Q. But you did say, "You defect New Orleans," and he
22 nodded?

23 A. He nodded in the affirmative, yes.

24 Q. What happened next?

25 A. I then asked my nephew -- I said, "Wayne, it appears

1 this man wants to go to the New Orleans Police," because
2 that's what we could ascertain at the time he was talking
3 about. I said, "Wayne, would you give him a ride to New
4 Orleans, where he wants to go?" And Wayne said, "Sure."
5 Because I said, "If you don't, I will." He said, "Sure.
6 I'll take him where he wants to go." I said --

7 MR. LINHARDT: Again, the witness
8 is telling a lot of what his nephew said, and that's imper-
9 missible.

10 THE COURT: I'm going to permit
11 it under the circumstances. The objection is overruled.

12 BY MR. WOLF:

13 Q. Sir, I was trying to understand the last statement
14 you said.

15 A. When I asked my nephew, Wayne -- I said, "Wayne,
16 would you take this man to New Orleans?" And Wayne said,
17 "Sure, I will." I said, "Well, if you won't, I will."

18 Q. Is that what then happened?

19 A. Yeah. He then -- I told Wayne -- I said, okay, go
20 ahead and take off then, go ahead and take him to New
21 Orleans, where he wants to go. So Wayne got in his car and
22 I motioned for the man to get in the car, and I mean he
23 jumped in the car. He almost landed on my nephew's lap he
24 was so glad to get in the car.

25 About that time,

1 when they pulled off and went up the street -- you know,
2 they were only gone a couple of minutes. That's when I
3 went back to the shop to make sure the store was secure,
4 the alarm system was on and everything. And I noticed,
5 when I was walking back towards the door, across the street
6 were three men walking down the sidewalk. And when I went
7 and checked on the door and turned around, they were in the
8 parking lot then and three of them -- it was three men, and
9 two of them kind of stayed back about fifteen, twenty feet
10 away and one came up to me. Two of the guys were good-
11 sized fellows. They were well over six foot tall and kind
12 of muscular.

13 Q. How were they dressed?

14 A. They appeared to be in street clothes. Remember,
15 now, it's dark. It's around eight-thirty, something like
16 that. So the lighting is not too good out there. They
17 appeared to be in street clothes, not in uniforms. One of
18 the guys came up and spoke to me. He spoke good English.
19 But I know he was a foreigner, though. There is no doubt
20 in my mind because of the way he was talking.

21 He asked me did I
22 notice anyone wandering around and I asked him why. He
23 said, "We are looking for one of our comrades that fell off
24 the ship and may be hurt and he may be wandering around
25 looking for help. That's when I surmised right then and

1 there that they were looking for him and that there was no
2 doubt in my mind, at that point, that the man was
3 definitely trying to defect.

4 MR. BAITY: I'm going to object
5 to that conclusion.

6 THE COURT: Sustained.

7 BY MR. WOLF:

8 Q. Please continue, sir. What happened next?

9 A. After I talked those couple of minutes, I told him
10 no. He walked backed towards the other two men. All three
11 of them got together and they huddled there for about three
12 or four minutes, and then they just walked back across the
13 street and went back south where they came from.

14 Q. What happened next of this matter?

15 A. Well, after that, that's when it gets really crazy
16 after this. My nephew, of course, took him to New Orleans
17 and brought him to the New Orleans Police and then, like I
18 say, things happened in the car.

19 Q. How long was he gone? Did your nephew return to the
20 store?

21 A. No. No. I saw him the next morning and he went over
22 a bunch of things with me, what happened in the car and
23 everything like that. After that Immigration came in and
24 took statements from me. That was Monday, the following
25 Monday.

1 Q. Who came to see you?

2 THE COURT: What date would that
3 have been, Mr. Wyman? This was a Friday?

4 THE WITNESS: Well, it happened on
5 a Thursday night, Judge. It happened Thursday night, and
6 then Friday went by, Saturday went by, Sunday went by, and
7 then Monday came up.

8 BY MR. WOLF:

9 Q. It would have been the twenty-eighth of October, the
10 Monday after the twenty-fourth?

11 A. Right.

12 Q. Who came to talk to you from INS?

13 A. Mr. McMann.

14 Q. McMann?

15 A. A senior INS official. He was out of Dallas, he told
16 me.

17 Q. What did he say to you?

18 A. Well, he wanted to come in and take a statement of
19 what happened. And we had two pieces of physical evidence
20 that they took. One was an envelope in the car that he had
21 wrote on, the seaman had wrote on, and he wrote on there
22 and they wanted that, definitely wanted that. They took
23 and gave copies back to me.

24 Q. Let me ask you something while you're on that
25 subject.

1 MR. WOLF: Judge, I would like
2 to show this witness one of the exhibits in the petition
3 and ask him if he can identify that as the object he gave
4 this INS official. May I have the petition?

5 THE COURT: Yes. I'm sorry. I
6 have it.

7 MR. WOLF: I am referring to
8 Exhibit D, plaintiff's petition and complaint.

9 BY MR. WOLF:

10 Q. Mr. Wyman, can you recognize this Exhibit D?

11 A. Yes, I can. This is the photostatic copy that we
12 have of the piece of paper -- what this is is a back of a
13 phone bill that my nephew had laying on the seat of his
14 car. And the man in the car asked to write on something --

15 Q. So that's the document you're referring to that you
16 gave the INS official on the twenty-eighth?

17 A. Yes. Also, we gave them a brown jar that the seaman
18 had, he had left in my nephew's car.

19 Q. What was in the brown jar?

20 A. Well, I didn't see the contents. My nephew did, but
21 he told me that there was --

22 MR. BAITY: Objection.

23 THE COURT: Sustained.

24 BY MR. WOLF:

25 Q. Did you give anything else to the INS officials?

1 A. \ No. Just our statements stating what happened.

2 Q. Did you tell the INS official, Mr. McMann, on the
3 twenty-eighth the same story you just told us?

4 A. Yes, I did.

5 Q. What else did the INS official tell you? Did he tell
6 you anything substantive at that time?

7 A. Well, he told me some things that I wasn't supposed
8 to elaborate on.

9 Q. What did he tell you?

10 A. Because I asked him point blank.

11 THE COURT: Mr. Baity, are you
12 rising or are you deciding to rise?

13 MR. BAITY: He's going to say
14 what he said. I have no objection to that. But if he's
15 going to testify what the INS agent told him -- and I
16 understand the purpose of the questions asked -- I'm going
17 to make the objection that it's hearsay.

18 MR. WOLF: Admission of a party
19 litigant --

20 THE COURT: I'm going to permit
21 -- well, it might well be an admission, but I'm going to
22 give some latitude to the witness's testimony under the
23 circumstances. This is, after all, not a jury trial and
24 I'm going to -- I'll consider it for its probative
25 effect. All right. Go ahead. Repeat the question.

1 BY MR. WOLF:

2 Q. Please go ahead, Mr. Wyman, and tell us what the INS
3 official told you.

4 A. After he took my statement, I was concerned because I
5 was concerned for this young man. When I found out they
6 brought him back to the ship after all this happened, I
7 asked him point blank, "What's going to happen now to the
8 seaman?" It appeared to me that the man was trying to
9 defect to the United States. He said, "By the evidence
10 presented to me -- right now, from here, I'm going to the
11 ship." He says, "It definitely looks like a case of
12 defection to me."

13 Q. Did he tell you anything else of substantial nature?

14 A. He said that it's already up to the top in
15 Washington, to the President, and everybody's very
16 concerned about the matter and they're really getting on it
17 now. He said something will be done.

18 THE COURT: What time of day was
19 this?

20 THE WITNESS: This was
21 approximately noon, Judge.

22 BY MR. WOLF:

23 Q. Was that basically the substance of the conversation
24 you had with Mr. McMann?

25 A. Yes, sir. And, you know, he made some phone calls.

1 Q. Do you know who he called?

2 A. No. It appeared to me he talked to somebody of
3 importance, though, because he said, "Yes, we have the
4 statement concerning the Russian seaman and it looks like
5 he is trying to defect. We have enough evidence now to
6 substantiate that."

7 Q. What did Mr. McMann do then?

8 A. He then asked me not to comment on some of the things
9 that we talked about.

10 Q. Which ones?

11 A. About the evidence and stuff like that.

12 Q. About the defection?

13 A. Right, un-huh. And from there they also had a
14 detective there. Dominick Verdi also was in the room.

15 Q. A detective was there at the time with Mr. McMann?

16 A. From Plaquemines Parish Sheriff's Office.

17 Q. What were you saying about him?

18 A. He was also there when they did the statement.

19 Q. And that detective's name was what?

20 A. Dominick Verdi.

21 Q. Did Mr. Verdi make any substantive communications to
22 you on the subject of the seaman?

23 A. Yes. He kind of was -- expressed concerned because
24 it did happen in Plaquemines Parish. And he was
25 representing the Sheriff's Department and the district

1 attorney's office because they were very upset. And Mr.
2 McMann told somebody he was talking to on the phone that
3 the district attorney in Plaquemines was very upset about
4 the whole set of circumstances.

5 Q. What were they upset about?

6 MR. BAITY: I believe that's
7 beyond the leeway the Court granted.

8 THE COURT: Sustained.

9 BY MR. WOLF:

10 Q. Please continue, then. Did anything of note happen
11 then in that interview?

12 A. Other than what I just said, that's about it.

13 Q. Were you approached again by any other officials and
14 questioned? And I stress "officials." I'm sure everyone
15 on the street has been talking to you. Did officials of
16 the United States government or the State of Louisiana
17 approach you thereafter?

18 A. No. No one has come back to me and said, "Hey, this
19 is the picture of the gentleman involved," or this is the
20 gentleman they interviewed. In fact, when I seen a picture
21 in the paper of the Times-Picayune, they had a picture
22 supposedly of Medvid going on the ship. The far right is
23 the seaman, Medvid, and I seen that picture and I says,
24 "That's not Medvid." And I called, then, the number that
25 McMann had left and asked them -- he wasn't there and some

1 Border Patrol agent came on the phone. And I said, the
2 picture they show in the paper is not Medvid, and he said,
3 well, we are checking that out. It seemed like the paper
4 may have taken liberties with the photograph and stated
5 incorrectly that that was Medvid.

6 Q. What day did that come out, that Picayune?

7 A. That was Wednesday. That would be after I had been
8 given the statement.

9 Q. The following Wednesday after the Monday, which would
10 probably be October 30th?

11 A. Yes, just before Halloween.

12 THE COURT: Mr. Wyman, how do
13 you know that the individual who confronted your nephew on
14 the night of October 24th was Mr. Medvid?

15 THE WITNESS: Well, we don't know
16 the gentleman's name. He tried to tell us his name, but it
17 was in Russian and we couldn't understand it. I would like
18 to see a picture.

19 THE COURT: I'm only interested
20 in how you knew that he was the seaman.

21 THE WITNESS: Well, they said in
22 the paper this was the seaman in question, this was
23 supposed to be the seaman that jumped ship, and I was just
24 saying that picture of that man was not the seaman we seen
25 Thursday night.

1 MR. WOLF: On that point there
2 --
3 Excuse me, Judge.
4 Was I cutting you off?
5 THE COURT: No. When you cut me
6 off you'll be the first to know.
7 MR. WOLF: Mr. Wyman, before we
8 continue asking you about your reaction to seeing the
9 photograph in the paper, will you attempt to give me a
10 personal description of this person, this wet foreign-
11 language speaking person you dealt with on Thursday
12 evening, October 24th? What did he look like?
13 A. Well, he was a young man. He appeared to be around
14 twenty-five. He stood approximately six foot, maybe five
15 eleven, weighed about a hundred sixty, a hundred seventy-
16 five pounds, again, dressed in brown shorts, blue pullover
17 type shirt, sneakers, black socks, nice looking young man,
18 clean shaven, short hair. It was at night. It looked like
19 it was a brownish blonde, is the best I can describe it.
20 If you would see him walking down the street right now, you
21 would not think of any other person who looked the same
22 way.
23 Q. He was ordinary looking?
24 A. Yes.
25 Q. Do you think you would recognize him if you saw him

1 today?

2 A. Yes, I would.

3 Q. What color hair did he have?

4 A. Sort of a brownish blonde.

5 Q. What hair style?

6 A. Well, his hair was wet, clinging to his head.

7 Q. Was it long?

8 A. It didn't appear to be long.

9 Q. Did he have any facial hair?

10 A. No. He looked like clean shaven, no moustache.

11 Q. Could you say the general shape of the face was oval
12 or rectangular?

13 A. Sort of oval.

14 Q. Were there any other physical characteristics that
15 you could communicate to the Court right now that would
16 help us in understanding what he looked like?

17 A. No. He was light skinned. Other than that, like I
18 say, he was just a nice looking young man.

19 Q. Now, back to this picture that appeared in the
20 Picayune that next Wednesday, I believe, did you say that
21 the picture showed four persons? How many people were in
22 the picture?

23 A. They showed, I think, four people in the picture, all
24 together, and they had about -- like on the side of the
25 ship they had a gangplank type thing that goes up for the

1 people to walk on, going up to the ship, and they had three
2 men at the bottom and they had another man with a white-
3 like sweater on, a beard and long hair, and of course
4 that's when the caption said that this was the seaman.

5 Q. You said a man with a beard and long hair was the
6 seaman?

7 A. Well, they said the man far to the right, and that
8 was the man far to the right.

9 Q. Did any of the people in the picture appear to be the
10 seaman you saw Thursday night?

11 A. No.

12 Q. Is it possible that some of those people were -- was
13 their appearance so clearly expressed in the picture that
14 you would be able to tell?

15 A. The only one I couldn't tell in the picture was the
16 second man. He had his head kind of turned a little bit,
17 and you could only see basically a side view of the face.
18 But he appeared to have a little bald head, anyway, so I
19 don't think it was him anyway.

20 Q. So you're saying you can't say for sure that Medvid
21 or the seaman you saw Thursday night was not in that
22 picture?

23 A. By my recognition, looking at the picture and
24 remembering him, I would say he's not in the picture.

25 Q. But you could be mistaken on that?

1 A. Right, the only one would be the second man, and he
2 had a coat and pants on.

3 THE COURT: All right,
4 counsel. Summit conferences are not going to take place at
5 that counsel table.

6 BY MR. WOLF:

7 Q. One more question on that picture you saw in the
8 Picayune. What did it purport to show again?

9 A. It was supposed to show that the man in the far
10 right, at the picture, is the Russian seaman, Medvid, and
11 that gentleman right there was not the man.

12 Q. Was it purporting to be a picture of the scene when
13 he was returned to the vessel Thursday night or several
14 days later?

15 A. No. This was several days later. This was the
16 photograph when they took him back to the ship after he had
17 supposedly signed that document to go back to the ship and
18 they were returning him to the vessel.

19 MR. WOLF: Thank you. We
20 tender the witness.

21 THE COURT: Thank you, Mr. Wolf.
22 Cross examine, Mr.
23 Baity. 0

24
25

CROSS EXAMINATION

1
2
3 BY MR. BAITY:

4 Q. Mr. Wyman, how long were you a Jefferson Parish
5 deputy?

6 A. From 1966 to 1969.

7 Q. And I take it it's about a twenty-five, twenty,
8 twenty-five minute ride from your jewelry store down to New
9 Orleans. Is that correct?

10 A. Maybe a little bit longer, depending on the traffic.

11 Q. And I would take it there's a Plaquemines Parish
12 Sheriff's Office somewhat closer to your store?

13 A. Very close to my store, yes.

14 Q. Now, you've indicated you've had some prior
15 experience with seaman when you were a deputy sheriff.

16 A. Right.

17 Q. Have you had experience with Border Patrol?

18 A. Not too much with the Border Patrol.

19 Q. Did you have any experience with the FBI?

20 A. No.

21 Q. Did you ever deal with foreign seamen when you were a
22 Jefferson Parish deputy?

23 A. Just a few times we would get complaints in bars that
24 they would be carrying on too much or something like that.

25 Q. Mr. Wyman, when you saw this man on that night, I

1 take it the only thing you understood him to say was
2 basically New Orleans and police. Is that correct?
3 A. Right. That's the basic two things.
4 Q. And I take it you did not instruct your nephew to
5 take him to the closer Plaquemines Parish Sheriff's
6 Department. Is that correct?
7 A. No, because the man seemed that he was emphatic about
8 going to the New Orleans Police Department.
9 Q. And I take it, as a former police officer, you did
10 not see fit to call the FBI. Is that correct?
11 A. Right. Because the man looked like he had something
12 pre-arranged. That's the idea I got in mind. I didn't
13 want to go messing it up by taking him to some place he
14 didn't want to go.
15 Q. So you were thinking he wanted to go to New Orleans
16 Police, but not to the FBI?
17 A. That's the impression I got from the gentleman, yes.
18 Q. Now, I take it also that you don't speak Ukrainian or
19 Russian. Is that correct?
20 A. No.
21 Q. Mr. Wyman, were you interviewed by the Times-Picayune
22 recently?
23 A. They called me on the phone, yes.
24 Q. Did you talk to them?
25 A. Yes.

1 Q. When was that? Do you recall?

2 A. I've talked to so much news media in the last week
3 and a half, I couldn't even begin to tell you.

4 Q. Wasn't there a recent article concerning this
5 incident and testimony with the Times-Picayune in last
6 Sunday or so? Does that sound familiar?

7 A. I believe it was the last few days.

8 Q. Let me ask you this. I heard your discussion of the
9 physical examination, etc. You didn't come to the FBI or
10 to Border Patrol or INS or tell the Times-Picayune, then,
11 about the fact that this was a different sailor, did you?

12 A. Well, the thing I'm trying to say is nobody came to
13 me, to answer your question, and said, "Look, is this the
14 seaman or the man that you had Thursday night?"

15 THE COURT: The question is why
16 didn't you tell the Times-Picayune, during that interview
17 recently, that the picture that they indicated was of the
18 seaman was not the seaman who you met in front of your
19 jewelry store on that Thursday?

20 THE WITNESS: I told that to the
21 Border Patrol, and the Border Patrol told me that the paper
22 had taken liberties with the photograph and that the man in
23 the picture was the Russian doctor off the ship. That's
24 why, to answer your question.

25 BY MR. BAITT:

1 Q. Mr. Wyman, I think I understand your question, and
2 not to belabor the point, though -- however, your testimony
3 today is that you were not convinced, and you gave a
4 statement, yourself, to the Times-Picayune and indicated
5 your concerns and you didn't relate that information then,
6 did you?

7 A. You're getting me all confused here. Would you begin
8 again? The first question you asked me was about the man
9 in the photograph, correct?

10 THE COURT: Maybe I can ask it
11 again. I ask great questions.

12 Your interview with
13 the Times-Picayune was fairly recent?

14 THE WITNESS: Yes, sir.

15 THE COURT: Your interview with
16 the Times-Picayune was after you observed that the picture
17 of the person in the newspaper was not the same person you
18 met?

19 THE WITNESS: Right.

20 THE COURT: Why didn't you tell
21 that to the Times-Picayune in your recent interview?

22 THE WITNESS: Because I felt when
23 they told me that they had taken liberties with the
24 photograph, which happens, I said, well, it wasn't that
25 important anymore because they said that was -- what I'm

1 trying to say is that they said they took liberties with
 2 the photograph and it wasn't the man in the photograph.
 3 That was the ship's doctor.
 4 BY MR. BAITY:
 5 Q. Mr. Wyman, on the evening that you met the individual
 6 that came up, you were told subsequently, I understand,
 7 that this person had fallen overboard, by someone else. Is
 8 that right?
 9 A. Right.
 10 Q. The person you talked to never used the word
 11 "defect," did they?
 12 A. You're talking about the Russian seaman?
 13 Q. Yes. Or the seaman that you met that was wet.
 14 A. He didn't say it in English. If he said it, he
 15 didn't say it in English.
 16 MR. BAITY: I have nothing
 17 further, Your Honor.
 18 THE COURT: Thank you, Mr.
 19 Baity.
 20 Any redirect, Mr.
 21 Wolf?
 22 MR. WOLF: One more, Your
 23 Honor.
 24
 25

REDIRECT EXAMINATION

BY MR. WOLF:

Q. Mr. Wyman, you just mentioned that you discussed or mentioned that conclusion that the man in the Times-Picayune picture was not the seaman you dealt with to the Border Patrol. When was that?

A. That was Wednesday.

Q. The day that you saw the picture?

A. The day I saw the picture. The interview with the Times-Picayune was at a later date.

Q. How did you come to be talking with the Border Patrol?

A. I called them back when I seen the pictures and said, "Wait a minute. This is not the guy."

Q. Who did you speak to?

A. I don't remember the man's name. He was a Border Patrol agent.

Q. And you said that he said that the picture in the Picayune had liberties taken with it?

A. Right.

Q. What did that mean?

A. He said --

MR. BAITY: I'm going to
object. I believe he's about to call for the witness to --

1 THE COURT: The objection is
2 sustained.
3 BY MR. WOLF:
4 Q. Did he describe what kind of liberties he was
5 referring to or did he elaborate?
6 A. Well, he just said that the photograph in the picture
7 of the man that's supposed to be Medvid was the Russian
8 doctor on board the ship and that he said that the
9 photograph they have of the gentleman is being showed to
10 the proper witnesses that they interviewed in Algiers.
11 Q. The photograph had been shown to the proper
12 witnesses?
13 A. That's what he told me. And I said, "Who? I'm one
14 of the witnesses and nobody showed me a photograph."
15 THE COURT: What was your under-
16 standing, other than you and your nephew, of what other
17 witnesses there were in Algiers?
18 THE WITNESS: I don't know, Your
19 Honor. That's what the man told me. He said the proper
20 witnesses are being -- because I was concerned -- can I say
21 something?
22 THE COURT: I'm not interested
23 in your concern. I'm interested in what the facts are.
24 THE WITNESS: Well, at the time,
25 seeing what was going on, you know, and I seen this picture

1 in the paper, I surmised that maybe they might have
2 switched men. And I wanted to see a photograph of the guy
3 they interviewed in Algiers to see if this was the same man
4 I seen Thursday night.

5 THE COURT: Well, if you
6 suspected that for some reason they switched pictures or
7 that there was even a mistake in the identity of the
8 individual, why wouldn't you tell some member of the
9 press? I gather that you were the subject of great
10 interest among the press, as you probably should have
11 been. Why wouldn't you mention it to any member of the
12 press?

13 THE WITNESS: I mentioned this at
14 a later date. Nobody came back to me and showed me a
15 photograph of this man.

16 THE COURT: When did you mention
17 it?

18 THE WITNESS: This was probably
19 Thursday or Friday.

20 THE COURT: This would have been
21 the week of November 1st?

22 THE WITNESS: Yes, sir.

23 THE COURT: And your interview
24 with the Picayune was when?

25 THE WITNESS: It was around that

1 time period.

2 THE COURT: Well, if you
3 mentioned it to someone else, why wouldn't you have
4 mentioned it to the Picayune?

5 THE WITNESS: Well, oh, see, the
6 Picayune called me. They read my statement -- I didn't do
7 a real interview with the Times-Picayune in the paper.
8 They took my statement that I gave the lawyers here and
9 they read from that statement. They didn't call me for an
10 interview. They were trying to --

11 THE COURT: But when they took
12 your statement, if I understand the sequence correctly,
13 when they took your statement you had already noted that
14 the picture of the individual in the paper was not the
15 individual you say you met?

16 THE WITNESS: Right. They took my
17 statement before -- in other words, I gave my statement
18 before the picture came out.

19 THE COURT: What member of the
20 press did you finally disclose this to?

21 THE WITNESS: I think it was --
22 Your Honor, I've been talked to by so many different news
23 people, you wouldn't believe, and I'm just trying to
24 remember who it was. It was one of the news media.

25 THE COURT: Print or television?

1 THE WITNESS: It was print.
2 THE COURT: Local or national?
3 THE WITNESS: It may have been the
4 Washington Post, I think -- I'm not sure -- or Washington
5 Times, one of those two.
6 THE COURT: Do you remember what
7 the reporter looked like?
8 THE WITNESS: It was always phone
9 interviews.
10 THE COURT: So I see. Do you
11 remember what his name was?
12 THE WITNESS: No, sir. I may have
13 it wrote down at the shop. I'm not sure.
14 MR. WOLF: No further
15 questions, Your Honor.
16 THE COURT: Any recross?
17 MR. BAITY: No, Your Honor.
18 THE COURT: We are going to take
19 about a ten minute recess and then we will start again.
20 Your next witness is Wayne Wyman?
21 MR. WOLF: Yes.
22 THE COURT: The Court will stand
23 in recess for ten minutes.
24 THE CLERK: All rise.
25 (Court briefly recessed.)

1	THE CLERK:	All rise.
2		Be seated, please.
3	THE COURT:	Call your next
4	witness.	
5	MR. WOLF:	It will be Mr. Wayne
6	Wyman.	
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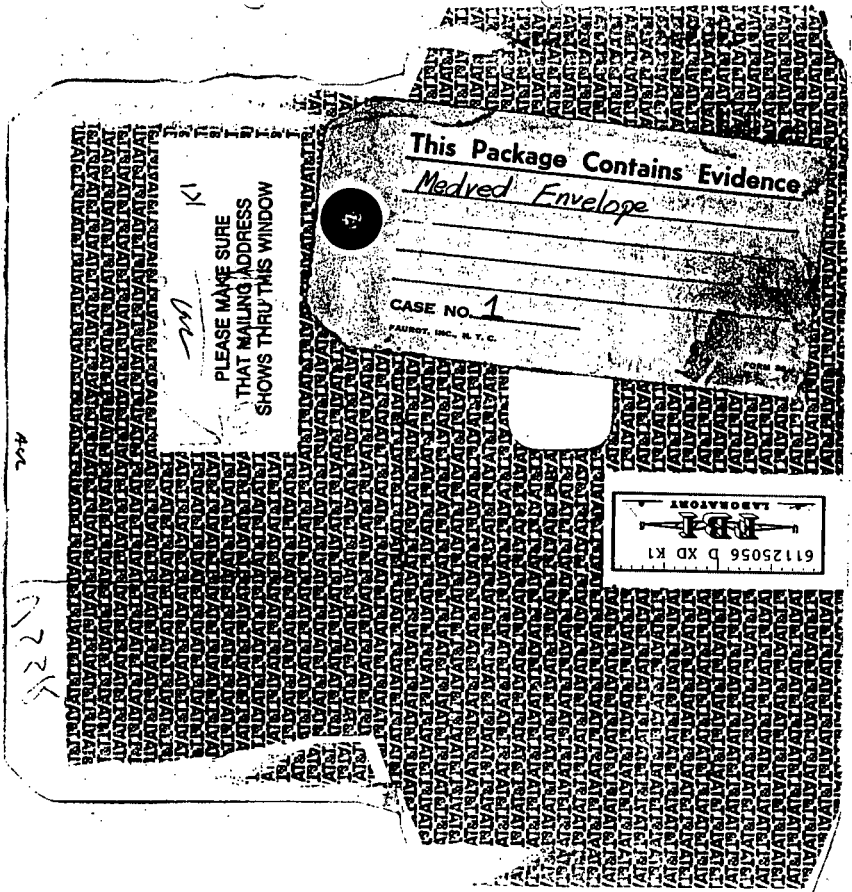
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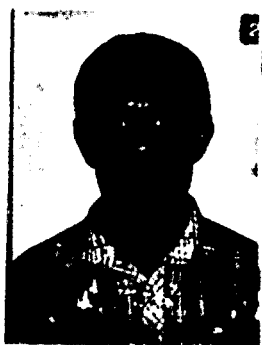
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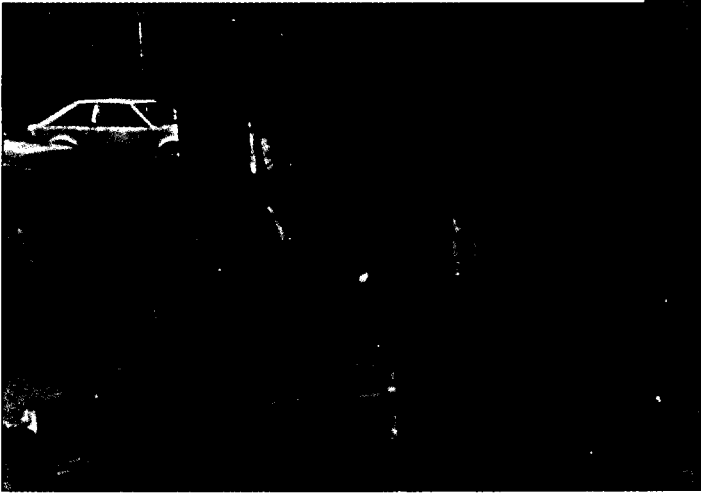
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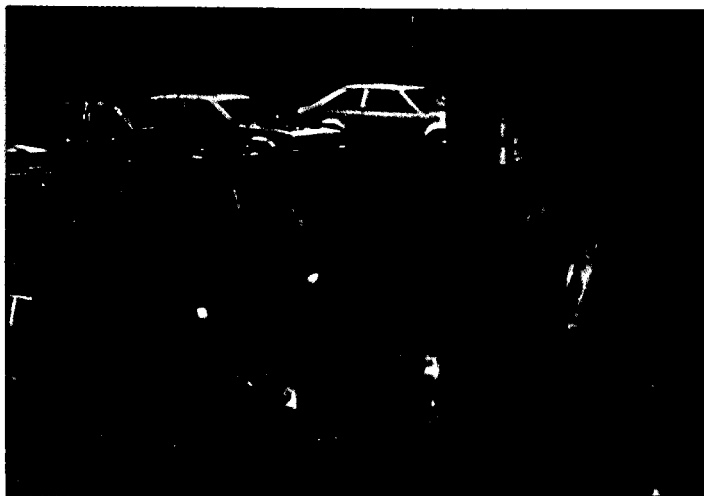
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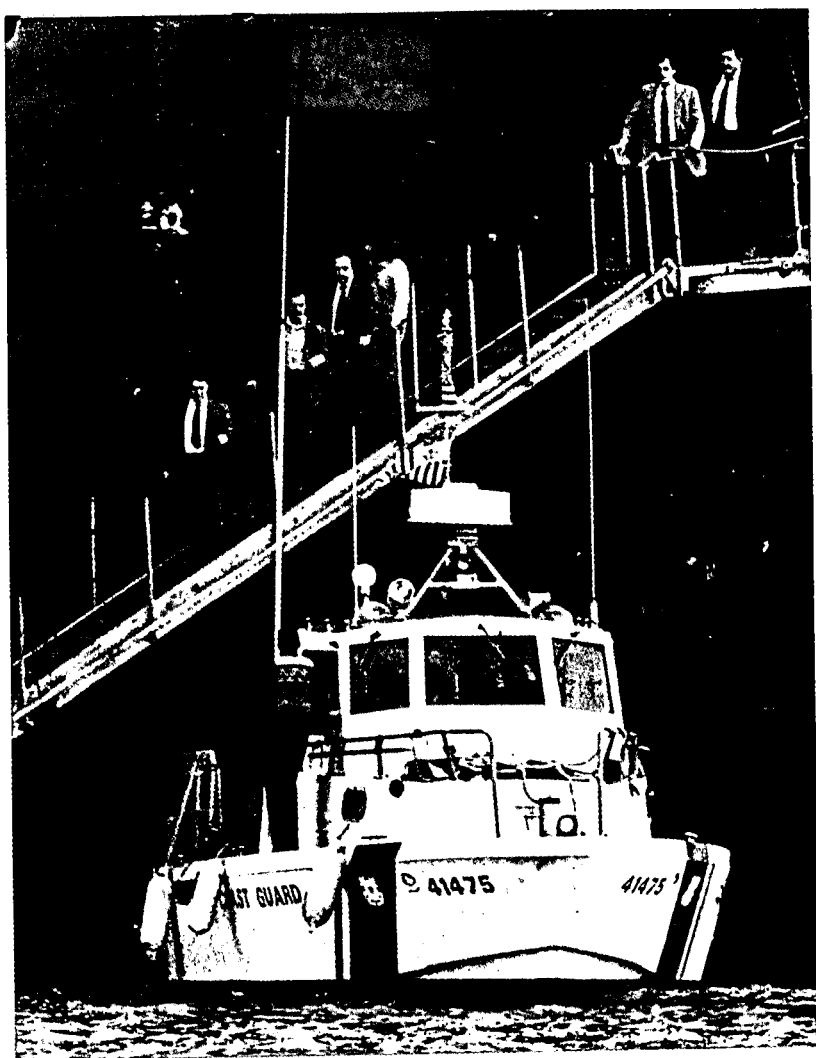




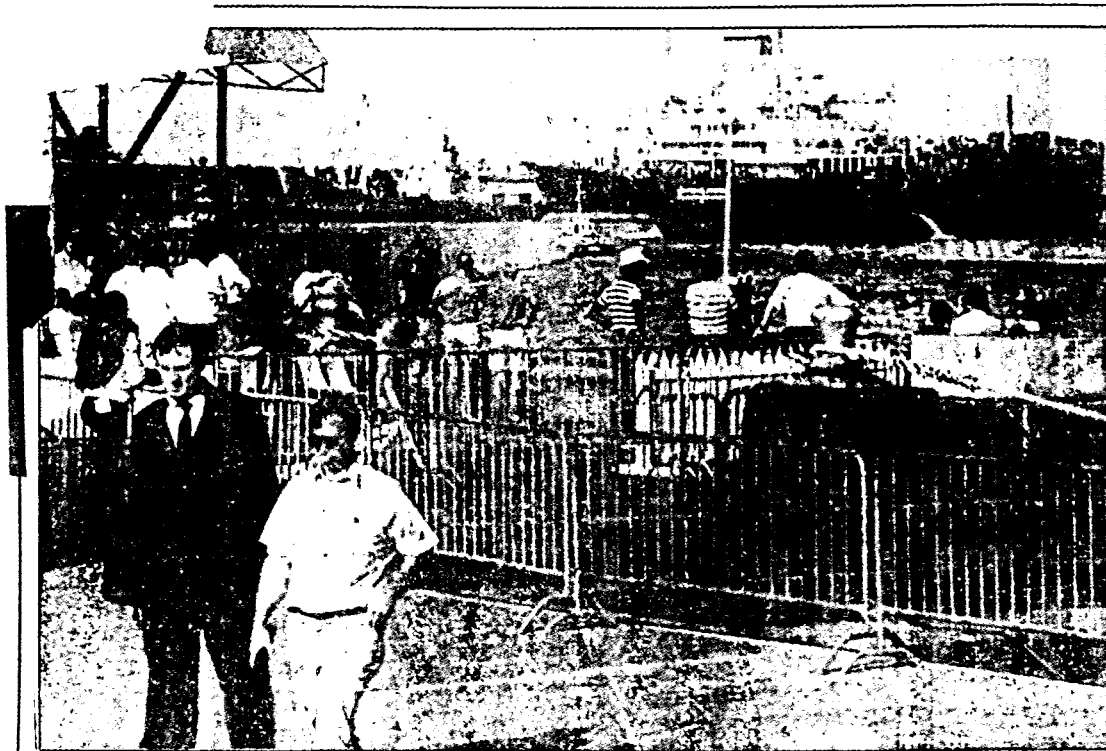












Soviet diplomat Yevgeniy G. Vtyurin, in suit at left, walks away as the freighter Marshal Koniev moves down the Mississippi River

Wymen
#13

7/20/2019
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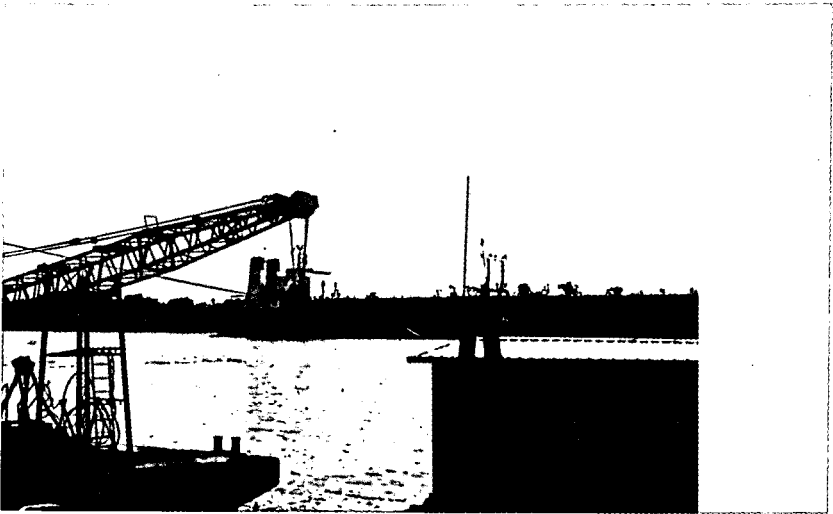
Smiling crewmembers stand at the railing of the Marshal Konev and listen to messages shouted to

UPI PHK

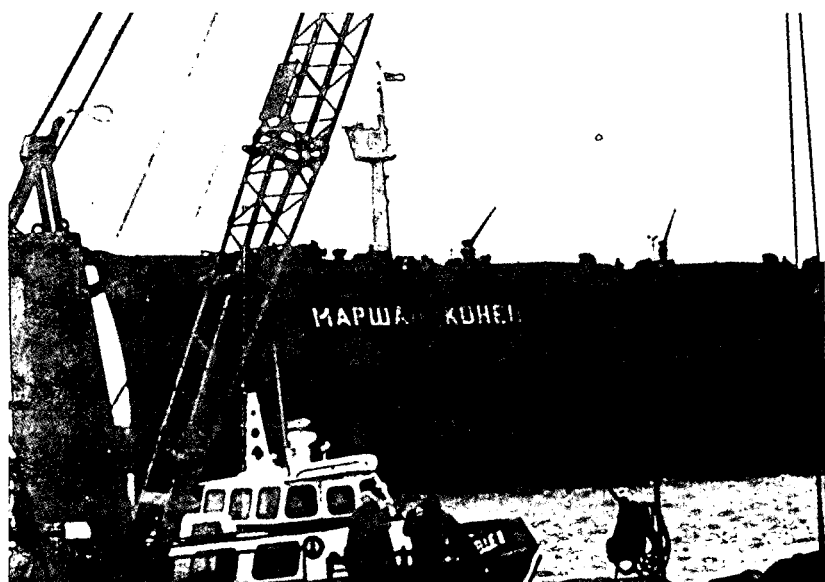
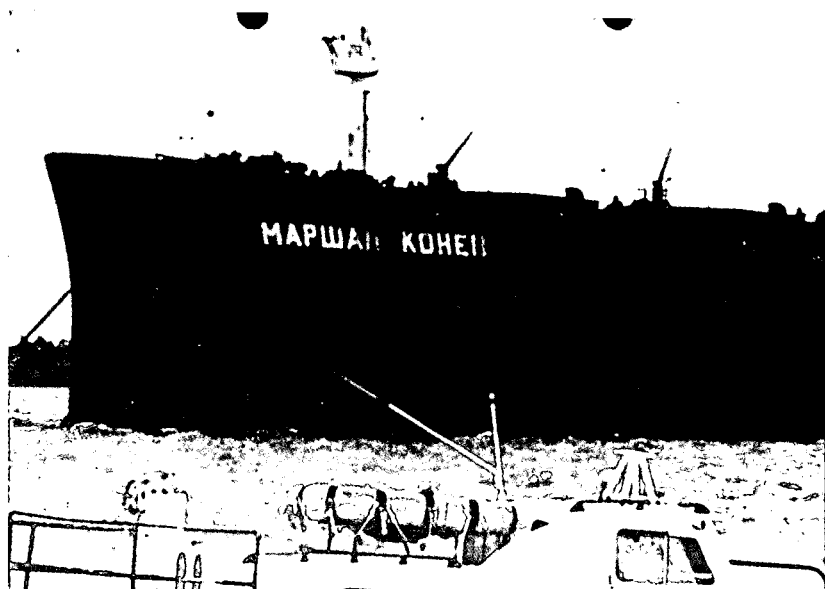


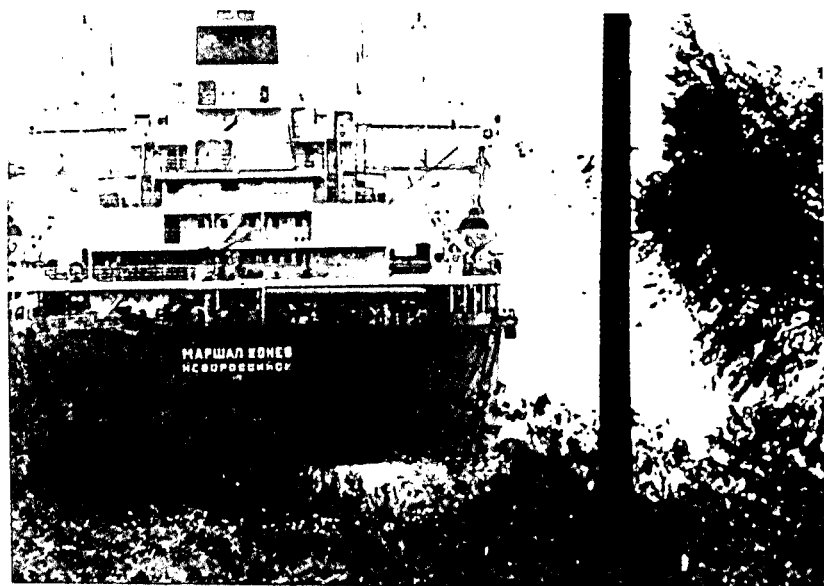
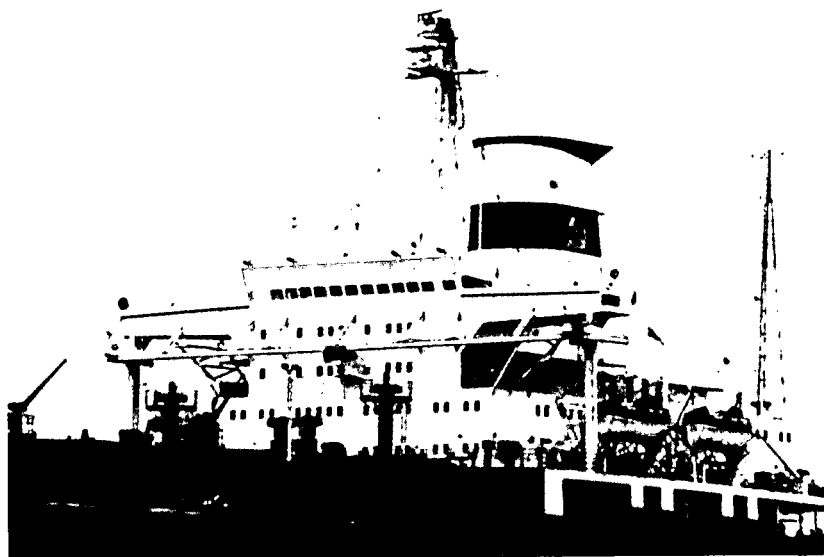
bers stand at the railing of the Marshal Konev and listen to messages shouted to them by protesters

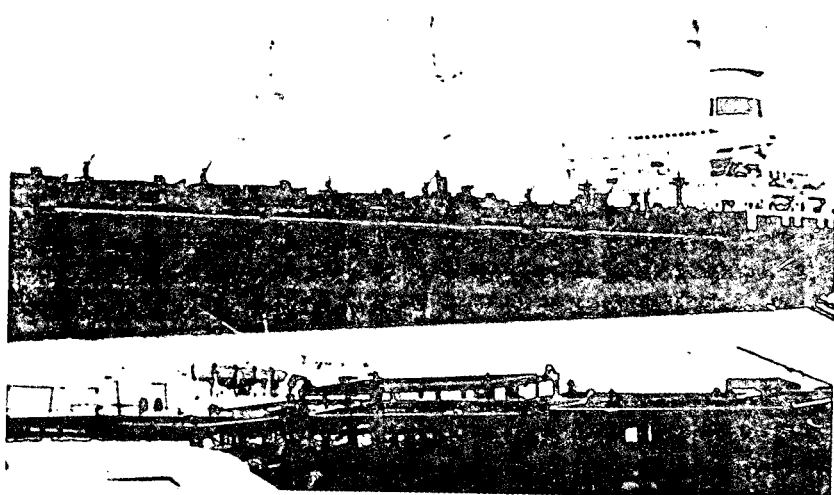
UPI PHOTO BY DAVE FORNELL













Wymen
15

the Voice of America had already several times announced that "Myroslav Medvid is not among the living any more", I was sitting in the house of his parents in the village of Silsi, Lviv Region. I did not have to express my condolences to them, though, for Myroslav was sitting together with us, alive and joyful.

Although, there was a time when Myroslav's life was in danger. It did not take place here at home, but in America.

ducted outside the ship. A Mexican vessel anchored nearby was chosen as a neutral territory for the negotiations. Accompanied by the doctor, the Soviet captain and a representative of the Soviet Embassy in the USA, Myroslav got on the American boat.

Suddenly the boat changed direction and headed for an American Coast Guard ship, not the Mexican vessel. For six hours the Americans were brainwashing Myroslav Medvid. They

my return and removal of arrest from the ship, motor boats were for several days cruising around the ship and helicopters hovering over it. I asked a local longshoreman — why all those people making such a fuss. 'Not for nothing,' the man replied. 'Sponsors of the provocation pay each of them well.'

Upon learning that among those who wanted to "free" Medvid, or rather put him in the hands of U.S. secret services, there were also some



PHOTOS: Myroslav Medvid with mother Hanna, father Vasyl, sister Iryna and grandmother Paraskovia (left photo); Ivan Lashchuk, permanent secretary of the selec-



tion commission of the Lviv University, advises Myroslav Medvid who has applied for the law department. Photos by B. Kryshkul.

This happened on the Mississippi, when the Soviet motor vessel Marshal Konev, where Myroslav was a seaman, was on the roadstead of New Orleans, USA.

In the evening of the day when the ship dropped its anchor in American waters, Myroslav Medvid went down the deck and noticed that one of the lights over the ladder was not bright enough. To find the reason, Myroslav leaned over the board. All of a sudden

wanted from him at least a hint that his fall was not an accident, but an attempt to defect to the United States. All they heard from Myroslav was: "I have my homeland — the Soviet Union — and I had no intention to leave the land on which I was born and on which my parents live."

When Americans saw that psychological pressure on Myroslav Medvid had not worked, they changed the tactics. They said they would continue talking

OUNites (members of the Organization of Ukrainian Nationalists), Myroslav's 80-year-old grandmother Paraskovia could not help but express her indignation. She remembers how in the first days of the Nazi occupation, Ukrainian bourgeois nationalists tortured to death Soviet activists of the village of Silsi, how they shot 40 of its residents and threw others in a concentration camp.

"Their hands are stained with the



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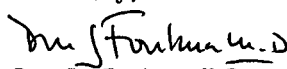
Baranyk & Popowych, Ltd.
Mr. Orest Baranyk
710 Higgins Road
Park Ridge, Illinois 60068

Dear Mr. Baranyk:

I have had the opportunity to exam photographs of person(s) allegedly known as Miroslav Medvid. Morphologic facial skeletal comparison studies clearly indicate two different individuals existed.

I hope this information is useful to you. Feel free to call upon me, should additional information or studies be needed.

Sincerely,


Don J. Fontana, M.D.

df/pa

The events surrounding the Miroslav Medvid affair leave many unanswered questions. As a physician, I took the opportunity to review the reports of the physical examinations performed by LCDR John M. Caruthers on October 26 and 28, 1985. The findings of these reports were presented at the 1986 Annual Meeting of the Ukrainian-American Bar Association in Philadelphia. After meticulous scrutinization of these examinations, it is my opinion that there is significant evidence to suggest that either (a) two different physicians examined the patient, Medvid, or (b) two different individuals were examined. Since Dr. Caruthers testified under oath that he performed both exams, the question arises to the possibility of an imposter. To that end, I have acquired and scientifically analyzed photographs taken of the individuals allegedly known as Miroslav Medvid.

As a board certified plastic surgeon trained in the anatomic relationships of facial balance, harmony and unity, I feel qualified to assess the facial proportions of Mr. Medvid using standard and accepted methods for comparison of facial anatomy.

Full face frontal photographs were used for evaluation. It is known from the analysis of skeletal morphology in cephalometric headplates that certain ratios seem to be present in the facial skeleton, and therefore comparison of these ratios in different individuals can act as a means of identification. Particular points are used on the face as landmarks. (Figure I)

- Figure I.
- TR - trichion - top of face near hairline
 - ME - menton - lower border of the soft tissue of chin
 - CH - chilion - angle of the mouth
 - AL - curve of alar rim
 - LC - lateral canthus of eye

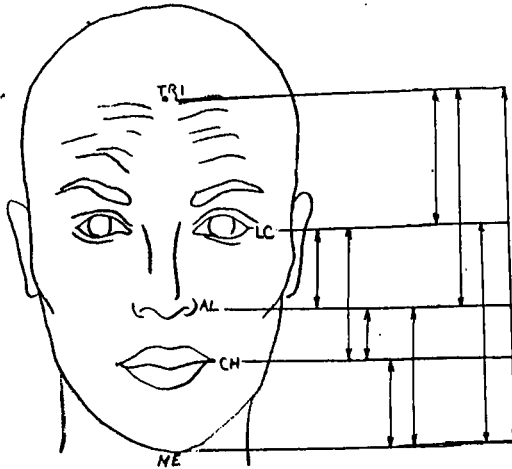


Figure I.

The following ratios were then established from measurements taken from individuals identified as Medvid. (Plates I and II).

- 1) LC-M/TR-M
- 2) TR-AL/TR-M
- 3) TR-LC/TR-M
- 4) AL-M/TR-M
- 5) LC-CH/TR-M
- 6) CH-M/TR-M
- 7) LC-AL/TR-M
- 8) AL-CH/TR-M

- 3 -

Ratio of Facial Proportions

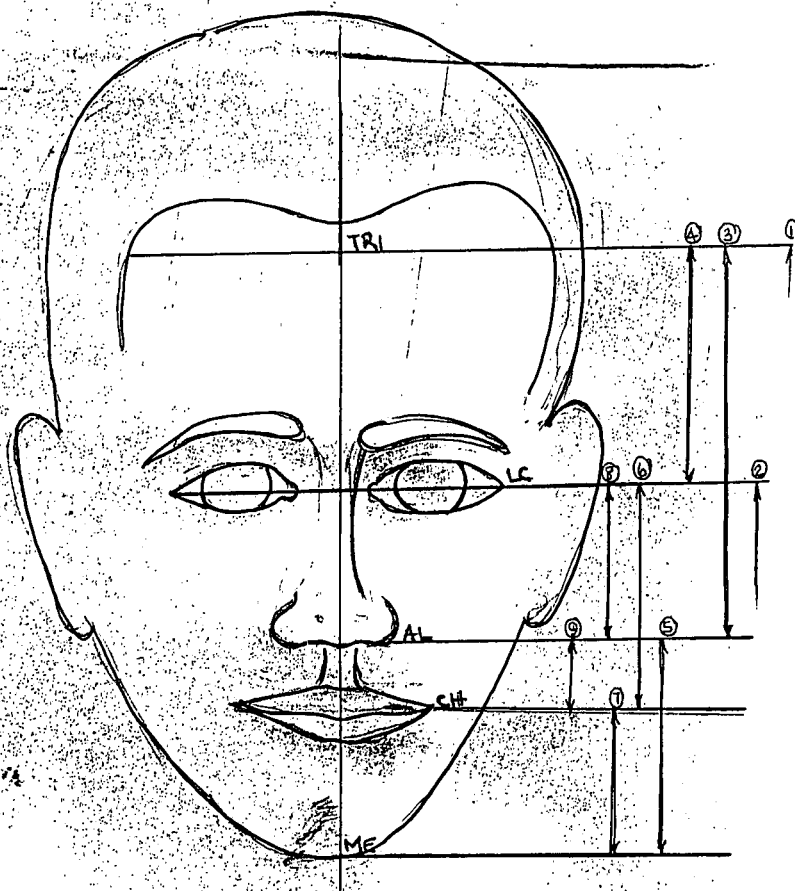
	Medvid I	Medvid II
LC-M/TR-M	.554	<u>.650</u>
TR-AL/TR-M	.609	<u>.640</u>
TR-LC/TR-M	.380	<u>.393</u>
AL-M/TR-M	.386	<u>.355</u>
LC-CH/TR-M	.380	.372
CH-M/TR-M	.222	.236
LC-AL/TR-M	.212	<u>.252</u>
AL-CH/TR-M	.168	.161

The results demonstrate clearly significant differences in facial proportions between Medvid I and Medvid II. The differences are particularly apparent in the upper facial skeleton, i.e., eyes and hairline as well as in the lip, alar/chin ratios of the lower facial skeleton. One must conclude, therefore, that two different individuals were presented to the U. S. officials. This conclusion is based upon the objective measurements and morphologic differences in the individual's maxillofacial skeleton.

PLATE I









Особисті

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НАРОДНИМ
EXPRES

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25-ЛЕТН
КОСМИЧЕСКОГО ТОВАРИЩЕСТВА

США

Вашингтон

Член Конгрессу

Фред Екерт

Индекс предприятия связи
и адрес отправителя

А. Лови

Медиа Мира

Индекс предприятия связи

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ВНИМАНИЕ!

Образец написания цифр индекса:

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Добрий день

Фред Екерт!

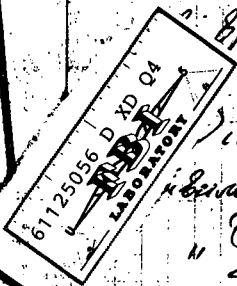
Чесно кажучи, я був здивований,
коли отримав Вашого листа. В нас на
хорошій стороні (це порозуміння
між нашими народами) і патрі-
отизма, які Ви висловили в

Дійсно, коли Нантвот ПАРС
дуже повідомляло:

"Штуди про цю смерть значно
перебільшені".

Після повернення до Радзиского (смерть)
мене ніяка смерть, там більше РЦМ
не очікували. Натомість там у вас перс-
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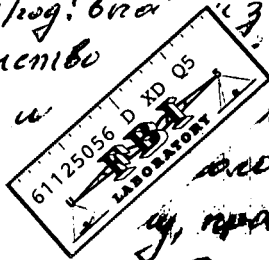
Дійсно, мене в дані моє привіта-
ли. З Вашого листа я зрозумів,
що Ви Фред Екерт дивуєтесь, що ми



2. могли тепло привітати вдала.
Можливо, це здивування великого
мо з великим великим суєтністю
у нас, но Батьківщині - це я вважаю
сея нормою.

3. судно дійсно я не стрибав.
Ви тут дивуетесь, коли я впа в
такої висоти 14 м погано до бе-
рега, а не до судна (1 м). Інтерес-
но, куди б Ви потрапили при падінні
з 15 м/год? впа з такої висоти!

Агенство правління по-
діймає, и вся наша потреба
випливає, и слова, и вартує
тільки, и праву кошу. Зараз
ми вра зробили отримати на-
ліву руку: "Іосифодатиня кабриж
середнього пера", і все робля
для того, щоб покращити свій стан
здоров'я. - Доречі - безплатно.



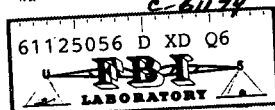
3. В мене думки не було остаточно -
тися в СМД. Навероят, просив я
Людса Селіса 26 років:

"Смогу ли я живими увидити
папу и маму".

Якщо Ви Фред Емерт не вірять
мені, як і постійно опсезиманців
то спитайте у цих людей, які
зосталися мною!

Наша країна бажав мери
у всьому світі. Багато ділових
пропозицій було висловлено на-
шим Генеральним Секретарем
ОУК КПРС М. С. Горбачовим.

Оце члорось, відомо і Вам Фред Емерт.



Благодарю, радий почути таку
Зас, що більшість опсези-

канців бажав краіна відновити з
Радянським Союзом. Я тім же "З" -
як і весь наш Радянський Народ.

Важливо, щоб ви суворо утримувалися від будь-яких дій, які можуть бути вважані за злочинні.

• Повідомлення про злочин:

• Після проходження, одержавши на базі першоданих, я просив про це, кваліфікуючи на суді як "Відмова від злочину".

• Відмова від злочину: це те, коли людина, яка була звинувачена в злочині, визнає, що вона не була причетна до нього.

• У мене одна виступила виступила в суді. Я був звинувачений, кваліфікуючи. Нині жодних доказів, родичів, інших.

• Відмова від злочину: це те, коли людина, яка була звинувачена в злочині, визнає, що вона не була причетна до нього. 13 29 жовтня на 30 жовтня, після 26 років доплати. Містеру Селлу.

• Відмова від злочину: це те, коли людина, яка була звинувачена в злочині, визнає, що вона не була причетна до нього. Зв'язок з цим злочин. Зв'язок з цим злочин. Зв'язок з цим злочин.



5. Як би в мене було портрет, то я любив відвідувати старі-канони престолу в Москві, не знаючи, чому відноситься до мене в Києві.

А як у Ви Фред Екерт бачив, коли я був в Москві до нас, то як раз побачив нас своїми, як ми чинили, що всі живі і здорові.

Нічого смілого слова, про який 12. С-61174. у мене не було.

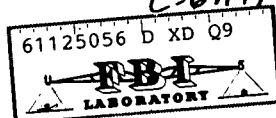
21. 61125056 D XD Q8. у народження. у екрані, його там моя борба приймає, а інші важливі документи в той час нахилились у їм. капітан. Так перший серед ка-манди моряків.

Мусу теж закінчувати. життя, бо їм не проходить

в. до моря. Багато притягав
літератури по географії державно
випуск карт у вашій країні,
але не знайшов 51 міста України.
Щоправду не зрозумів, про яку
незалежність ви ведете мову. У
нас в Радянському Союзі живуть
люди добре, святим ділом свої
святий.

Дякую "за Вашу турботу про
мене". Завдання С-61174

Думав, що не
можу уникнути



з таким великим державним
ділом як Ви не має ніякої
потреби.

З повагою до Вас, Фрунзе
Медвідь Миколай.

М. Лавіс.
14. IV. 66р.

ALFONSE M. D'AMATO
CHAIRMAN

STENY H. HOYER
CO-CHAIRMAN

COMMISSION ON
SECURITY AND COOPERATION IN EUROPE
CONGRESS OF THE UNITED STATES
WASHINGTON, DC 20515

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STAFF DIRECTOR
SAMUEL G. WISE
DEPUTY STAFF DIRECTOR
MARY SUE HAFNER
GENERAL COUNSEL
237 HOUSE OFFICE BUILDING, ANNEX 2
(202) 225-1901

December 8, 1986

The Honorable Yuri V. Dubinin
Ambassador
Embassy of the U.S.S.R.
1125 16th Street, N.W.
Washington, D.C. 20036

REF: PM/C 034

Dear Mr. Ambassador:

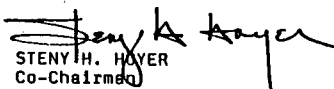
As you may know, the Commission on Security and Cooperation in Europe has been directed by the United States Senate to make further inquiry into the case of Miroslav Medvid, the Ukrainian seaman who was involved in an incident in New Orleans, LA, in October 1985.

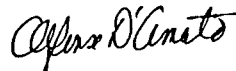
After careful review, we have determined that many of the lingering issues could be resolved if Commission staff were allowed to meet with Mr. Medvid. Primarily, we wish to reassure many of our doubting countrymen that Mr. Medvid is alive and well, as reported by your government and press.

Therefore, we respectfully request your assistance in arranging for our staff to visit Mr. Medvid in the U.S.S.R., preferably during the week of January 26-30, 1987. We must complete our inquiry as quickly as possible and your prompt action will be greatly appreciated.

Specific arrangements (and any questions you may have) will be handled by Paul Lamberth, Project Director, at 225-1901. We will deal directly with whomever you designate to represent the U.S.S.R. in this matter. We anticipate and thank you in advance for your immediate attention to this request.

Sincerely Yours,


STENY H. HOYER
Co-Chairman


ALFONSE M. D'AMATO
Chairman

**FEDERAL BUREAU OF INVESTIGATION**

Washington, D. C. 20537

REPORT

of the

**LATENT FINGERPRINT SECTION
IDENTIFICATION DIVISION**

YOUR FILE NO.
FBI FILE NO.
LATENT CASE NO.

C-61174

January 7, 1987

TO: Chairman Alfonse M. D'Amato
Congress of the United States
Commission on Security and Cooperation in Europe
237 House Office Building, Annex 2
Washington, D. C. 20515

RE: UNKNOWN SUBJECT(S), aka
Miroslav Medvid;
LATENT FINGERPRINT EXAMINATION

REFERENCE: Letter November 21, 1986, and specimens received
December 22, 1986
EXAMINATION REQUESTED BY: Addressee
SPECIMENS: Copy of letter, Q1
Copy of letter, Q2
Airmail envelope, Q3
Six-page letter, Q4 through Q9
Envelope, K1
Jar
Fingerprints of Miroslav Medvid (Medwid Myroslaw)

The specimens were examined and twenty-two latent fingerprints and one latent palm print of value were developed on Q1, Q2, Q6 through Q9 and the jar.

One latent fingerprint developed on Q1, a copy of a letter bearing typewriting and hand printing beginning "STATEMENT BY..."; one latent fingerprint developed on Q2, a copy of a letter bearing foreign typewriting and handwriting; and two latent fingerprints developed on Q6 and Q7, parts of a six-page letter bearing foreign handwriting, have been identified as finger impressions of Miroslav Medvid (Medwid Myroslaw), born March 24, 1960, Immigration and Naturalization Service Border Patrol, New Orleans, Louisiana, #A16058032.

(Continued on next page)

Chairman Alfonse M. D'Amato

January 7, 1987

Three latent fingerprints, which are from the tip and side areas of fingers, were compared, insofar as possible, with the fingerprints of Medvid, but no identification was effected. Inked impressions of the tips and sides of the fingers of this individual are needed for conclusive comparisons. There are no palm prints contained in our Identification Division files for this person. The remaining latent fingerprints are not identical with the fingerprints of Medvid.

No additional fingerprint record was located in our Identification Division files for Medvid.

Should you desire testimony by one of the FBI's fingerprint experts in this case, we should be notified in ample time to permit the preparation of the necessary exhibits. This report should be used, however, if legal considerations permit, in lieu of the appearance of our expert.

The specimens are being returned under separate cover.

The result of the laboratory examination will be furnished separately.



DEPARTMENT OF STATE

Washington, D.C. 20520

January 4, 1972*

General Policy for Dealing with Requests for
Asylum by Foreign Nationals

POLICY

Both within the United States and abroad, foreign nationals who request asylum of the United States Government owing to persecution or fear of persecution should be given full opportunity to have their requests considered on their merits. The request of a person for asylum or temporary refuge shall not be arbitrarily or summarily refused by U.S. personnel. Because of the wide variety of circumstances which may be involved, each request must be dealt with on an individual basis, taking into account humanitarian principles, applicable laws and other factors.

In cases of such requests occurring within foreign jurisdiction, the ability of the United States Government to give assistance will vary with location and circumstances of the request.

U.S. OBJECTIVES

A basic objective of the United States is to promote institutional and individual freedom and humanitarian concern for the treatment of the individual.

Through the implementation of generous policies of asylum and assistance for political refugees, the United States provides leadership toward resolving refugee problems.

BACKGROUND

A primary consideration in U.S. asylum policy is the Protocol Relating to the Status of Refugees (19 United States Treaties and Other International Agreements 6223), to which the United States is a party. The principle of asylum inherent

*Updated January 10, 1973 to conform with the Foreign Affairs Manual

in this international treaty (and in the 1951 Refugee Convention whose substantive provisions are by reference incorporated in the Protocol) and its explicit prohibition against the forcible return of refugees to conditions of persecution, have solidified these concepts further in international law. As a party to the Protocol, the United States has an international treaty obligation for its implementation within areas subject to jurisdiction of the United States.

United States participation in assistance programs for the relief of refugees outside United States jurisdiction and for their permanent resettlement in asylum or other countries helps resolve existing refugee problems. It also avoids extensive accumulation of refugees in asylum countries and promotes the willingness of the latter to maintain policies of asylum for other arriving refugees.

The President has reemphasized the United States commitment to the provision of asylum for refugees and directed appropriate Departments and Agencies of the U.S. Government, under the coordination of the Department of State, to take steps to bring to every echelon of the U.S. Government which could possibly be involved with persons seeking asylum a sense of the depth and urgency of our commitment.

PART TWO

Handling Asylum Requests by Persons in the United States or in Other Areas Outside Any Foreign Jurisdiction

All U.S. Government personnel who may receive a request from a foreign national for asylum within territory under the jurisdiction of the United States, or aboard a U.S. vessel or aircraft in or over U.S. territorial waters or on or over the high seas, should become thoroughly familiar with procedures for the handling of such requests. Implementing instructions issued by Government agencies to establish these procedures should receive the widest dissemination among such personnel.

PROCEDURES

A. Upon receipt of a request for asylum from a foreign national or an indication that a request from a foreign national is imminent, U.S. Government agencies should immediately notify the Department Operations Officer at the Operations Center of the Department of State (telephone area code 202, 632-1512). The Department Operations Officer will refer any request to the appropriate offices in the Department of State and will maintain contact with the U.S. agency involved until the designated action officer in the Department of State assumes charge of the case.

The following information should be forwarded to the Department Operations Officer at the Operations Center when available but the initial report must not be delayed pending its development:

1. Name and nationality of the individual seeking asylum.
2. Date, place of birth, and occupation.
3. Description of any documentation in the individual's possession.
4. What foreign authorities are aware that the individual is seeking asylum.
5. Circumstances surrounding the request for asylum.
6. Exact location. If aboard vessel or aircraft, estimated time of arrival at next intended port or airport.
7. Reason for claiming asylum.
8. Description of any criminal charges known or alleged to be pending against the asylum seeker. Indicate also any piracy at sea, air piracy, or hijacking background.
9. Any Communist Party affiliation or affiliation with other political party; any government office now held or previously occupied.

Telephone notification to the Operations Center should be confirmed as soon as possible with an IMMEDIATE precedence telegram to the Department of State summarizing all available information.

B. Safe protective custody will be provided to the asylum seeker and, where indicated, appropriate law enforcement or security authorities will be brought in as early as possible. Interim measures taken to assure safe custody may include the use of force against attempts at forcible repatriation where means of resistance are available, taking into account the safety of U.S. personnel and using no greater force than necessary to protect the individual. Any inquiries from interested foreign authorities will be met by the senior official present with a response that the case has been referred to headquarters for instructions.

C. U.S. Government agencies should also immediately inform the nearest office of the U.S. Immigration and Naturalization Service (INS) of any request for asylum, furnish all details known, and arrange to transfer the case to INS as soon as feasible. Agencies should continue to follow any procedures already in effect between themselves and INS. (For INS only: Where INS has received a direct request for asylum and has assumed jurisdiction over a routine case in which forcible repatriation or deportation is not indicated, INS may follow existing notification procedures in lieu of the special alerting procedure to the Department of State described above.)

PART THREE

Handling Asylum Requests by Persons Within Foreign Jurisdiction

I. GENERAL PROCEDURES

These regulations set forth procedures for all U.S. Government agencies abroad in dealing with asylum requests at U.S. installations, vessels or aircraft in foreign jurisdictions.

A. Granting Asylum

While it is the policy of the U.S. not to grant asylum at its units or installations within the territorial jurisdiction of a foreign state, any requests for U.S. asylum

should be reported in accordance with the procedures set forth herein.

B. Granting Temporary Refuge

Immediate temporary refuge for humanitarian reasons, however, may be granted (except to board aircraft because of their vulnerability to hijacking) in extreme or exceptional circumstances wherein the life or safety of a person is put in danger, such as pursuit by a mob.

When such temporary refuge is granted, the U.S. Embassy or consular post having jurisdiction, the Washington headquarters of the concerned agency, and the Department of State should be immediately notified. Military units under direct Embassy jurisdiction will report through the Embassy, unless the senior diplomatic official determines otherwise.

To the extent circumstances permit, persons given temporary refuge should be afforded every reasonable care and protection. The measures which can prudently be utilized in providing this protection must be a matter for decision of the senior U.S. official present at the scene, taking into consideration the safety of U.S. personnel and the established security procedures for the unit or installation concerned.

Protection shall be terminated when the period of active danger is ended, except that authority to do so shall be obtained from the Department of State. Where a military installation not under direct Embassy jurisdiction is involved, such authority shall be obtained from its Washington headquarters upon concurrence of the Department of State. Any inquiries from interested foreign authorities will be met by the senior official present with a response that the case has been referred to Washington.

C. Notification to Department of State of Asylum Requests

Upon receipt of a request for U.S. asylum made by any foreign national, U.S. personnel within foreign jurisdiction should notify immediately the nearest U.S. diplomatic or consular post in the country in which the request is made. Embassies or consulates will forward this information to the Department

6.

of State by an IMMEDIATE precedence telegram. Agencies having their own rapid communications systems with direct contact with their headquarters in the U.S. may notify those headquarters, with information copies to the nearest Embassy or consular post and the Department of State, by IMMEDIATE ~~PRE~~cedence message.

D. Information to be Transmitted

With respect to requests for temporary refuge (whether or not granted) or for asylum, the following information should be furnished when available, but the initial report should not be delayed pending its development:

1. Name and nationality of the individual seeking asylum.
2. Date, place of birth, and occupation.
3. Description of any documentation in the individual's possession.
4. What foreign authorities are aware that the individual is seeking asylum.
5. Circumstances surrounding the request for asylum.
6. Exact location. If aboard vessel or aircraft, estimated time of arrival at next intended port or airport.
7. Reason for claiming asylum.
8. Description of any criminal charges known or alleged to be pending against the asylum seeker. Indicate also any piracy at sea, air piracy, or hijacking background.
9. Any Communist Party affiliation or affiliation with other political party; any government office now held or previously occupied.

II. DIPLOMATIC AND CONSULAR ESTABLISHMENTS

A. Requests for Asylum (Restrictions on Extending Asylum)

As a rule, a diplomatic or consular officer shall not extend asylum to persons outside of the officer's official or personal household. Refuge may be afforded to uninvited persons who are in danger of serious harm, as from mob violence, but only for the period during which active danger continues.

With the concurrence of the Department, refuge shall be terminated on receipt of satisfactory assurances from the established national government that the refugee's personal safety is guaranteed against lawless or arbitrary actions and that the refugee will be accorded due process of law.

B. Routine Requests

Requests of third country nationals for asylum made to diplomatic and consular posts need not be reported immediately to the Department of State when all of the following conditions exist:

- (a) Adequate host government machinery is well established which, in the opinion of the Embassy, assures satisfactory protection of the asylum seeker's rights.
- (b) There is no evidence of danger of forcible repatriation.
- (c) Local authorities can be expected to assume responsibility for the asylum seeker.

C. Coordination with Host Country Authorities

Action with regard to third country nationals seeking asylum should normally be taken within the over-all policy that the granting of asylum is the right and responsibility of the government of the country in whose territory the request is made. Unless the Embassy deems that there are cogent reasons for not doing so, these authorities should be informed by the Embassy as soon as practicable of the request for asylum.

Activities should also be coordinated by the Embassy with the representative of the United Nations High Commissioner for Refugees (UNHCR), where such a representative is resident and the Embassy deems it appropriate. The UNHCR is a valuable instrument for providing international protection and securing adequate legal and political status for refugees. In addition to providing guarantees against forcible repatriation, the UNHCR seeks to secure for refugees legal, political, economic and social rights within asylum countries.

D. Available U.S. Assistance

The United States is prepared in the cases of selected refugees to provide care and maintenance, and to assist in local settlement in the country of first asylum or in another country of resettlement, including the United States. Such assistance is normally provided through voluntary agencies under a contract with the Department of State. In cases where the Embassy or consular post has determined that U.S. assistance is warranted, it should telegraph the Department of State recommending the type and extent of initial aid and ultimate resettlement considered most suitable.

Notices

DEPARTMENT OF STATE

(Public Notice 351)

REQUESTS FOR ASYLUM

Policy and Procedures

The following procedures were transmitted by memorandum of January 7, 1972, to all U.S. Government departments and agencies. Copies were also sent to all American diplomatic and consular posts instructing them to coordinate implementation by U.S. Government units within the areas of their jurisdiction.

Dated: February 1, 1972.

[SEAL] WILLIAM F. ROGERS,
Secretary of State.

JANUARY 4, 1972.

PART I—GENERAL POLICY FOR DEALING WITH REQUESTS FOR ASYLUM BY FOREIGN NATIONALS

Policy. Both within the United States and abroad, foreign nationals who request asylum of the U.S. Government owing to persecution or fear of persecution should be given full opportunity to have their requests considered on their merits. The request of a person for asylum or temporary refuge shall not be arbitrarily or summarily refused by U.S. personnel. Because of the wide variety of circumstances which may be involved, each request must be dealt with on an individual basis, taking into account humanitarian principles, applicable laws and other factors.

In cases of such requests occurring within foreign jurisdiction, the ability of the U.S. Government to give assistance will vary with location and circumstances of the request. U.S. objectives. A basic objective of the United States is to promote institutional and individual freedom and humanitarian concern for the treatment of the individual.

Through the implementation of generous policies of asylum and assistance for political refugees, the United States provides leadership toward resolving refugee problems.

Background. A primary consideration in U.S. asylum policy is the "Protocol Relating to the Status of Refugees," to which the United States is a party. The principle of asylum inherent in this international treaty (and in the 1951 Refugee Convention whose substantive provisions are by reference incorporated in the Protocol) and its explicit prohibition against the forcible return of refugees to conditions of persecution, have solidified these concepts further in international law. As a party to the Protocol, the United States has an international treaty obligation for its implementation within the subject to jurisdiction of the United States.

U.S. participation in assistance programs for the relief of refugees outside U.S. jurisdiction and for their permanent resettlement in asylum or other countries helps resolve existing refugee problems. It also avoids extensive accumulation of refugees in asylum countries and promotes the willingness of the latter to maintain policies of asylum for other arriving refugees.

President Nixon has reemphasized the U.S. commitment to the provision of asylum for refugees and directed appropriate depart-

ments and agencies of the U.S. Government, under the coordination of the Department of State, to take steps to bring to every echelon of the U.S. Government which could possibly be involved with persons seeking asylum a sense of the depth and urgency of our commitment.

PART II—HANDLING ASYLUM REQUESTS BY PERSONS IN THE UNITED STATES OR IN OTHER AREAS OUTSIDE ANY FOREIGN JURISDICTION

All U.S. Government personnel who may receive a request from a foreign national for asylum within territory under the jurisdiction of the United States, or aboard a U.S. vessel or aircraft in or over U.S. territorial waters or on or over the high seas, should become thoroughly familiar with procedures for the handling of such requests. Implementing instructions issued by Government agencies to establish these procedures should receive the widest dissemination among such personnel.

Procedures. A. Upon receipt of a request for asylum from a foreign national or an indication that a request from a foreign national is imminent, U.S. Government agencies should immediately notify the Department Operations Officer at the Operations Center of the Department of State (Telephone area code 202, 632-1513). The Department Operations Officer will refer any request to the appropriate offices in the Department of State and will maintain contact with the U.S. agency involved until the designated action officer in the Department of State assumes charge of the case.

The following information should be forwarded to the Department Operations Officer at the Operations Center when available but the initial report must not be delayed pending its development:

1. Name and nationality of the individual seeking asylum.
2. Date, place of birth, and occupation.
3. Description of any documentation in his possession.
4. What foreign authorities are aware of his seeking asylum.
5. Circumstances surrounding the request for asylum.
6. Exact location. If aboard vessel or aircraft, ETA at next intended port or airport.
7. Reason for claiming asylum.
8. Description of any criminal charges known or alleged to be pending against the asylum seeker. Indicate also any piracy at sea, air piracy or hijacking background.
9. Any Communist Party affiliation or affiliation with other political party; any government office now held or previously occupied.

Telephone notification to the Operations Center should be confirmed as soon as possible with an immediate precedence telegram to the Department of State summarizing all available information.

B. Safe protective custody will be provided to the asylum seeker and, where indicated, appropriate law enforcement or security authorities will be brought in as early as possible. Interim measures taken to assure safe custody may include the use of force against attempts at forcible repatriation where means or resistance are available, taking into account the safety of U.S. personnel and using no greater force than necessary to protect the individual. Any inquiries from interested foreign authorities will be met by the senior official present with a response that the case has been

referred to headquarters for instructions.

C. U.S. Government agencies should also immediately inform the nearest office of the U.S. Immigration and Naturalization Service (INS) of any request for asylum, furnish all details known, and arrange to transfer the case to INS as soon as feasible. Agencies should continue to follow any procedures already in effect between themselves and INS. For INS only: Where INS has received a direct request for asylum and has assumed jurisdiction over a routine case in which forcible repatriation or deportation is not indicated, INS may follow existing notification procedures in lieu of the special alerting procedure to the Department of State described above.

PART III—HANDLING ASYLUM REQUESTS BY PERSONS WITHIN FOREIGN JURISDICTIONS

This instruction sets forth procedures for all U.S. Government agencies abroad in dealing with asylum requests at U.S. installations, vessels, or aircraft in foreign jurisdictions.

I. GRANTING TEMPORARY ASYLUM

While it is the policy of the United States not to grant asylum at its units or installations within the territorial jurisdiction of a foreign state, any requests for U.S. asylum should be reported in accordance with the procedures set forth herein.

II. GRANTING TEMPORARY REFUGE

Immediate temporary refuge for humanitarian reasons, however, may be granted (except to board aircraft because of their vulnerability to hijacking) in extreme or exceptional circumstances wherein the life or safety of a person is put in danger, such as pursuant by a mob.

When such temporary refuge is granted, the American Embassy or consular office having jurisdiction, the Washington headquarters of the concerned agency, and the Department of State should be immediately notified. Military units under direct Embassy jurisdiction will report through the Embassy, unless the senior diplomatic official determines otherwise.

To the extent circumstances permit, persons given temporary refuge should be afforded every reasonable care and protection. The measures which can prudently be utilized in providing this protection must be a matter for decision of the senior U.S. official present at the scene, taking into consideration the safety of American personnel and the established security procedures for the unit or installation concerned.

Protection shall be terminated when the period of active danger is ended, except that authority to do so shall be obtained from the Department of State. Where a military installation not under direct Embassy jurisdiction is involved, such authority shall be obtained from its Washington headquarters upon concurrence of the Department of State. Any inquiries from interested foreign authorities will be met by the senior official present with a response that the case has been referred to Washington.

III. NOTIFICATION TO DEPARTMENT OF STATE OF ASYLUM REQUESTS

Upon receipt of a request for U.S. asylum made by any foreign national, U.S. personnel within foreign jurisdiction should notify immediately the nearest American diplomatic or consular office in the country in which the

request is made. Embassies or Consulates will forward this information to the Department of State by an immediate precedence telegram. Agencies having their own rapid communications systems with direct contact with their headquarters in the United States may notify those headquarters, with information copies to the nearest Embassy or Consular office and the Department of State, by immediate precedence message.

IV. INFORMATION TO BE TRANSMITTED

With respect to requests for temporary refuge (whether or not granted) or for asylum, the following information should be furnished when available but the initial report should not be delayed pending its development:

1. Name and nationality of the individual seeking asylum.
2. Date, place of birth, and occupation.
3. Description of any documentation in his possession.
4. What foreign authorities are aware of his seeking asylum.
5. Circumstances surrounding the request for asylum.
6. Exact location. If aboard vessel or aircraft, ETA at next intended port or airport.
7. Reason for claiming asylum.
8. Description of any criminal charges known or alleged to be pending against the asylum seeker. Indicate also any piracy at sea, air piracy, or hijacking background.
9. Any Communist Party affiliation or affiliation with other political party; any government office now held or previously occupied.

V. DIPLOMATIC AND CONSULAR ESTABLISHMENTS

A. *Requests for asylum.* Requests for asylum made at U.S. diplomatic and consular establishments will continue to be dealt with in accordance with the provisions of Volume 2, section 226.2 of the Foreign Affairs Manual, except that, should temporary refuge be granted, the authority of the Department of State must be obtained before such refuge is terminated.

B. *Routine requests.* Requests of third country nationals for asylum made to diplomatic and consular offices need not be reported immediately to the Department of State when all of the following conditions exist:

(a) Adequate host government machinery is well established which, in the opinion of the Embassy, assures satisfactory protection of the asylum seeker's rights.

(b) There is no evidence of danger of forcible repatriation.

(c) Local authorities can be expected to assume responsibility for the asylum seeker.

C. *Coordination with host country authorities.* Action with regard to third country nationals seeking asylum should normally be taken within the overall policy that the granting of asylum is the right and responsibility of the government of the country in whose territory the request is made. Unless the Embassy deems that there are cogent reasons for not doing so, these authorities should be informed by the Embassy as soon as practicable of the request for asylum.

Activities should also be coordinated by the Embassy with the representative of the United Nations High Commissioner for Refugees (UNHCR), where such a representative is resident and the Embassy deems it appropriate. The UNHCR is a valuable instrument for providing international protection and securing adequate legal and political status for refugees. In addition to providing guarantees against forcible repatriation, the UNHCR seeks to secure for refugees legal, political, economic and social rights within asylum countries.

D. *Available U.S. assistance.* The United States is prepared in the case of selected refugees to provide care and maintenance, and to assist in local settlement in the country of first asylum or in another country of resettlement, including the United States. Such assistance is normally provided through voluntary agencies under a contract with the Department of State. In cases where the Embassy or Consular Office has determined that U.S. assistance is warranted, it should telegraph the Department of State recommending the type and extent of initial aid and ultimate resettlement considered most suitable.

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requests which call for immediate notification and those requests which need only be brought to the attention of the Immigration and Naturalization Service.

Guidelines for Notification to the U.S. Department of State of Requests for Asylum

The Department of State wishes to be notified immediately of any request (or imminent request) for asylum which is politically sensitive or involves the possibility of forcible repatriation. In particular, the Department of State should be informed immediately of a request for asylum from:

(1) Any national of the Soviet Union;

(2) Any national of East Germany, Romania, Poland, Hungary, Czechoslovakia, Bulgaria, Mongolia, Cuba, Albania, the People's Republic of China, North Korea, Vietnam, Laos, or Kampuchea, who is present in the United States as part of an official visit, formal cultural or athletic exchange, exchange student program or state-owned business or enterprise activity, or who is in transit through the United States in such capacity;

(3) Any foreign diplomat, foreign consular officer, or foreign official, regardless of the country;

(4) Any other alien who asserts there is a serious threat of forcible repatriation to himself or to his family. In addition, the Department of State should be informed immediately of any request for asylum which for other reasons presents special problems calling for the Department's prompt attention. Other requests, not calling for such attention by the Department of State, should be brought to the attention of the local district director of the Immigration and Naturalization Service.

United States agencies or other authorities receiving a request for asylum meriting the Department of State's prompt attention (or knowing that such a request is imminent) should immediately notify the Department of State's Operations Officer at the Department of State's Operations Center in Washington, D.C. (Telephone: 202-632-3512.)

Dated: October 1, 1980.

For the Secretary of State.

Ben H. Read,

Under Secretary for Management.

(FR Doc. 80-23183 Filed 10-23-80; 6:43 am)

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DEPARTMENT OF STATE

[Public Notice 728]

Requests for Asylum

The following guidelines are intended to supplement and modify Public Notice 351 (37 FR 3447, February 16, 1972), with respect to notification to the Department of State of actual or imminent requests for asylum. Whereas Public Notice 351 required immediate notification of all such requests, the following guidelines establish criteria for distinguishing

APPENDICES

A. CHRONOLOGY OF THE MEDVID INCIDENT	Page 365
B. PSYCHIATRIC REPORT	390
C. OTHER REFERENCE MATERIALS.....	415

APPENDIX A: MEDVID INCIDENT CHRONOLOGY

The following chronology was compiled from seven separate logs of events obtained from witnesses and information sources. Entries herein are summarized from original source logs, to ensure pertinence and clarity. The seven source logs are: "BP" - Border Patrol radio log from New Orleans office; "DO" - District Office log from New Orleans Office of Immigration and Naturalization Service; "BPS" - Border Patrol Sector office log from New Orleans office (distinct from radio dispatcher's log); "DOS" - Department of State log from Washington, DC, Office of Soviet Union Affairs; "USCG" - US Coast Guard log from Washington, DC, headquarters, Port Security Branch; "Customs" - US Customs Service log from New Orleans Regional Office; and "CO" - Central Office of Immigration and Naturalization Service log from Washington, DC, headquarters. All times were converted to Central Standard Time on the 24-hour clock, for uniformity.

Time	Station (Log)	Text
October 24, 1985		
1431	BP	Bashaw and Spurlock begin their tour of duty.
2054	BP	Bashaw is advised that Weldon won't be in the office the next morning and Bashaw is to do the morning report.
2156	BP	Note: Harbor PD has a crewman; he is being taken to HQ; advised that Bashaw & Spurlock will be there in about 20 minutes.
2219	BP	Bashaw and Spurlock arrive at the Harbor PD HQ.
2248	BP	Spurlock is out of service at the station with one person in custody.
2302	BP	Bashaw is out of service at the station.
2329	BP	Note: Records check on Myroslaw, Medvid, 3/24/60, Russia.
2342	BP	Bashaw advises the radio operator that the name of ship is Koniew and requests a check to see where the vessel is located. The operator finds no record of the vessel and checks with the Coast Guard which also has no record of the vessel.
2347	BP	Note: Records check is negative (RE: MEDVID)
2358	BP	Bashaw advises the radio operator that the first name of the ship is "Marshal."
October 25, 1985		
0020	BP	Note: A call from Mike [Flad] from Universal Shipping is referred to Bashaw.

Time	Station (Log)	Text
0034	BP	Note: Bashaw and Spurlock are at the station awaiting the shipping agent who is to pick up the crewman.
0200	DO	Rasmussen overhears a launch operator at Arabi discussing an incident involving a deserting crewman from an unspecified Russian ship. Mention is made of a scuffle occurring in the presence of officials and the shipping agent. There is some indication that the ship may be departing.
0800	DO	Rasmussen contacts AP and talks to Lund and Bond to see if the ship is in port or is leaving. Vannett overhears the conversation and states that the Patrol apprehended a Soviet crewman [the night before] and returned him to his ship.
1210	DO	[Jerome] Kurpel, an engineer with Mobil Oil, appears at Rasmussen's office and asks about the Ukrainian crewman who had wanted asylum, had been put in jail and was "then put back on ship?" Kurpel knew only that a Dr. Sas-Jaworski from Abbeville, LA, had been called by someone in NYC about the crewman.
1215	DO	Rasmussen advises Parra that a problem may exist.
1220	DO	Rasmussen gets Dr. Sas-Jaworski's phone number from Kurpel.
1225	DO	Rasmussen talks to Dr. Sas-Jaworski who indicates that he received a telephone call from Mrs. Irene Padoch in NYC who told him that a Ukrainian crewman jumped ship in New Orleans, had been arrested "and put forcefully back on [the] boat." Mrs. Padoch claimed that the crewman was looking for asylum. Dr. Sas-Jaworski had also called Congresswoman Lindy Boggs.
1235	DO	Parra calls Tabor who pulls the Patrol record A16 058 032. Tabor advises that there was no request for asylum but that the seaman indicated he did not want to go back to the ship, for an unspecified reason. The seaman was turned over to the shipping agent.
1245	BPS	Parra and Rasmussen call Tabor to inquire if Patrol returned a Russian crewman to a ship on the night of October 24. They had received a call from a locally based Ukrainian group that reported Padoch told them a Russian citizen, name unknown, circumstances unknown, had been put back aboard his ship against his will.
1245	DO	Rasmussen locates the A-file which indicates that the seaman "jumped ship in the United States for political and moral reasons." He informs Parra that they have a definite problem.
1250	DO	Parra calls Tabor and advises him of the situation. Parra attempts to contact officials at Central office, but all are at a luncheon.
1310	DO	Rasmussen talks to the shipping agent Mike Flad of Universal Shipping, who says that Medvid jumped ship and was picked up by the local police. Border Patrol contacted the shipping agent about 12 PM, and the crewman was taken back to the ship. When the launch approached the vessel, the 2nd mate came down and talked to Medvid, who then dove overboard and swam for shore. The mate directed the launch to shore, jumped after Medvid, and sent the launch back for help. Three persons, including the "commisar," responded. They fought and subdued the seaman, bound him and returned him to vessel. Flad tells Rasmussen that the Captain has been in touch with the owners in NYC and has been instructed to "lock up." Rasmussen tells the agent not to allow the ship to move without notifying INS.

Time	Station (Log)	Text
1356	DO	Tabor calls the District office and advises that he is sending four men to attempt to get the crewman off of the vessel. Tabor is told of the scuffle that occurred when the shipping agent attempted to put the crewman on board.
1410	DO	Kisor, INS, Commissioner/Enforcement, Central Office, is contacted and apprised. He suggests that the District contact the Patrol and have them make certain that the ship remains. He also suggests alerting the CG.
1418	DO	The District informs Goodwin of Kisor's recommendation.
1440	DOS	Deputy Assistant Commissioner Leupp of INS/Border Patrol notifies EUR/SOV of Medvid incident.
1445	DO	The District sends a copy of the I-213 to the Patrol.
1450	DOS	Sell briefed and advises Parris, who advises Palmer, who briefs Whitehead (Acting Secretary in Shultz's absence).
1500	DOS	Op center requests Commander Calhoun, Coast Guard, to detain Marshal Konev until DOS gives authorization to leave. Calhoun requests official department request and is advised a cable will be forthcoming, but is told that immediate action should be taken.
1500	DO	The INS Dallas Region apprises the District that DOS, CG, and the INS Commissioner Nelson, are aware of the situation and that Nelson has been in touch with DOJ. The district is warned to avoid comment to the media.
1505	USCG	Port Security Branch, Coast Guard HQ receives a telephone call from the DOS, indicating that a crewmember from the M/V Marshal Konev swam ashore and was forcefully returned to the vessel. DOS intends to determine if the crewman wanted asylum. DOS requests that CG prevent the vessel from departing the Port of New Orleans until the situation can be resolved. Formal request to follow.
1530	DO	The shipping agent calls the District wanting to know what is going on. He is told that the Patrol is at the vessel and wants to talk to the seaman. He indicates that he was aware of this and is going to the ship at the captain's request.
1530	DOS	Bonnett of INS/BP headquarters advises that 4 INS agents are now on board the ship, and have seen Medvid, who is sedated. Lysyshyn tells Bonnette to instruct the agents to tell the captain that the ship cannot leave until department reps have met with Medvid at a neutral location. INS reps are told to remain on board the ship and to remain with Medvid.
1535	DO	Goodwin advises the District that Patrol is on the vessel. The captain let them see the crewman, who has been drugged due to a "suicide attempt." The agents were not able to remove Medvid or take him for medical attention. The captain wanted to talk to his embassy.
1535	DO	The District contacts the Region and apprises them of the situation.
1545	DO	Goodwin requests standby in case assistance is needed.
1550	DO	The Region reports that Brandemuehl and Tabor have been apprised and advises the District to be prepared for guarded hospitalization of Medvid, if necessary, and to cooperate with the Patrol. There is to be no media comment. The public affairs officers are available.

Time	Station (Log)	Text
1600	Customs	Allison receives a telephone call from Worley, USBP, requesting Customs to keep the vessel from leaving. Worley also requests assistance from Customs if needed. Allison informs Grimes of the situation and with his concurrence asks the Marine division to not grant clearance to the vessel without notifying Allison or Grimes. Allison advises the sector to provide personnel from the duty roster if Border Patrol requests help.
1600	DOS	Palmer advises that Customs has issued a restraint order preventing the ship from leaving and that the CG will ensure the ship does not leave.
1605	DO	The District is advised that a DOS negotiator is enroute and will arrive at 1930; and DOS is in touch with the Soviet Embassy.
1610	DO	Cupp, Customs attorney, calls and advises that Customs is prepared to cooperate.
1640	DO	Parra calls Lambert (INS District Director).
1700	DOS	Palmer meets with Isakov, and insists on an interview with Medvid. Palmer recommends Soviet consular reps be sent to New Orleans.
1730	BPS	Kisor advises Parra that Shepler will accompany DOS Sell. If alien is relinquished, Caplinger and Arizola will take into protective custody.
1730	DOS	Kuleshov advises that Soviet Embassy officers Bondin and Kosov will go to NOLA.
1755	BP	Blackwell advises that the Konev captain is going back on board.
1800	BPS	Captain returns to the ship. Advised DCPA his embassy requests we have no further contact with alien until their rep arrives around midnight. Relayed to Brandemuehl, CO.
1800	Customs	Customs Command Post is activated at sector.
1800	DOS	Walters of BP calls to confirm BP Deputy Director NOLA has seen Medvid's Soviet passport.
1815	Customs	Allison receives a call from Tabor who requests backup.
1820	BPS	Parra advises Tabor that investigations unit will relieve BP agents at midnight. Caplinger + 3. Advised Ron to research "Prevention of Departure Notice."
1830	Customs	Grimes orders two uniformed Customs personnel (one supervisor) on board the vessel and two man units to backup positions on the motor launch dock.
1830	DOS	Mahan of Customs advises that he has just talked to Commissioner von Raab and they will refer all inquiries to the Soviet desk. Contact points at Customs -- Mahan and Green, Assistant Commissioner for Customs.
1830	BPS	ACPA calls to PAIC/GPS and BAT to request two men here at 6 AM.
1835	BPS	Tabor calls Berg (ROBOR) and gives an update.
1850	DOS	Kuleshov advises that the Soviets will arrive in NOLA at 11:04 tonight.
1913	BPS	Tabor advises Brandemuehl of update. He will call Parra to advise of legal counsel involvement.

Time	Station (Log)	Text
1921	BPS	Tabor calls Allison to learn that Customs will direct three units to Belle Chasse area as a precaution. Allison offered to post agent as a gangway guard to prevent any pilots from boarding. They have set up common posts for the duration. Can muster as many as 12 officers who are standby. Tabor gives Allison an update.
1930	Customs	Group Supv. Budzeyko and CPO Rector arrive at the command post for a briefing. They are instructed to board the vessel and announce their presence to the master.
1934	BPS	Tabor radios Worley to advise Customs will be in the area.
1940	BPS	Tabor calls Parra to advise him of Customs command post.
1941	BPS	Tabor advises Murphy, DOS, that two Russian diplomats, Bondin and Kosov, will arrive at 11:04 PM.
1945	DOS	Tabor advised that this morning Medvid tried to slit his wrists with glass from a lightbulb he broke. He is now in a separate room with the ship's doctor and nurse (not with the INS-inspectors). After telephoning the Soviet Embassy, the captain advised no one could talk to Medvid until Bondin arrived.
1953	BPS	Tabor advises Brandemuehl all is okay. Tabor will be out until about midnight. Don't call unless something significant happens.
2000	BPS	Weldon is enroute from airport with Sell.
2015	Customs	HQ Communications advises that a Night Action Immediate message has been received from DOS. The message will be passed through CG Classified communications.
2045	BPS	Sell arrives at Sector Headquarters and receives briefing.
2050	BPS	Tabor calls Parra and asks if he can find a doctor to accompany Sell. Suggested Sell contact them before he departs. Sell suggests someone meet the Russian diplomats and offer a ride to the ship.
2100	Customs	The message is received from DOS.
2100	DOS	Sell calls from INS/BP office. Tabor advises situation on boat is not hostile (i.e. no effort to force INS reps to leave), but INS reps are being kept from Medvid. CG and Customs on alert. HP will not board.
2105	BPS	Worley reports that all is calm on the ship. Captain and most of crew asleep.
2107	BPS	Grimes advises he has orders from DC to put two officers on ship to assure no departure under Customs laws. Worley requests that when Customs arrives he can release day shift to standby at HQ.
2109	BPS	CG, Lt. Coleman, Ops Center, requests update and offers help.
2120	BPS	Tabor calls Parra to advise that since Customs will have two men on board, BP need only two investigators to relieve BP at midnight. They expect to have a doctor located shortly.
2140	BPS	Tabor calls Parra to advise that Arizola will meet Navy doctor at Hebert Hospital and transport to dockside along with "Prevention of Departure Notice." Sell will advise when to bring doctor on board. He also suggested we meet Russian diplomats and offer them a ride to Belle Chasse.

Time	Station (Log)	Text
2200	Customs	USN Medical Doctor is located for BP.
2205	DOS	Soviet desk calls Mark Parris to ask about interpreter and whether she should call Matlock for NSC clearance on press guidance.
2210	Customs	Backup units are in position.
2228	Customs	Budzeyko and Rector are on board the vessel.
2230	BPS	Sell and Weldon depart for Belle Chasse. District officials have doctor in tow. Orate from Customs arrives. Parra advises a van is ready to transport party from dock to neutral spot. Ellis enroute to offer diplomats a ride.
2250	Customs	Sell and Thessin, DOS, [Error: Thessin still enroute] are on board the vessel.
2250	BPS	Tabor gives Berg an update. Note: Sell advised after his last call to DC that Secretary Shultz has been briefed. DOS has press statement.
2307	BPS	Tabor calls Ortiz and briefs.
2320	DOS	CG initiates conference call to give update and take questions from conferees.
2323	BP	Spurlock and Vannett are out of service.
2328	BP	Spurlock and Vannett complete their tour of duty.
2336	BP	Collette advises that Thessin is with him; the shipping agent is going to pick up the other two gentlemen. Collette asks if the DOS rep is on the vessel.
2336	BP	Worley reports in service and indicates that the DOS rep is with him in the cabin. Collette hears report also.
2337	BPS	Worley advises that Sell is on board in the Captain's quarters. Thessin enroute to boat location and the shipping agent picked up the Russian officials.
2340	Customs	BP advises Customs that the Russians have arrived at the airport and will proceed directly to the vessel.
2400	USCG	CG Hq. initiates a conference call between CG, DOS, White House situation room, INS, DOJ, and Customs. Parties discuss the situation and the various options available.

October 26, 1985

0017	BPS	Worley reports that Customs refuses to allow the shipping agent to board the vessel. Orate calls Allison who requests the shipping agent call him. Permission denied.
0018	BPS	Tabor asks Worley if Sell wants agent on board. Yes.
0025	DOS	Thessin calls to advise that Sell and the Navy doctor are already on board the ship. He reviews the legal situation with Hergen. They agree first priority was for US doctor to examine Medvid, then escort him from vessel if possible.
0032	BPS	Tabor advises Customs their HQ relented and agreed to allow agent on board.
0042	BPS	Tabor briefs Parra.
0045	Customs	Russians arrive on board vessel.

Time	Station (Log)	Text
0051	BPS	Tabor calls Worley to ask if there is any traffic and he advised no. There is no contact with the crewman. Apparently the ground rules are being laid by all parties.
0115	BPS	Worley advises Tabor ground rules have been laid but it will probably be a while before the crewman becomes involved.
0116	BPS	Orate briefs Customs.
0137	BPS	Worley advises Tabor that a difficulty arose -- they were ordered off the ship but refused. Sell is leaving ship with diplomats who intend to confer with higher ups.
0145	BPS	Tabor gives CG update.
0145	BPS	Collette out of service at Hq. He reports that DOS rep. Thessin states there were more than two Russians who arrived.
0147	BPS	Tabor advises Hergen, DOS, DC, of 0137 development. Hergen asks that Sell telephone him when he lands.
0155	BPS	Tabor advises Caplinger and Parra of manpower requirements for later. Tabor advises troops will be on board at 6 AM. Caplinger advised "Prevention of Departure Notice" was served.
0155	DOS	Sell advises that he boarded vessel at 2300 with the Navy doctor. The master refused to allow Sell or the doctor access to Medvid. Sell advises that Medvid is sequestered and no Americans are with him. At approximately midnight, Bondin boarded the ship and insisted that Sell leave, but said Immigration and Customs officials on board could remain. Bondin left for about one half hour to see Medvid and returned to report that Medvid was physically in fine shape. He again insisted that Sell leave the ship since Soviet law applied on board the ship. At this point, INS officials served the master with an INS order stating the ship could not depart until INS had an opportunity to interview Medvid and ascertain his status.
0212	BPS	Weldon advises Sell and diplomats are returning to vessel. Sell ordered to do so by DOS. Tabor to alert CG to standby.
0214	BPS	Tabor calls CG and Lt. Commander advises that since response time will be one hour if needed, CG will move a vessel into the river, get close by, but will stay out of sight.
0215	DOS	EUR/SOV calls Sell and determines that no American has seen Medvid since late afternoon. Sell advises there will be 6 Americans on board when he returns to the vessel.
0225	DOS	EUR/SOV briefs DOS Operations and White House Situation Room.
0235	BPS	Tabor advises Worley that DOS wants to confirm if Sell is back on board ship. Sell requests a list of US personnel on board be transmitted to Robinson of DOS. There is a list of nine. Worley reports they have been moved to a stateroom and no further dialogue is scheduled until 11:30 AM. DOS asks that a message be relayed to Sell to report in at 7:30 AM EDT and be prepared to receive instructions at 8:00 AM EDT.
0251	DOS	Tabor advises that Sell returned to the vessel and reported an "agreement" that there will be no further communication between the two sides until 11:30 A.M. CDT. All Americans adjourned to a stateroom.
0300	Customs	(BP advice) Sell advises that all requests so far were refused. Russians will continue talks at 1130.

Time	Station (Log)	Text
0400	BPS	Tabor advises CG all is quiet. CG has one vessel in the river which will anchor near, but out of sight of the M/V Marshal Konev.
0550	BPS	Tabor gives Brandemuehl complete update.
0615	Customs	Written message is taken to the vessel for Sell. Near confrontation at gangway when four crew members attempt to block Customs man.
0627	BP	Bashaw and Stansel are in service and begin their tour of duty.
0630	DOS	Sell indicates that the Americans slept on chairs and the floor but have not seen Medvid nor do they know his whereabouts. Sell advises a CG Cutter is lying out of sight just around the bend in the river and recommends authorizing the CG to bring it into sight. CG is advised but will stay in position until receives word from DOS.
0637	BP	McDonald is out of service at Belle Chasse.
0638	BP	Weldon is enroute to station with Sell.
0638	BP	Swider and Sullivan are out of service at Belle Chasse.
0646	BP	Reynolds and Stansel are out of service at Belle Chasse.
0700	Customs	Shift (Customs) change. On board S/SA's Sullivan and Erkin.
0705	BPS	Weldon and Sell arrive at Hq. Sell is apprehensive about gangplank being lowered to allow anyone else on board.
0800	Customs	Grimes updated by Allison.
0815	DOS	USCG calls Hergen to request advance notice of plan to remove seaman from vessel by force and to advise that the CG is not trained nor equipped for special operations and that the FBI should be contacted regarding such assistance.
0830	BP	Tabor and Worley communication (concerning USSR vessel).
0855	BPS	Tabor calls CG and is advised that CG will hold their position as requested by DOS.
0900	Customs	Grimes in. Budzyko and Rector arrive for debriefing.
0915	BPS	DOS advises that (interpreter) Ross Lavroff arrives from Seattle at 6:30 PM. Sell advised and requests Lavroff be brought straight to the dock for instructions.
1005	Customs	Sell says he doesn't expect any change until 1130 meeting.
1020	BPS	Worley reports relief of officers aboard ship was accomplished without incident. US officers present remains at three INS and two Customs.
1035	Customs	DOS press office calls to advise they can now receive press calls.
1100	Customs	Briefing of senior enforcement managers.
1100	DOS	CG calls to discuss their position regarding possible removal of Medvid by force.
1114	BPS	Parris, DOS, asks to relay message to Soviet reps that Soviet Embassy wants them to telephone.

Time	Station (Log)	Text
1130	DOS	Dougherty, US Customs calls and advises INS reps saw defector 9:30 last night held in sick bay, tied to bed with towels. Soviets on ship allege he tried to commit suicide. Note: report is inconsistent with INS report that no Americans had seen him since 5:00 P.M. last night.
1145	DOS	McBrian, Dept. of Treasury, Office of Enforcement (U.S. Customs), requests on behalf of Secretary Baker, clarification of who in DOS will determine when the ship can leave, and is informed that Whitehead will probably make that determination; cable will follow; ship not to leave prior to DOS notification.
1146	BP	Worley requests a check with CG to see if there are any regulations governing "Jacob's Ladder" on anchored vessel.
1154	BP	Worley is advised negative; CG says there is nothing prohibiting the ladder.
1205	Customs	Vessel agent is refused boarding by Allison.
1210	BPS	Reynolds advises the Russian officials are back on board the vessel.
1215	DOS	CG liaison advises there are three CG vessels moving into area in addition to two vessels already there.
1220	Customs	Green briefed by Grimes.
1220	DOS	Sell reports captain does not want Americans roaming around ship, he wants them confined to a room. Sell reports ladder over side of ship; not known if there before. A Soviet ship, the Nikolai Karamzin, passed overnight; raises possibility that Soviets transferred Medvid to outgoing vessel; raises question of need to intercept this vessel before it leaves international waters in 6-8 hours.
1230	Customs	BP advises there is no headway in negotiations.
1300	DOS	Sell reports Bondin talked to Kuleshov who reports he talked to Dobrynin who said the Soviets cannot begin to discuss meeting until after 3 on Sunday. Bondin insists Medvid remain on ship (time approximate).
1300	DOS	Palmer requests Rondeau to relay to Meese, request that DOJ take the lead in organizing possible effort to remove Medvid from ship.
1300	DOS	Sell requests authorization to ask Bondin to see Medvid, without questioning him, to assure that he is on the vessel and wants to tell him that we have reason to believe he may have been transferred. If a meeting does not take place soon, we may have to stop the second ship (time approximate).
1300	DOS	Sell clarifies US pilot is on board the second ship which makes it unlikely Medvid was transferred while the ship passed. However, there is a small chance a transfer took place prior to boarding of the pilot and the ship's departure (time approximate).
1304	BPS	Sell calls to report that since Soviets have stated no dialogue will be held until tomorrow, he is returning to the ship and will insist that he and the Navy doctor be allowed to see the individual. He does not expect his demand to be granted.
1314	BPS	Brandemuehl requested developmental information on chronological log which is being faxed to central office.
1345	Customs	All US personnel ordered off ship by vessel master, but politely refused by our people.

Time	Station (Log)	Text
1356	BP	Reynolds advises Sell is back on vessel and doctors have been exchanged.
1400	DOS	Sokolov talks to Palmer and advises that the DOS rep. and the doctor can see Medvid on the ship. Palmer accepts, but makes it clear this does not satisfy the request to meet at a neutral location. Sokolov was told that if the Soviets do not agree to a meeting, we will remove Medvid at noon on Sunday. Sokolov asks us to get word to Bondin to call the Embassy.
1410	Customs	Sell is off ship, says negotiations failed; he will contact DC.
1419	BP	Reynolds and Worley need DOS rep. as soon as possible. Have Jim come to bank and they will get him to the boat.
1424	BPS	Sell requests name of neutral vessels in port or possibly pilot ship that can serve as a meeting place. Sell and Soviets are on way to ship to negotiate.
1437	BPS	Brandemuehl advises there is a plan (but not approved) to forceably remove, possibly tomorrow.
1445	DOS	Whitehead calls Dobrynin.
1450	BPS	Worley requests Vannett come on board since he can recognize crewman.
1500	DOS	INS reports Sell advises that he has seen Medvid and he is in good shape. The Soviets ask the Americans on board to leave, but Palmer instructs all Americans to remain on board (time approximate).
1500	DOS	Rondeau tells Parris that INS has been charged to develop an operational plan and to take the lead to implement the plan and present it to NSC. Parris insists that DOS have the final word on when and if the plan is implemented.
1500	Customs	Shift change.
1503	BP	Worley and Goodwin advise that Bondin and Sell came on board together. Sell told to wait 10 min. but has been waiting 30 minutes.
1505	BP	Reynolds requests that Parra be advised that Shepler has been requested to stay, by DOS.
1510	BPS	Worley advises that the Captain is allowing Vannett, Sell and the doctor to view the seaman.
1515	DOS	Sell reports on his examination of Medvid (time approximate).
1525	BPS	Cpl. George, HP, advises must write a report on the crewman, since HP first to encounter him, and needs his name.
1535	BPS	Worley calls Sell's office and advises that the seaman is on board the Konev. They did observe him. He is in relatively good health and Sell will call in as soon as he can get ashore.
1545	DOS	Sell reports that INS Commissioner is on his way to NOLA. Parris reports INS rep is being sent to be ready to remove Medvid.
1552	BPS	Reynolds advises that Sell is ashore.

Time	Station (Log)	Text
1552	BPS	Tabor is advised that Brandemuehl talked with AG, DAG, (Justice) and the Commissioner and was told to develop a contingency plan and submit it for approval. O'Connor suggested and Brandemuehl will request to Commissioner 4-5 BORTAC agents (up to 20). AG questioned if CG should do this. 215 authority quoted. Start plan and they will advise when travel plans are in order. AG assisting in interviewing NYC interpreter. Have BPAs make indepth memo to CPA.
1600	BPS	Dr. Caruthers, Sell and Vannett are allowed to examine the crewman on board the ship (time approximate).
1600	Customs	Erkin and Sullivan debriefed by Grimes.
1610	Customs	Dougherty briefed by Grimes.
1615	Customs	Backup units report news media at launch area.
1621	BPS	Sell advises he will call his department to read the medical report.
1630	Customs	CG advises they are considering setting up safety zone around vessel.
1654	BPS	Sell advises Tabor to call or fax copy of a list of neutral ships to DOS in DC, and a copy to Thessin aboard ship.
1700	Customs	Grimes informs TV Channel 8 that it was not USCG who returned crew member to vessel.
1700	DOS	Palmer talks to Whitehead and then calls Rondeau to underscore that the DOS will decide whether or not to implement a plan to remove Medvid from the ship.
1700	DOS	Palmer-Sokolov talk and agree they will be the channels of communication on issue per Whitehead/Dobrynin conversation. Sokolov advises he had no instructions from Moscow but he would contact Palmer as soon as he had information. Palmer reiterated need to resolve issue which will permit interview.
1717	BPS	Agriculture Department calls to request information concerning the ship because the department has the responsibility for grain leaving the US. Tabor refers call to DOS.
1726	BPS	Tabor advises DOS that will send fax copy of doctor's examination report of alien crewman, plus statement of Vannett who can personally identify the individual.
1740	BPS	Tabor referred grain inspections questions from DC to DOS.
1800	BPS	A copy of the doctor's report and statement from Vannett are faxed to DOS. A list of all ships in port was obtained from Captain of the Port and given to Sell; faxed Soviet Desk/DOS/DC. Memos from arresting agents received by CPA; copies faxed to CO (time approximate).
1842	BP	Weldon advises that he and Sell have gone ashore, everything relaxed here.
1845	CO	Bonnette receives information from Mrs. Leupp to contact Commissioner Nelson advising him that Leupp and Brandemuehl have been dispatched to NOLA.
1846	BPS	Dr. Caruthers' medical report, plus Vannett's observation report were successfully transmitted to DOS, and telefax received in White House. Originals are filed in the safe in DCPA's office.
1915	CO	INS Communications calls to advise that Rondeau, Special Assistant to the Attorney General, is trying to make contact with Nelson.

Time	Station (Log)	Text
1930	BP	Local repeater down, no contact with vessel-party. Huerta called in.
1930	DOS	Thompson of NSC calls Parris and indicates Rondeau called NSC to seek guidance on who should take the lead on preparation of operational plan. Parris indicated DOS understood DOJ had already prepared plan for presentation to NSC.
1935	DOS	Parris tells Rondeau at DOJ that despite having formal requests that they put together a plan to remove Medvid from ship if necessary, nothing has been done. Parris notes that Meese should be informed that DOJ looks bad already over this case and will look worse if it does not get its act together on contingency plans.
1941	BPS	CG Intelligence advises Tabor that the CG is ready to assist in any way possible.
1955	DOS	Jensen, DOJ, calls Parris. Parris briefs Jensen, and emphasizes the need for a fully developed and approved operational plan. Parris tells Jensen DOS does not want the use of firearms, or loss of life if any operation is necessary. Jensen said that DOJ will develop tactics on the scene, and that all agencies should keep in close touch in NOLA and DC. DOJ not ready at this point to instruct its people not to use force. Jensen confirms that DOJ officials on scene have been requested by Meese to develop an operational plan, and that DOJ will be ready to coordinate and proceed as necessary tomorrow.
1955	CO	Bonnette contacts Nelson and Kisor and advises them of Rondeau's call. Nelson and Kisor indicate they have advised Meese, McGuiness and Jensen of the situation in NOLA. Brandemuehl and Leupp are enroute to NOLA. Negotiation with the Russian Embassy is in recess until approximately 12:00 noon.
2005	CO	Bonnette contacts Rondeau and advises her of the above.
2010	CO	NY District Director Sava, INS, advises that he has dispatched two investigators to find Padoch. They will attempt to obtain statements concerning what was said between the officers who apprehended Medvid and the interpreter and, secondly, why was the information released to unauthorized individuals.
2045	DOS	Parris calls Captain Daniell (CG) and asks that the CG launch be moved back to 1000 yards from the Konev. Parris requests CG assistance in keeping press away from the Konev tomorrow.
2105	DOS	Talbot reports that CG wants to know the identity of US vessels in or on the way to Soviet and Bloc ports.
2107	BP	Huerta advises that the communications system is OK. Interference is coming in from somewhere else and there is nothing to be done about it.
2119	BPS	Tabor calls DOS and Lysyshyn advises all is status quo aboard the vessel according to Customs. Advises Ross Lavroff boarded the vessel approximately one hour ago.
2120	DOS	Parris requests that a list be developed of neutral, third countries with Consulates in NOLA, which could be used as possible meeting sites.
2120	BPS	Huerta reports the radio system is down due to unidentified interference. Consulted with Ritzman telephonically. Ritzman enroute to help.
2130	DOS	Tabor calls; Thessin is on the ship, advises all is quiet on the ship.
2155	DOS	McBrian, Treasury, called about meeting tomorrow. No plans yet.

Time	Station (Log)	Text
2205	BP	Huerta advises Tabor that Ritzman is enroute to Poydras. Will try something else.
2215	DOS	Palmer reports to Whitehead, McFarlane and Meese via conference call. The President has approved DOS as agency in charge. Department's strategic plan to attempt to persuade the Soviets to have Medvid med-evaced from the boat, and not wait past nightfall to take Medvid off vessel. Sell is to be informed and told that as DOS rep he is in charge in NOLA. Excessive force not to be used.
2300	Customs	Shift change -- Stein in, Grimes out.
2300	DOS	President has approved the plan and Sell needs to be notified.
2300	BPS	Tabor calls DOS and is requested to have Sell call DOS. The White House has approved a plan to implement by tomorrow afternoon.
2345	BPS	Orate, Customs, asks what is the nature of the hold we have on the alien on the ship. Tabor explains and cites 8 CFR 215.3.
2347	BP	Contact made with Weldon on vessel. Everything is alright, getting ready to secure for night (working aux. ant.).
2347	BP	Collette is in Metarie. Radio is breaking up a little but is readable. Collette is enroute to OS.

October 27, 1985

0001	BPS	Brandemuehl, O'Connor and their teams arrive at Sector. Operational teams established (time approximate).
0042	CO	Bonnette is advised by Leupp to contact administrative assistants and ask them to come in on Sunday at 6:00 a.m., EST. This is accomplished.
0045	Customs	Grimes checks in from home and says that he has been informed that BP is to have a meeting at 0930 with all agencies to develop an ops-plan (if needed) to take the crewmember.
0214	DOS	Sell asks that Parris and Palmer give him guidance on the meeting. How do they handle it if Medvid says he wants to return to ship? Sell plans to reboard ship within next hour.
0330	Customs	Sell is on vessel.
0509	BP	McDonald is out of service at Belle Chasse launch.
0545	CO	Sector Hq. advises that they will send an operational plan by wire for review for submission to Kisor and the Commissioner. Further information received that McFarlane, NSC, will be on Face the Nation. Kisor briefs McFarlane.
0600	Customs	Allison in.
0610	CO	Bonnette contacts McGuiness who requests that Eastland, PIO Officer, DOJ be notified of what transpired today. Jensen would like a copy of the operational plan.
0615	CO	Bonnette Contacts the DDD, NYC. He will attempt to contact the investigators and check on statements requested previously from interpreter Padoch. Will call back. SCI Fress [Friess], returns call and advises that they have located the interpreter upstate and are currently taking statements.

Time	Station (Log)	Text
0615	Customs	Allison is advised by BP that the meeting has been postponed. BP is going to write their own ops plan and submit to DC for approval before giving to other agencies.
0630	DOS	Wilson contacts USCG to request a list of third flag vessels in the area. DOS may need information. Wilson briefs USCG on DOS's lead role and their desire for not using excessive force. The USCGC Salvia is on the scene at South West Pass. A CG 82' patrol boat is up river and out of sight as well as various 41' and 32' port security boats. USCG is prepared to establish a security zone around the Konev if DOS requests.
0630	CO	Bonnette contacts Eastland and advises of current situation.
0640	CO	Bonnette contacts Kisor at the White House situation room. Kisor is working on a statement to The President.
0700	Customs	Shift change.
0725	CO	Fress [Friess], NY Supervisory investigator advises that Padoch's statement was taken by Bourke, anti-smuggling investigator at Kerhonsken, NY. The statement will be transmitted verbatim, telephonically and transcribed. Padoch indicated that she contacted a Ukrainian veterinarian, Dr. Sas-Jaworsky, who resides in Abbeville, LA. We will attempt to contact him. New Orleans has been notified and will seek to obtain a statement from Dr. Sas-Jaworsky. Bourke will hand carry Padoch's original sworn statement to Central office.
0755	BP	Collette requests a call to the Belle Chasse launch to have them send launch to ship. Done.
0802	CO	Brandemuehl advises that he will send up plan. Bonnette contacts Kisor.
0830	DOS	Sell calls to advise he has returned to the ship. Interpreter asked to depart; rejected. Sell is advised of Meese, McFarlane, Whitehead conversation that the President designated him in charge in NOLA and that DOS was in charge overall.
0835	CO	Bonnette contacts Bourke and asks him to thank Padoch and to get a release from statement.
0840	Customs	Baton Rouge, Houma, Gulfport offices and CET placed on standby.
0845	CO	Telecopy of statement made by BP agents at New Orleans is received.
0900	Customs	Offgoing shift debriefed. CG has two UTB's at vessel area.
0900	DOS	Cable to Moscow (situation report) #4 to Ops Center.
0905	CO	Nelson and Kisor currently at the DOS situation room.
0915	CO	The INS Communications Supervisor is advised to locate someone who can activate the secured telephone down in communications and put it on standby.
0930	CO	Bonnette contacts Walsh regarding setup of security phone with NOLA. Communications cannot at this time open up secured lines. They have no one who is knowledgeable in that area.
0930	Customs	Grimes, Allison, Menchel and Cupp are out to BP Command Post.
0945	DOS	Sell advises Simons is arriving. He suggested Simons coordinate land operation and Sell will be the ship contact. Sell advises Bondin wanted the interpreter to leave the ship but did not object when Sell had him remain on board.

Time	Station (Log)	Text
0950	CO	Kisor requests that a messenger be available to pick up operational plan and deliver to Jensen. Dispatch both messengers at 1215 to deliver to Jensen and Meese.
1010	DOS	Sokolov calls from Soviet Embassy.
1045	DOS	Sell calls to discuss plan to board the Konev.
1048	BPS	White House situation room confirms receipt of draft of contingency plan.
1126	USCG	DOS requests that the CG establish a security zone around the M/V Marshal Konev to control unauthorized access and allow for unrestricted activity of authorized U.S. government personnel. DOS also requests that the CG position the CG Cutter Salvia 100 yards astern of Marshal Konev and CG Cutter Point Verde out of sight but close enough to be on scene within 30 minutes if so directed. Captain of the Port New Orleans issued an order to the master informing him the vessel was not to move until cleared by U.S. Customs Service. DOS delivered the order to the master.
1130	DOS	DOS requests USCG to locate five vessels in the NOLA area that can be used for interview of Medvid.
1131	BPS	CO confirms receipt of draft contingency plan.
1140	CO	Operational order arrives at Communications telephone line.
1200	CO	Commissioner is advised of the witnesses sworn statements in NOLA.
1210	DOS	DOS requests USCG to move USCGCs Point Verde and Salvia into position to maintain surveillance.
1210	CO	Nelson and Kisor shifting to the DOS Russian desk. They will be with Palmer. Bonnette to advise McGuiness and Rondeau of update. McGuiness notified.
1220	BP	Weldon advises they need to talk to Sell.
1310	CO	Rondeau is notified. Prior attempts were unsuccessful.
1320	DOS	Palmer has a call-meeting with INS, DOS, Treasury, and CG reps. to discuss operational plan.
1327	CO	Brandemuehl is advised that operational plan is being reviewed by Commissioner Nelson and Kisor at the DOS/DOJ and can expect a reply shortly.
1330	BP	Stansel advises that the CG Cutter is at location.
1430	Customs	Grimes and group return to CP. BP is getting final approvals from DC on ops-plan. Agency briefing set for 0830-0900, 10/28/85, with action scheduled for 1130-1200.
1430	DOS	Palmer discusses operational plan in detail with INS, Treasury, CG and DOS reps.
1500	DOS	INS reports Sell advises that he has seen Medvid and he is in good shape. The Soviets ask the Americans on board to leave, but Palmer instructs all Americans to remain on board (time approximate).
1500	Customs	Schulte and Eliff assigned to liaison at BP Command Post.
1500	Customs	Shift change. Stein out.

Time	Station (Log)	Text
1510	BP	Thessin transmits message through Goff to Sell that the two Soviet diplomats have requested a launch to go ashore, apparently to make a phone call.
1510	DOS	Palmer instructs the agency reps to reassemble Monday, October 28th, 1985, at 1000 regarding operational plan.
1530	Customs	Weather alert received from CG, "condition three". BP notified of Customs concern regarding vessel matters prerogative in weather situation.
1550	CO	Kisor advises that the operational plan is agreed to in principle, to go tomorrow. The weather is getting bad in NOLA. Kisor advises that he will be back at the DOS the following day, 10/28/85 at 10:00 A.M.
1600	BP	Reynolds is out of service at Belle Chasse launch.
1700	DOS	Parris advises need to get cable to Secretary on legal and political precedents and justification for use of force by midnight.
1700	DOS	Revised operational plan taken to Op Center to be datafaxed to all appropriate and also put in cable to secretary.
1700	Customs	Schulte reports he has a copy of the BP ops-plan and is bringing it to CP.
1730	CO	Bonnette terminates situation room at Central Office.
1745	Customs	Schulte arrives with ops outline and briefs CP.
1800	BPS	DOS revised copy of contingency plan received; authority to implement included.
1800	DOS	Simons advises Sell is back on boat and all is quiet. Requests Russian translation of statement be prepared for use by Medvid.
1800	Customs	SAC Wright in.
1830	Customs	Assignments made for action contingency. Grimes notifies BP that they will not be allowed to dress as Customs officers.
1900	Customs	A/C Green is briefed by Grimes.
1947	BP	Plaquemines Sheriff's office advises that another ship has broken anchor and is up against bank behind Russian ship. Soviet ship is moving. Put a call through to Plaquemines officials.
2015	DOS	Whitehead to get copy of cable regarding precedents and legal basis for forcible action delivered to Operations Center, by Monday.
(?)	Customs	DOS requests that no one be allowed to go or come from the vessel (time approximate).
2030	DOS	Soviets have again requested reduction of Americans present on ship. Simons puts them off and advises will let know when he hears from Washington in the morning.
2045	DOS	White House situation room calls to advise they are having difficulty datafaxing operation plan to NOLA.
2100	DOS	Operations Center is advised that the cable on precedents and legal basis for use of force had gone out.

Time	Station (Log)	Text
2143	BP	Mandel advises party leaving. ETA in 20 minutes.
2259	BP	Reynolds advises Customs is ready to make shift change. Any estimate for Imm./Caplinger advises 20-25 minutes.
2300	Customs	Shift change.
2333	BP	Goff advises Shepler is on board.
2356	BP	Sullivan and Lomas in service at launch site.
2400	Customs	Off going shift debriefed. Stein in.

October 28, 1985

0012	BP	Goff and Sullivan advise re position of vessel.
0250	DOS	White House situation room calls for an update. Nothing new to report.
0410	BPS	Radio system is inoperable.
0500	Customs	BP advises that action is now set for Tuesday morning with planning meeting for 1700, 10/28/85.
0545	BP	Advised Lund of 23 crewmembers Belle Chasse and also advised CBS News is on the scene.
0600	Customs	Allison in. Weather conditions updated.
0605	DOS	DOJ communications calls to say they received a confidential message from NOLA and will retransmit to DOS by fastest means.
0700	Customs	Shift change.
0700	CO	Check with Communications. They have classified document. Dispatched message for.
0710	Customs	A/C Green updated by Allison.
0715	BP	Ritzman asks Goodwin if he is to stay on bridge with portable or come back to the station.
0715	CO	Tabor advises that they originally planned to hold up the operation for 24 hours due to the approaching hurricane. However, preliminary indications now are that they can go this afternoon if they get the go ahead from the DOS and DOJ. He was advised by this office that Palmer needs a decision by 8:40 A.M. today from the operational group. Revised plan will be delivered to Kisor at Jensen's office.
0718	BP	Unable to contact Ritzman for an answer to 0715 entry.
0728	BP	Notified 4th district of van on top of bridge furnishing communications. They are making note not to ticket.
0800	Customs	Grimes in.
0810	CO	Brandemuehl called and advised he is enroute to Sector.

Time	Station (Log)	Text
0830	Customs	Eliff reports that meeting is going on now at USCG Buoy Tender in Belle Chasse. Schulte is attending.
0912	CO	Copies of the chronicalled events to date are provided to the Deputy Commissioner's office and Meissner's office.
0930	BPS	Conference of all agencies involved to discuss operation plan.
0937	BP	Collette advises that the two Russian diplomats are coming off the vessel now.
1000	CO	Meeting with Kisor, Murphy and Shaw, OPS, may go off this afternoon. Kisor requests background papers on the Soviet bloc procedures.
1020	CO	Kisor advises this office to contact the White House situation room and provide them with a briefing to date.
1130	CO	DOS advises that there appears to be a break in negotiations and that the Russians will allow the interview to take place. DOS instructed that no action be taken. However, we can continue our preparations. DOS notified NOLA and Nelson and they reiterated that the instructions to the press were "no comment", and that we take no action until cleared by DOS. Nelson and Kisor are advised.
1130	Customs	Schulte reports that action is delayed until sometime Tuesday. CG is going to send a written notification to the vessel master that the ship may not move.
1132	BP	Collette advises Tabor that the Russian diplomats are going on board with Sites.
1141	BP	Collette advises Sites is on his way back to shore now.
1147	CO	Bonnette contacts Brandemuehl and advises. He will take no action. We reiterate the "no news" statement by INS.
1158	CO	Kisor contacts this office requesting that we contact Brandemuehl and advise the following: 1. We are to find out if the Navy psychiatrist who was dispatched from Biloxi has arrived; 2. DOS would like him to be present during the interview with the Soviet deserter; 3. We are to contact Palmer and advise of our information, and; 4. Palmer requests that we utilize a covert tape recorder during the interview if possible, if we feel that it will not be observed by the individuals involved and more importantly not be construed by the deserter as coercive in any way. Tabor advises that the psychiatrist has not arrived (the Navy psychiatrist). However, they have located an alternative, Dr. Hunt. He will be made available and be placed on the CG vessel. Simons, DOS representative on the scene, agrees with placement of Dr. Hunt on the vessel as a replacement for the Navy psychiatrist.
1200	Customs	BP advises the Russians have agreed to have crewmember interviewed on CG Buoy Tender. This is planned for 1500.
1214	DOS	Commissioner Nelson suggests that interview be taped -- order already given, subject to DOS concurrence. Hergen informs Simons that DOS approves taping of the interview, but only if it can be done unobtrusively, and that INS Commissioner has orally designated Sell and INS officer at the interview as "departure control officers" for purposes of 8 CFR part 215.
1220	CO	DOS notified and asked to relay information to Palmer.
1240	DOS	USCG advises that the Soviets have agreed to allow Medvid to be removed from the Konev and interviewed aboard a USCG ship.

Time	Station (Log)	Text
1245	CO	Brandemuehl advises that local DOS representative is against the use of the tape; he wants to know who authorized the use of tape. We will contact and reply. The following information was provided: Kisor and Palmer decided that if the tape could be obtained without it being observed, Palmer would like to have it done. Kisor advises that the interview will take place at approximately 4 P.M. on the CG vessel in mid-stream in Belle Chasse.
1300	CO	Lysyshyn, at DOS reiterated that Palmer would like to have it done (tape) only if it can be done without notice and not visible.
1305	CO	Brandemuehl is advised that Palmer, through his secretary, requests that the taping be done without it being visible. A decision is made that Brandemuehl will carry the recorder. The meeting is scheduled for 4:00 P.M. on the CG vessel.
1315	DOS	Palmer okays the taping of the interview, provided it can be done in a completely undetected manner. If it is detectable, the taping is not to take place. Sell to make it clear to Medvid that if he should decide to remain here, he will not be subject to legal prosecution. Palmer advises that a psychiatrist may be on call outside the room, with only an MD present in the room. Both the ship's captain and Bondin will be in the room during the interview.
1318	BP	Collette advises that Sell is coming on board.
1320	CO	Bonnette contacts COINV, and requests that he prepare consensual monitoring request. The request was authorized by Kisor. He will contact DOJ.
1325	CO	Kisor advises that the consensual request preparation is going forward. He requests that Bonnette contact McGuiness and the White House situation room. This was done at 2:40 P.M.
1338	BP	Collette advises that Solomon needs to talk to Sell. Accomplished.
1347	CO	The White House situation room is advised.
1347	CO	Bonnette calls the White House situation room and advises them of the situation at that time.
1355	CO	Bonnette is instructed by Brandemuehl to contact Schmidt and Kisor and have them available for a telephonic conversation.
1400	Customs	Time for interview delayed until 1600. If the meeting takes place, BP requests to immediately remove their hold on vessel, DOS also.
1402	BP	Collette advises that Site requests us to call Customs HQ at 1500.
1405	CO	Telephone conference with DOJ, Commissioner Nelson, Kisor, Leo, Schmidt and Bonnette. The options and the approach were discussed and all was agreed upon.
1419	BP	Ritzman advises to notify Goodwin portable is on standby.
1420	CO	Palmer, DOS, is briefed by Commissioner Nelson.

Time	Station (Log)	Text
1425	CO	Telephonic conference conducted between Commissioner Nelson, Kisor, Brandemuehl, Schmidt and Bonnette. A complete review of the process to be taken during the operation was discussed, as well as the service of I-281, which was reviewed and alternatives discussed. Brandemuehl was advised that the I-281 notice should be filed on the captain and on the crewman in any event, whether the crewman decided to accompany the party or wished to return to Russia. Brandemuehl asked that we contact the District Attorney in NOLA, on legal aspects. Schmidt indicated that he would contact Commissioner Nelson authorizes Brandemuehl to hold the crewman in our custody for a period of 24 hours. The conference is finished at 3:50 P.M. Brandemuehl is enroute with the team to the CG vessel to initiate the negotiations with the Russian and the interview with the alien.
1452	BP	Collette advises that Sell said to pass on that they checked engines on life boat; might mean something (passed to Mr. Solomon)
1600	Customs	Delay until 1630.
1630	Customs	Vessel master requests to CG crewmember ready for pick up.
1630	USCG	DOS requests the CG Cutter Salvia be available as a platform to interview seaman Medvid.
1630	BP	Collette advises they are ready to pick up.
1630	BPS	Seaman is removed by CG cutter from M/V Marshal Konev to Salvia (time approximate).
1633	Customs	Vessel (Konev) captain, first mate, engineer, crewmember, two political officers and Mr. Sell on CG 41' for transfer to CG Buoy Tender.
1636	Customs	Party above board Buoy Tender. Confirmed. A/C Green notified.
1637	BP	Collette advises all American officers are off the vessel (Konev).
1640	Customs	All Customs personnel withdrawn from scene.
1642	BP	Collette and McDonald are in service.
1645	DOS	Congresswoman Lindy Boggs' office telephoned to advise the Archbishop of New Orleans wanted to discuss the Medvid situation.
1649	BP	Worley advises all officers are off the ATT.
1700	DOS	USCG Salvia confirms that all personnel were safely aboard.
1700	Customs	Marine Desk is notified that vessel may now clear in routine manner. Command Post deactivated. Resume normal operations.
1700	CO	O'Connor advises that all are aboard the USCG vessel and that includes 4 US, 4 Russians and the subject. We advised O'Connor that we will be standing by either at the Commissioner's office or at the DOS.
1715	USCG	DOS, INS, Customs Service personnel and seaman Medvid boarded CG Cutter Salvia from Marshal Konev. All CG personnel were isolated from seaman Medvid.
1740	DOS	Parris is informed that Medvid has become nauseous during interview and is now in ship's sick bay with one Soviet and one American doctor.

Time	Station (Log)	Text
1750	CO	O'Connor reports that the CG base received a request from the CG tender to have an ambulance at the CG station in NOLA. This was received at 5:25 P.M. NOLA time.
1755	CO	O'Connor reports that the crewman appears to be in a "spaced out" condition and appears to be disoriented, and not responsive to the questions. Kisor and Nelson are advised. We have relocated to DOS at 8:05 P.M. Meeting was held with Palmer, Nelson, Kisor, Leo and Bonnette. Palmer reports that when the interview began the subject appeared to be ill therefore the interview ceased. He was given an opportunity to go above deck and get some fresh air. At an attempt to re-interview, the individual appeared to be disoriented and non-responsive. Palmer advises that DOS people were told to give the subject a good night rest and have our officers take him to a BOQ at the Naval facilities for a rest. Tomorrow he will be re-interviewed at the Naval BOQ. At this time no time has been set.
1810	BP	Worley advises still aboard buoy tender, everything status quo.
1910	DOS	Whitehead has made decision to have Medvid taken from ship to Navy BOQ on EUR recommendation. After Medvid takes five minutes to respond to question of where he would prefer to go, drinking water in silence, and finally answering, "Home is best."
1920	DOS	Tabor calls to confirm that Salvia was still at anchor.
1930	CO	The CG requests 3 vehicles. They subsequently change that to 4 vehicles, 2 sedans and 2 vans, to be dispatched dock side at Belle Chasse Ferry landing, approximately 2 miles down river. BP is dispatching.
1950	CO	O'Connor advises that the situation on the ship became "touchy" (shouting and scuffling between our officers and the Russians). All is in control. Bondin, the head of the Russian delegation, has left the CG vessel to call the Embassy. Our officers are proceeding too but have not started to take subject deserter ashore. The deserter appears to have some medical problems either an infected arm or broken arm and will require medical attention.
2015	CO	O'Connor advises that Bondin is returning to the vessel. O'Connor states the subject requires medical attention. His arm appears to be broken and was not adequately treated aboard the vessel. The Russians do not appear to have the appropriate antibiotics necessary. All arrangements have been made for housing and security at the Naval Support Facility BOQ at this time.
2025	CO	The Situation Room is briefed.
2030	BP	Note DE: Harbor PD has Polish ship jumper/Goodwin & Tabor advised; advised Vannett.
2030	CO	McGuinness is briefed.
2040	CO	CG vessel indicates that the Russians are resisting our removal of the alien, and have advised that any action taken by the US government will be held against the US government.
2040	DOS	Simons calls and informs Parris that the Soviets (Bondin and Kosov) state they will leave the CG cutter only for the Soviet ship Marshal Konev.
2050	CO	Parris advises higher ups. He contacts the DOS man on the vessel and tells them to offer the Russians the following options, either to accompany the crewman to the shore facilities, or that we will forcibly take the crewman to the shore facilities without them.

Time	Station (Log)	Text
2100	DOS	After failing to reach Whitehead, Parris recommends to Palmer by phone that Sell and Simons be authorized to use force to take Medvid to naval facility. Palmer authorizes use of force.
2105	DOS	Parris instructs Simons that he is to repeat to Soviets our invitation to accompany Medvid to Naval facility. If they refuse they are to be offered transport to the Marshal Konev. If they remain unwilling to allow Medvid to depart for Naval facility, Medvid is to be forcibly separated and given an opportunity to express his willingness to go to the Naval facility. If he refuses, he is to be obliged to accompany Sell and Simons. Other Soviets will be conveyed to the Konev or to the Naval facility as they request and as Sell and Simons think best.
2115	CO	Kisor is advised.
2135	DOS	Hergen stresses that the Soviet Embassy officers can be restrained if they attempt to interfere with Medvid's departure for the Naval facility; otherwise they cannot be detained in anyway. Soviet crew who interfere are subject to prosecution.
2145	CO	Bonnette receives a telephone call from BP agent Vannett at NLL Station, who is calling from the HP Hq. and advises that a Polish seaman, is in the custody of the HP. He is in process of interviewing the individual and will return to the BP Hq. to complete that process. DOS officials at the situation room are so advised, and told that before any disposition is made they will be contacted.
2200	DOS	Simons advises Bondin and Kosov have chosen to accompany Medvid peacefully to Naval facility.
2200	BPS	Request made to arrange escort and proper transportation of the negotiating crew and security group from the Belle Chasse ferry landing to Algiers Naval Support Activity Base (time approximate).
2207	CO	The Russians have chosen to accompany the deserter to the shore station peaceably. No force is necessary. They are proceeding shore side. O'Connor advises that the total party is on the 41 foot CG vessel and enroute to the shore.
2225	CO	O'Connor states that they are all on shore and are heading for the hospital. It will take approximately one half hour as the weather condition has seriously deteriorated.
2230	BPS	The entourage arrives at the dock after leaving the Salvia (time approximate).
2230	CO	White House situation room is advised.
2240	USCG	The party, including Medvid, is transported by CG Cutter Salvia to shore.
2245	CO	Bonnette departed the DOS enroute to INS Hq. Follow up with NLL indicates that the Polish crewman earlier reported at 10:45 is in fact not a deserter but a duly authorized seaman seeking to return to his vessel. Vannett reached Palmer who authorized the crewman to be turned over to the agents for assistance and be returned to his vessel.
2259	BP	Vannett advises DOS is going to provide an interpreter.
2302	BP	Worley advises all personnel are coming off cutter and on to 2 41' vessels. Unit enroute to 8th Naval Dist. Have units stand by at shore location/on scene.
2313	BP	Garcia has visual contact w/one 41 footer.
2319	BP	Caplinger advises he is enroute to NASF/gate at base.

Time	Station (Log)	Text
2339	BP	Note: Base gate advised party on base.
October 29, 1985		
0530	CO	Bonnette calls NLL and is advised there is no change in status. The Russian is still at the Naval Facilities. He is being afforded security by INS officers. No time has been set for the interview of the crewman.
0720	CO	Bonnette contacts Tabor, and is advised that Worley is on site and in charge of the security group at the infirmary (BOQ). All is OK and no action contemplated at this time. Tabor advises that the psychiatrist, who is attempting to make a determination as to the individual's state of mind, requested to talk to the INS internal investigative team concerning statements made by the alien prior to and subsequent to his return to the vessel. Requested to call Brandemuehl.
0730	CO	Bonnette contacts Brandemuehl. He will be enroute to Sector.
0840	CO	Bonnette contacts Ezell at the Executive Seminar and briefs him of the situation. Advises him that the Commissioner, Kisor and Leo are enroute from Washington.
0900	BPS	The entire Russian and DOS delegations meet with the alien crewman (time approximate).
0915	USCG	The Salvia is released.
0945	CO	McGuiness calls and requests a report of the situation. He is briefed, including the Polish crewman. McGuiness asks for a copy of our running log. We will transcribe and provide it to him as soon as possible.
1024	CO	Tabor advises that negotiations are in process with the Russians at the Naval base. The same 4 Russians and the same US team are conducting the negotiations. Crewman is still in custody of the medical facilities with security team on site. Requested that Tabor verify the correct spelling of the individual -- we have several variations thus far.
1050	CO	Leupp requests that the following be passed on to Nelson and Kisor when they arrive at Jacksonville. They should be arriving now. "It appears that there may be a conclusion this afternoon in the negotiations."
1105	CO	Tabor states that subject's name is MIROSLAV Medvid. Therefore, our previous spelling is in error and is to be noted for the record. Further, Tabor advises that the medical exam is almost complete. Tabor feels that the deserter may well desire to go back to the ship. However, he feels that the request may not be valid due to his state of mind.
1125	CO	Bonnette contacts Coster and advises him to provide the information to Commissioner Nelson, Kisor and the group at the conference.
1135	CO	Bonnette calls McGuiness. Phone busy, calls back. Contacts McGuiness and he requests that Kisor give him a call for an update.
1335	CO	Bonnette contacts Leupp, who advises that the subject deserter has made a statement that he does not desire to remain in the United States. This information was relayed directly to Palmer of the DOS via their communication. It appears that DOS will honor his request. Leupp advises that he was advised by DOS that the decision to return the deserter to the ship will be made at the highest level.
1410	CO	Bonnette contacts Kisor. He has the information provided by Leupp directly from Palmer. The Commissioner and the rest of the group at the conference also have the information.

Time	Station (Log)	Text
1500	BPS	Tabor requests that Sector arrange with CG for a vessel to transport the crewman, the Russian entourage, DOS personnel and members of the security team from the Belle Chasse ferry landing to the M/V Marshal Konev.
1630	CO	Austin notifies Nelson and Kisor and all of the reports from the news media and verified by the DOS/PIO that the crewman has requested to be returned to the vessel. He advised further that DOS will handle all media inquiries (as they relate to the negotiations and the re-interview of the crewman and disposition). INS/PIO will handle all inquiries as they relate to the placing of the crewman aboard the vessel initially.
1651	BPS	All personnel involved departed the BOQ/NSA, Algiers, enroute to Belle Chasse ferry landing.
1655	CO	McGuiness is briefed on the above information and is advised that the chronological log will be provided in rough as soon as possible.
1705	CO	Tabor advises that crewman is enroute towards the vessel and expects ETA approximately 20 minutes before he is aboard. Bonnette advises Tabor that CO will be closing down operations within a half hour unless notified otherwise.
1711	BPS	The motorcade arrives at Belle Chasse ferry landing.
1715	BPS	The Russian entourage, DOS personnel and BORTAC team board CG 31' cutter, departing for M/V Marshal Konev.
1735	BPS	CG vessel returns to ferry landing with DOS personnel and BORTAC team; picked up by waiting vehicles; return to HQ (time approximate).
(?)	USCG	DOS, INS personnel and seaman Medvid were transported by CG utility boat from shore to Marshal Konev.
October 30, 1985		
0720	CO	Bonnette contacts Tabor who advises that the crewman was placed aboard the vessel approximately 5:30 P.M. on 10/29, NLL time which is 6:30 eastern. No incidents to report.
0830	CO	Brandemuehl calls in. A conference call between Brandemuehl, O'Connor, Tabor and Austin and Bonnette was arranged. News releases were discussed and it was agreed that Tabor would be permitted to make limited comments concerning the situation as it relates to placing the individual aboard the vessel as there are discrepancies in the local news media as how it transpired. Leupp recommends that a more thorough interview be conducted with Padoch, as the investigator who took the initial statement did not have sufficient background at that time. They need prior statements in which to tell all the circumstances and conversations that were held between the interpreter and the deserter. We felt that it was imperative that prior statements may be available to whomever re-interviews for intelligence questions and all facts. Leupp agrees and will relay to O'Connor. Brandemuehl and Leupp are returning to Washington. O'Connor will remain on the scene for a time ETA Washington 1:00 P.M.
1000	CO	McGuiness, advises Austin to contact Eastland. Done 11:15 A.M.
1124	DOS	Hergen calls US Attorney's office PA. briefs him on Medvid events over the past few days. Hergen explains legal basis for government's actions.

Time	Station (Log)	Text
1130	CO	Bonnette calls Tabor and requests pictures or video tapes of the Russian seaman. Tabor indicates that a mug shot is in the A-file. Will telefax to Austin.
1430	CO	Eastern Region advises that at 2:00 P.M. today the Ukrainian Bar Association and the Ukrainian Human Rights Association filed a request for a temporary restraining order in the case of the Soviet seaman. The application asks that the M/V Marshal Konev be held in port and that the seaman, Miroslav Medvid, be removed to a safe house where he could exercise his rights in a non-threatening environment. The hearing was to be reconvened at 4:00 P.M. for the court to entertain the application.

November 1, 1985

2010	USCG	Receives call stating CG dealing with Marshall Konev (Medvid) is not over yet. Border Patrol and Customs inquiring as to what can be done to stop vessel. Receives call from local BP stating they are working on another court order to stop vessel until all concerns are taken care of. Vessel is presently up-river bound to grain elevator -- arrives at 2130. 8th is standing by until they receive a request for action and they see the court order.
2048	USCG	DOS operations center notifies CG that as far as they were concerned this case is closed -- per The President's decision that Medvid should go back to vessel and that there are no grounds for further United States intervention.

APPENDIX B

REVIEW OF THE PSYCHIATRIC EXAMINATION
IN THE MIROSLAV MEDVID INCIDENT

and

SUGGESTED GUIDELINES FOR PSYCHIATRIC EVALUATIONS
OF ALIENS WHOSE DEPARTURE MAY NOT BE "VOLUNTARY"

Report

Prepared at the Request of the
Commission on Security and Cooperation in Europe

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APRIL 22, 1987

I. CONSULTATION REQUEST

This report was prepared by a group of consultants initially identified by the American Psychiatric Association (APA), in response to a request by the Commission on Security and Cooperation in Europe, for an independent evaluation of the psychiatric and medical examinations in the Miroslav Medvid case, and guidelines for future psychiatric consultations. Mr. Medvid was a Soviet seaman returned to his ship by U.S. Border officials following what may have been an attempt to seek political asylum. This case has precipitated a number of inquiries and investigations regarding the manner in which the U.S. officials and medical evaluators handled the incident. In addition, U.S. policy toward asylum seekers from Communist-bloc nations, in general, has been brought under scrutiny. This report was generated as part of the investigation authorized under Senate Resolution 353. This resolution authorized a one year investigation of these matters by the Commission on Security and Cooperation in Europe (Helsinki Commission).

The opinions and recommendations contained in the report are the product of the individuals as private consultants and do not represent, in any way, the official policy or views of the APA, its components, or members.

We wish to note that while the consultants were selected for their expertise and experience in the areas of informed consent, determinations of competence, and forensic examinations, (the use of psychiatric expertise to aid in the resolution of legal questions) they had had no actual experience in the unusual and rare evaluation under consideration. Nevertheless, the principles involved in forensic examinations are similar and relevant.

The consultant group was requested to:

1. Conduct a comprehensive and detailed review of the medical and psychiatric examinations of Miroslav Medvid performed in October 1985, and prepare a written evaluation thereof, to include consideration of a) the physical and emotional environment in which such examinations were performed and the impact these environments may have had upon the examination, and b) the possibility that Mr. Medvid was under the influence of drugs at the time of his examinations and, if so, determine the impact this would have upon his decisions and actions;
2. Identify the medical and psychiatric standards applicable in cases regarding suspected asylum applicants from the Soviet Union and Soviet-bloc

countries and determine if the examinations performed in the Medvid case were adequate;

3. Advise the Commission of appropriate methods for handling suspected asylum applicants from the Soviet Union and Soviet-bloc countries from a psychological viewpoint;
4. Submit a written report of the aforementioned to the Commission; and,
5. If so requested by the Commission, the Contractor shall appear before the Commission to discuss his findings and respond to questions related thereto.

II. SEQUENCE OF EVENTS

On October 24, 1985, a Soviet seaman, Miroslav Medvid, jumped from a Soviet grain freighter docked in New Orleans, and swam ashore. He was taken by local residents to the New Orleans First District Police station. Because of his inability to speak English he was unable to communicate with the police. He spontaneously left the station but returned within 30 minutes. He was eventually transferred to the Border Patrol which arranged for him to speak with a translator fluent in Ukrainian. Although the translator felt convinced at the end of an hour's conversation that the seaman had asked for political asylum, the Border Patrol agents deny that this was communicated to them. They interpreted the situation as one of the daily occurrences of "ship jumpings" and ordered him to be returned to his vessel. As the launch approached the ship, Mr. Medvid exchanged words with the first mate aboard the freighter and then jumped back into the water and swam to shore. He was subdued and returned, with his hands bound, by several Soviet crewmen who had been brought ashore by the launch operator.

The State Department was then notified of the incident, and they immediately requested the Coast Guard and Customs to detain the ship and dispatch representatives to the area. Beginning at 2:45 p.m. on October 25, Border Patrol and State Department representatives remained on board, although not in continuous contact with Mr. Medvid, until he was transferred to the U.S. Coast Guard cutter "Salvia" three days later. He was noted to have a bandaged forearm which the Soviet captain said resulted from a self-inflicted wound shortly after Mr. Medvid had been returned to the ship.

On October 26th a physician, Dr. James Caruthers USN, was brought aboard and performed a cursory medical examination. On the following day Mr. Medvid was transferred to the U.S. Coast Guard ship for an interview to clarify his intentions. A psychiatrist, Dr. William Hunt USAF, was brought aboard but was not present

during the interview by State department officials. U.S. officials decided to take Mr. Medvid ashore for further observation and interviews because his communicated intentions did not seem clear. In the presence of Soviet officials, a psychiatric interview was performed on the evening of October 28th for one hour. Another physical examination was also performed. The following morning the psychiatric interview was continued for two additional hours. During these interviews and those with the State Department officer, Mr. Medvid claimed that he fell off the ship and was amnesic from the time he hit the water until waking up back on his ship. He persistently maintained that he wanted to return to his ship and the Soviet Union. At 2:45 pm on October 29, US officials decided to let Mr. Medvid return to his ship after he signed a statement confirming his stated wish to return to the U.S.S.R.

III. SOURCES OF INFORMATION

The major sources of information made available to the consultants were the:

1. Psychiatric Report by Dr. William Hunt dated 10/30/85.
2. Medical Examinations by Dr. J. M. Caruthers performed on 10/26/85, 10/28/85, 10/29/85 (Reports dated 10/26 and 11/6).
3. Hearing transcripts before the Subcommittee on Immigration and Refugee Policy of the Senate Judiciary Committee, 11/5/85, 11/7/85.
4. Hearing transcripts before the Subcommittee on Immigration and Refugee Policy of the Senate Judiciary Committee, 2/5/86, 3/7/86.
5. Report by the Subcommittee on Immigration and Refugee Policy for the Senate Judiciary Committee, July 1986.
6. Hearing and Markup before the Committee on Foreign Affairs and its Subcommittee on Europe and the Middle East, 11/7/85.
7. Statement from Dr. W. E. O'Malley before the U.S. Senate Committee on Agriculture, 11/14/85.
8. Letter from Dr. Larissa Bilaniuk to Senator Humphrey dated 5/30/86.
9. Deposition of Dr. J. Caruthers- 9/13/86-Ukrainian-American Bar Association et al. v. George P. Shultz et al.
10. Information provided by Commission Investigators to the consultants during our deliberations.

IV. REVIEW OF THE PSYCHIATRIC EXAMINATION

Before beginning the review of the report and the psychiatric evaluation itself, we would like to emphasize our appreciation of the difficulties facing a physician in these circumstances as well as the fact that retrospective reviewers will not have all

of the factual material available. This review was conducted under the assumption that there was only one individual who was seen and evaluated by U.S. officials over the sequence of events.

The first medical evaluation occurred on October 26 aboard the "Marshal Konev." Dr. J.M. Caruthers performed a total of two or three physical examinations on Miroslav Medvid. It is unclear if Dr. Caruthers' initial assignment was an independent evaluation of "voluntariness" or as an adjunct to the psychiatric evaluation. After the examination aboard the Marshall Konev, the medical evaluation was conducted in tandem and in consultation with Dr. Hunt. Dr. Caruthers brought only a stethoscope and a light for the first examination as the State Department wanted "a very low key" presence of a physician. He testified that the purpose of the examination was to determine 1) whether he was alive, 2) whether he was the same person that "we" had a photograph of, and 3) whether there was any immediate life-threatening medical situation that needed intervention before further proceedings. Dr. Caruthers' conclusions following this brief exam was that there was 1) a minor injury to the left arm, 2) anxiety, and 3) no evidence of altered mental status from medications/drugs.

A more extensive physical examination was performed on October 28. At that time it was noted that he had an oral temperature of 100.4 degrees F, a 2-3 day history of nasal congestion, cough, and sore throat. A superficial laceration of his left wrist with sutures was noted as well as some bruises on his right arm that had not been noted on the earlier examination. His conclusion following this examination was that there was "no evidence that patient is physically incapable of participating in his negotiations."

The physical examinations, like the psychiatric, were performed under difficult circumstances. The first, aboard the Soviet ship, was incomplete. During this interview no history was recorded and apparently none was taken from Mr. Medvid directly. Although Dr. Caruthers concluded that there was no evidence of an altered mental status from medications, the history obtained from the Russian physician two days later revealed that he had been given psychotropic medications. Since this was the first time he was seen by Dr. Caruthers, it was highly speculative for him to have estimated the effects of the medication without knowing what Mr. Medvid was like before. At most, it was possible to conclude that he was not oversedated or "groggy" from medication.

According to the testimony of Mr. Sell, Dr. Caruthers was present during the interview on the "Salvia". He recorded none of his observations of Mr. Medvid's mental status at this time in the medical report. He also did not record any notes of his examination on the 29th in his reports. If any medical or

psychiatric history was taken it should have been recorded in his report.

If the only goal was to determine if there was a life threatening physical injury or illness, the examinations were probably adequate. They are not sufficient (nor were they offered as being sufficient) to determine Mr. Medvid's competence to return home. For our review it would have been helpful to have seen a more complete neurological evaluation noting pertinent negatives such as the presence or absence of nystagmus. It is important to note that more information was presented during the hearings by both Doctors Hunt and Caruthers and that it was better organized (e.g. the mental status evaluation by Dr. Hunt) than in the reports themselves.

The psychiatric evaluation and report concerning the evaluation of Miroslav Medvid posed a number of unique and unusual problems. Dr. Hunt's task was rendered difficult by the fact that clear guidelines for this type of evaluation had not been previously formulated. Any critique of the psychiatric examination and report must therefore be tempered by these considerations. Nevertheless, we feel that it is necessary to elucidate some of the shortcomings of Dr. Hunt's report and examination. For the report these can be divided into issues of context, content, and style.

From the beginning of the consultation, the context of the examination was complicated by a number of unusual factors:

1. This was an involuntary evaluation, i.e. Mr. Medvid was not requesting the evaluation. There was no physician/patient relationship. This examination was more akin to a court ordered evaluation.
2. The examination was performed in the presence of Soviet officials.
3. The examination was conducted through a translator.
4. The examination occurred following a period of isolation from U.S. contact.
5. Psychotropic medication had been administered by the Soviet physician.
6. There was Soviet political pressure to complete the evaluation and make a decision.
7. The examination was conducted away from a medical setting which made routine laboratory studies more difficult to obtain.
8. The examination was conducted following a coerced return of Mr. Medvid by U.S. officials to the Soviet ship which may have altered his attitude toward them.
9. The psychiatrist was not present during the interview on the "Salvia" and did not personally hear and observe what was told to Mr. Medvid about asylum.

All of the above combined to make a psychiatric evaluation more difficult, making it possible only to draw limited conclusions. Dr. Hunt felt that the amnesia reported by Mr. Medvid could not be ascribed to any injury and was not credible. We agree. The fact that defection is a crime in the Soviet Union may have contributed to Mr. Medvid's unwillingness to acknowledge his initial attempt to leave in the presence of Soviet officials. (In a prior incident (1970), a Lithuanian sailor tried to defect by jumping from a Soviet ship onto the deck of a U.S. Coast Guard cutter. He was erroneously returned to the Soviet ship, subsequently convicted of treason, and sentenced to a term in Siberia.) The events immediately preceding the psychiatric examination, which were beyond the control of the psychiatrist, may have strongly influenced the outcome.

In terms of the content of the psychiatric report, the major deficiency is the omission of significant data. This includes the failure to specify the precise circumstances of the evaluation (e.g. who was present) that accounted for the "atypical and adverse conditions and limitations" of the interviews. Even the simple listing of sources of information is not identified and itemized so that we do not know the extent of information on which Dr. Hunt based his conclusions. Did he have a description of Mr. Medvid's behavior and interactions at the police station? His behavior prior to his forced return and being medicated is relevant to assessing the diagnosis as well as the possible effects of medication at the time of the examination. We also do not know what were the "limitations of available data" and which, if any, were regarded as significant.

Given the fact that this was not an evaluation for treatment purposes, it should also have been recorded what Mr. Medvid was told regarding the nature and purpose of the psychiatric evaluation. There is also no prior history included. History relating to his development and prior psychiatric history, if any, would be necessary and important before drawing conclusions regarding the current diagnostic assessment. The data leading to the conclusion that Mr. Medvid "clearly understood his basic choices" is not presented. It is not clear in the report what he was told nor what he heard and understood.

Much has been made of the lack of urine and blood testing for drugs. While drug levels per se are not a sufficient basis from which to draw conclusions regarding competence or voluntariness, they can help to decide if intoxication is present or further observation is warranted. Certain drugs like alcohol, other sedatives, stimulants, narcotics, or psychedelics may affect decision making in ways that may not be immediately apparent to a clinical observer. These drugs may make someone not care as much about the consequences of a decision, or they may affect suggestibility. If the presence of narcotics or high blood levels of psychotropics were found, we believe that it might

have affected the conclusions drawn by the physicians. Some medications may also induce manic or hypomanic states similar to the behavior exhibited by Mr. Medvid. In this light, and with the inevitable scrutiny that follows these evaluations, it seems prudent and important to obtain such samples in these circumstances. In the absence of tests, we do not know what drugs were, in fact, administered. We are, therefore, less able to be certain about their effect on his decision making process.

The style of the report makes an assessment by others very difficult. There are standard formats that psychiatrists use when writing formal reports, especially when these reports will be utilized for legal or quasi-legal purposes. The usual format should have clearly demarcated sections which separate data from opinions and diagnosis (see the "Advice" section below for a detailed outline). The data relating to competence as well as the standard for competence should be specified. Dr. Hunt failed to follow such a format so that it is difficult to separate data from opinion in his report.

The report style includes the use of much informal language, along with other inappropriate and global conclusions e.g. "Grabbing for the glitter and gusto" rather than on any deep-rooted political or moral beliefs." Likewise, conclusions regarding Mr. Medvid's motivation as "impulsive" or "immature" seem inappropriate and premature given the duration of the evaluation and the amount of history available. Paragraphs numbered 12-15 contain much speculation with regard to what happened to Mr. Medvid while back on the Soviet ship and out of contact with the U.S. officials. This only raises doubts about the degree of speculation occurring in the primary evaluation of Mr. Medvid's competence and voluntariness. The emphasis should have been on the narrow examination and evaluation of his current mental status and the relationship of his capacities to the specific questions regarding competence, rather than a full historical or interpretive reconstruction of the chain of events.

Dr. Hunt concluded that "MM was assessed to be, as competent as basically any Soviet citizen to make a decision in regard to the issue of defection." There is uncertainty about what standard Dr. Hunt used. In his report and testimony he seems to equate competency with the absence of psychosis. This is insufficient and wrong. To say that Mr. Medvid is competent is incomplete. Competence demands a context; a person is not simply competent. He is competent to do something. The standards for competence to stand trial, to make a confession, to be married, to make a will, or to be executed are all different. What are the standards for competence to make a decision to return home in this circumstance? Dr. Hunt did not record the definition of the competence standard that he used. The conclusion merely stated that "the individual was clearly competent and not psychotic".

Dr. Hunt's failure to discuss this issue primarily reflects the lack of available articulated standards.

The failure to specify a competence standard may be somewhat understandable. Neither the pertinent regulations nor case law describes just what the standard should be. We offer below our own conclusions on how the standard should be understood. But first it will be helpful to review other recent cases bearing some similarities to the Medvid case. These involve instances where doubt about the voluntariness of the alien's departure arose, and a psychiatrist's involvement might have been considered.

V. PRIOR INCIDENTS

The following recent cases are not included for critical review, as the information was derived from newspaper reports and is, therefore, considered incomplete. The purpose is to review the possible categories of cases so that guidelines will be able to address the situations most likely to occur.

1. Lyudmilla Vlasova

Aleksandr Godunov, the Soviet ballet dancer, defected to the United States in 1979 while in New York with the Bolshoi. He told State Department officials that his wife, Lyudmilla Vlasova, also on tour with the Bolshoi was being returned to the Soviet Union against her will. He said that the Soviet Union would force her "to leave the United States without my seeing her again." "I very much want my wife to stay with me here in the United States." Acting on Mr. Godunov's fears, the State Department ordered the Immigration and Naturalization Service officials in New York not to let Ms. Vlasova leave the country. Apparently moving in opposition to an earlier agreement with the State Department, Soviet officials in New York brought Ms. Vlasova to the airport and boarded her on an Aeroflot jet liner before the immigration officials received the message that she was not to depart. The situation deteriorated into a diplomatic struggle between the Soviets and the Americans as the jet was blockaded on the runway of Kennedy Airport for three days. (New York Times A1, C1, August 29, 1979.) Much of the debate concerned the Soviet's refusal to allow American officials to talk with Ms. Vlasova. Instead they issued what they claimed was her statement "I love my husband but he made his decision to stay here and I have made mine to leave." (New York Times A28, C1, August 26, 1979.) After three days of stalemates, Soviet officials brought Ms. Vlasova off the plane into a "mobile lounge" parked on the runway. There, during a twenty minute interview in the presence of Soviet officials, Ms. Vlasova told Donald F. McHenry, Deputy Representative to the United Nations, through a State Department translator that she wished to return to the Soviet Union. The New York Times reported the exchange:

"Miss Vlasova, clad in the same black jump suit and gold necklace she had worn when she went aboard Friday, stepped into the lounge and, in the presence of six Soviet officials, six American officials and Mr. Godunov's lawyer, Orville H. Schell, told of her intention to go home."

"Only Miss Vlasova and Mr. McHenry, who sat across from each other, and a State Department interpreter, spoke during the interview, which participants later described as relaxed and informal."

"Mr. McHenry, in a news conference in the terminal immediately afterward, recalled: 'We asked if anyone had threatened her and she very humorously asked, 'Do I look like I've been threatened?' I must confess she just looked like a ballerina.'"

"She was in remarkably good spirits," said Mr. McHenry, who described the tone of the interview as "friendly and warm" and Miss Vlasova as "lively, bright, alert and very informal-very alert to the situation."

"I was not engaged in persuasion one way or the other" Mr. McHenry recalled. "I wanted to make sure she was doing what she wanted to do. We did make it clear that she didn't have to decide today-that she could postpone it." He explained that American officials might have allowed the plane and other passengers to depart while Miss Vlasova stayed pending a decision, but that she declined the offer."

"Mr. McHenry quoted Miss Vlasova as having said she had not communicated with her husband through the weekend. At that point, Mr. McHenry said, she was asked whether there was "anyone she wanted to speak to, or anything she wanted to do." "She responded with the Russian negative."

"Asked at the news conference whether he still questioned her desire to go home, Mr. McHenry said he was "no psychologist," but added: "I have no doubt that's her desire now." In response to another question, he said "It didn't strike me that she was drugged, doped or under any stress. It makes you wonder why it took so long to arrange this."...Asked whether he thought Miss Vlasova had spoken freely, Mr. Schell (Mr. Godunov's lawyer) said "I couldn't tell for sure. I wasn't able to tell. After all, she's an actress." (N.Y. Times B4, Col. 3 August 28, 1979.)

At no time were U.S. officials allowed to speak with her alone.

In some respects Miss Vlasova's situation was similar to seaman Medvid's, particularly in that the United States relied on the individual's own statements in allowing them to return to the Soviet Union. In both cases, the circumstances gave rise to

suspicions of Soviet coercion. Immediately after Mr. Godunov's defection, Miss Vlasova was escorted to the jet airliner by eight men believed to be Soviet Security Agents. She was held in seclusion for four days before being allowed to speak with American officials. At no time was she left alone with the Americans. Further, one of the Soviets accompanying her was the chief medical officer of the Soviet Mission, thus raising the issue of medical intervention or even speculations by the press of "drugging."

2. Andrei Berezhkov

On August 10, 1983 the sixteen year old son of a Soviet Diplomat based in Washington, D.C. vanished. Although he returned home within 24 hours, a letter written in English and dated Tuesday, August 9, arrived on Thursday, August 11 at the New York Times and the White House. The letter signed "Andy Berezhkov" asked for asylum stating, "I hate my country and its rules and I love your country." By the time the letters were received, Berezhkov had returned home and his parents were arranging for his immediate flight to the Soviet Union. Alerted to the letters, the State Department informed the Soviets they wanted to interview Andrei "to ascertain his intentions" and that Andrei should not leave the country prior to such an interview. (New York Times A3, C4, August 12, 1983).

Much as they did in the Vlasova case, the Soviets reacted by keeping Andrei secluded. The State Department continued to insist, stating "We're not going to let him out without interviewing him." A statement was issued, attributed to Andrei, denouncing the letter, claiming it was a fraud and that he did not wish to seek asylum. Finally, on Thursday, August 19, following the week of seclusion, the Soviets allowed the State Department officials and reporters to interview Andrei. Andrei's father and other Soviet officials were present during the interview. After talking with him, State Department officials claimed that they were convinced that he really did want to return to the Soviet Union. One official said that the State Department had developed emergency plans to protect Andrei at Dulles Airport if he wanted to stay. Once the boy began talking to reporters, they decided "he was just a teenager who had gotten into a mess." State Department officials described the incident to Bernard Gwertzman of the New York Times as follows:

"When Richard Burt, Assistant Secretary of State of European Affairs, and Elliott Abrams, Assistant Secretary for Human Rights and Humanitarian Affairs, both met the youth at the airport, they became convinced, from his nonchalant answers to questions and his overall demeanor, that he was not a serious candidate for political asylum."

"Besides observing the youth while he answered reporters' questions, Mr. Burt also spent about 45

minutes with the family in informal discussion before the takeoff of the Trans-World Airlines plane for Paris, according to Alan D. Romberg, a department spokesman. That discussion, Mr. Romberg said, only fortified the impression that there was no reason not to allow him to leave with his parents."

Andrei was met in the airport in Moscow by "four or five men in suits who appeared to form an official welcoming party." His last words to American reporters were an explanation of his telling reporters in Washington, "Say hi to Mick Jagger. Because I love him," he replied. He then entered "a green Volga sedan and drove off to an unknown destination."

The Berezhkov case, again, presents mixed messages. Despite Andrei's disavowal, the White House and State Department asserted a belief that his letters were authentic: That at the time he wrote them, he did intend to seek asylum. The facsimile of his letter to the New York Times presented a reasonable plan, calling for arrival at the U.S. mission in New York on August 11th. Assuming he did intend to seek asylum when he wrote the letters, did he "voluntarily" change his mind? All reported sources agree that Andrei returned home "voluntarily." However, even if the letters were genuine, that does not preclude the conclusion that they were an impulsive act motivated by his family's impending return to Moscow.

3. Merab Kurashvili

Merab Kurashvili, age 34, and an associate professor of civil engineering at the Georgian Polytechnical Institute in Tbilisi, was a participant in a Soviet/American exchange program at the University of California at Berkeley. While there, he and Gergory Smelyi, another exchange student, were arrested for shoplifting. Both the United States State Department and the Russian Embassy were notified immediately, and the incident appeared to be resolved.

However, a few days later on January 10, 1972, Mr. Kurashvili and Mr. Smelyi were boarding a Pan American jet in N.Y. accompanied by Soviet officials when Pan Am clerks "spotted him bleeding profusely" from self-inflicted wounds to his wrists and throat. The New York Times reports that Kurashvili was taken to Jamaica Hospital, Queens. At the hospital spokesmen said "he was very calm, but it seemed he wanted to die...At one point he tried to remove the tubes through which he was getting intravenous transfusions." Six Soviet officials with diplomatic passports arrived at the hospital. Included among them was "A Dr. Sugin, a physician who spoke no English."

The State Department was alerted of Kurashvili's condition almost immediately. According to Charles W. Bray 3d, a State Department official, the issue of asylum came up immediately. He told the

New York Times that a "Port Authority policeman had been instructed by telephone to ask the injured student whether he wanted asylum."

Apparently, Kurashvili did not want asylum. Mr. Bray reported that on two occasions the student had said he wanted to go home. He further told the policeman, "I did it because I did not like myself at the time."

According to the hospital, the Soviets were anxious to sign him out, and did so. The hospital noted that Kurashvili made no objection to leaving. "[He] didn't show any emotion. He just sat there like a blob." (N.Y. Times, Jan. 11, 1972, A29, Col.2.)

The State Department insisted that even though Kurashvili had told the Port Authority police officer he did not wish asylum, they wanted to talk to him before he left the country. The next day, January 11, Kurashvili was reported to be recovering in the Soviet Mission in New York and couldn't be interviewed, "due to illness." The State Department refused to allow him to leave the country. (N.Y. Times, Jan 12, 1972 A31, Col. 1.)

On January 12, the Soviets brought Kurashvili to the airport. After six hours, he was allowed to speak to State Department officials who found "that his desire to leave was voluntary." Kurashvili was then allowed to depart.

These cases divide into two rough categories: (1) cases where the individual made affirmative statements indicating a desire to stay in this country, followed later by statements to the contrary (Medvid, Berezhkov); (2) cases involving no contradictory verbal utterances, but where other evidence cast doubt on the voluntariness of the person's departure. This other evidence might consist of (a) the individual's own acts (Kurashvili), or (b) evidence believed trustworthy from third parties (Vlasova).

VI. RECOMMENDATIONS FOR IMPROVED STANDARDS AND PROCEDURES

We operated under the assumption that when a person clearly requests asylum, even if mentally disordered, the ordinary asylum application process will begin, including permission to remain in this country pending a final decision (which may take months or years). Such a process allows sufficient time for a more extensive evaluation to occur before full asylum status would be granted. This report makes no attempt to discuss the evaluation of asylum applicants after they have requested asylum and have been accepted for further evaluation.

We feel it necessary, however, to add one related comment. The best way to avoid future incidents like the Medvid case, with all their difficult diplomatic and domestic political ramifications,

will be to ensure that officials begin the full course of regular asylum procedures whenever an individual is reasonably understood as requesting asylum or expressing some fear of returning to the home country. We understand that standard INS and State Department procedures -- not followed here -- call for such a response, and indeed provide added safeguards in cases involving nationals from the Soviet Union or other East bloc countries. See *Ramirez-Orsorio v. INS*, 745 F. 2d 937 (5th Cir. 1984); Dept. of State, Public Notice 351 37 Fed. Reg. 3447 (1972); Public Notice 728, 45 Fed. Reg. 70621 (1980). The damage done by an initial forcible return to the custody of foreign officials in such circumstances cannot be wholly undone by later arrangements for evaluation, however carefully designed. Nevertheless, as our account of other similar cases reveals, even if INS procedures are followed, we can still expect to find occasional instances where people question the circumstances of an alien's departure. With this in mind, we proceed to describe our recommended set of standards and procedures.

Voluntariness. The pertinent regulations of the State Department and the INS give authority to prevent an alien's departure "where doubt exist whether such alien is departing or seeking to depart voluntarily..." 8 C.F.R. 215.3(j). We are unaware of any regulations or case law that further describes the standards for "voluntariness" or competency in this situation. But we believe that the basic regulation is sufficient for the guidance of those decision-makers who trigger the procedure at the initial stage. They need apply only a common-sense notion of "voluntariness" at that point, for they are deciding only whether enough doubt exists to halt the departure temporarily, for purposes of further inquiry. We expect that these cases will remain relatively rare, and the initial call will continue to be made by immigration or diplomatic officials, acting on the basis of whatever evidence is available.

Once the departure control procedure is triggered on this ground, however, it becomes important to clarify the standard and specify what sort of assessment is to be made of the individual's state of mind. Although the regulation speaks of "voluntariness," this concept is a complex and difficult one in the literature. Some hopes have been expressed, regarding Medvid-type incidents, that a psychiatric evaluation could identify the "true desire" of the person involved. This is too much to expect. Virtually all human choices are constrained to some extent by outside factors, and traces of influence or pressure of a variety of types can be observed in many decisions. Deciding which influences vitiate free choice and which are consistent with such choice has provoked widespread legal and philosophical debate.

Asylum seekers -- and even applicants who have been granted permanent asylum -- do sometimes change their minds. Some choose to return home to situations most of us would regard as

unacceptable and fraught with genuine dangers. For them, the risks of return have come to be outweighed by the judgments about the benefits of return and the disadvantages of continued exile. They may be motivated by disappointment at the difficulties of adjusting to life in the country of asylum, by patriotism, by inducements offered by the home country, by concern for the fate of families or friends left behind (including information received about threats to those people), or a variety of other matters. We have tried here not to underestimate the inherent difficulty of a decision to defect or seek asylum. The difficulty does not end once the person crosses the line and actually asks for asylum; he may well see the risks and advantages differently over time. Even when we might disagree with the decision, we should take care not to rush to a judgment of involuntariness -- especially when an evaluation must be made in a difficult cross-cultural context.

Regarding the standard of voluntariness, we find very little guidance in the current regulations or case law. There is no clear legal definition of voluntariness. The role and importance of voluntariness for informed consent was emphatic and clear, thirty years ago, in the Nuremberg Code of standards for using individuals as research subjects:

"The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to consent, should be so situated as to be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, overreaching or other ulterior form of constraint or coercion..."

This definition clearly cannot describe situations like the Medvid case. Nor is U.S. criminal and civil case law useful. For example, although the courts have decided many cases evaluating the voluntariness of a confession made to the police, those standards cannot be readily employed here. A confession made after the police threatened harm to an individual's family would certainly be suppressed as involuntary. But a similar result is not so easily accomplished in the case of potential asylum seekers who learn of similar threats. In the criminal confession setting, the remedy is straightforward. The court simply excludes the confession or other testimony influenced by such coercion. If necessary, the accused goes free. The cases of potential defectors, cannot be so easily resolved. One may choose to ignore the first statement of a desire to return made after such threats, but if the individual persists in expressing that desire, it would be quite harsh to hold him forever to the initial request for asylum. We need only imagine how Americans would react to similar treatment of an American who once sought to stay in a foreign country but later steadfastly insists on a right to return home.

The U.S. government cannot control for all possible threats or inducements made by foreign countries to potential asylum seekers. Therefore the definition of voluntariness here must be that the individuals can decide whether to request asylum, without fear for their personal safety, if they now choose to stay. Overcoming any prior threats about personal safety depends less on psychiatric evaluation than on the structuring of the interview setting and the assurances given in that setting to the individual. The State Department seems clear about these issues and has attempted to deal with them by establishing an appropriate environment for the interviews. Holding the interview in American facilities, rather than aboard ship or in the country's embassy, for example, is important. Taking adequate time to explain the role of the American officials involved and the options open to the individual will also be helpful. If the person has been the victim of American mishandling earlier (as was the case with Medvid), the task of communicating such assurances may be more difficult. Nevertheless, patient efforts to this end are necessary. The aim is to communicate that the United States is ready and able to honor any request now made to stay in this country. A discreet backup show of force might, in some circumstances, be useful to underscore this message. We cannot erase any threats or personal mistreatment by the other country's officials that may have occurred before the interview, of course, but we can structure the interview situation to provide maximum assurance that personal mistreatment will not recur if the person now asks to stay -- precisely because the United States would immediately protect the person and remove him from the custody of officials who may have threatened such consequences.

First stage: interview with U.S. INS or State Department Officials.

According to current INS policy, when doubts arise about the voluntariness of an alien's departure, the alien is temporarily prevented from leaving. Regulations authorize various kinds of examinations and hearings. They also grant U.S. officials extensive authority to decide who may be present at such examinations. 8 C.F.R. 215.2(c). We have kept in mind, however, in designing our recommended procedures, that this broad authority to structure the examination would be often limited in practice by diplomatic considerations.

Ordinarily the next step has been an interview with the individual, rather than proceeding immediately to psychiatric evaluations or formal hearings before an immigration judge, and we endorse this practice. The purpose of the interview is to provide the assurances of personal safety outlined in the preceding section, in order to enhance the prospects that a voluntary choice may now be expressed. Ordinarily, if the person

Although there is overlap between the tests in actual practice, we separate them for conceptual clarity. The tests can be summarized into five different categories:

1. Is the individual "evidencing" a choice?
2. Is there a "Reasonable" outcome of the choice?
3. Is the choice based on "rational" reasons?
4. Does the individual have the "ability to understand" the choice?
5. Does the individual have an "actual understanding" of the choice?

1. "Evidencing" a choice:

The "evidencing of choice" test threshold is set at a very low level. In this test the competent individual, in the present circumstance, is one who evidences a preference for or against return to his country. This test does not address the quality of the individual's decision but only the presence or absence of a decision. This test does not assure an individual's understanding of the choice or that it is a rational choice. It is behavioral in orientation. It seems to be the present standard used by U.S. officials for asylum applicants, unless there are substantial reasons to doubt their competence.

2. "Reasonable" outcome of choice:

The next test of competency entails evaluating the individual's capacity to reach the "reasonable" or the "responsible" decision. The emphasis in this test is on outcome rather than on the mere fact of a decision or how it has been reached. The individual who fails to make a decision that is roughly congruent with the decision that a "reasonable" person in like circumstances would make would be viewed as incompetent. Since this test promotes social goals at the expense of personal autonomy, we feel that this is not an appropriate standard. It is also not useful here because of serious cultural problems e.g. what would a "reasonable" Russian or other foreign national choose?

3. "Rational" reasons:

Senator Simpson suggested that the standard was "reasonable medical certainty that Mr. Medvid was medically, mentally and physically capable of making a rational decision" concerning asylum application. We have not adopted this test, although it has clinical appeal for some of the same reasons described under the "reasonable" outcome test. Using the assessment of "rational reasons" as a test poses considerable definitional problems. A major obstacle to the successful use of such a test is the subjective nature of any assessment. Is an action to be regarded as rational if and only if it is based on true beliefs (Hume)? This view does not allow for irrational desires that are not based upon delusions. There is no accepted definition of rational

now states that he wishes to stay in this country, U.S. officials should remove him from the custody of foreign officials, provide any additional protection that appears necessary, and begin regular asylum processing.

We see two circumstances under which a psychiatric evaluation, the second stage of our recommended procedures, would be appropriate. The first is discretionary and the second is mandatory.

1. If there is a question whether the potential asylum applicant has "evidenced a choice" or that choice is not clearly communicated.
2. If the potential asylum applicant evidences a choice that he wishes to return to his country of origin but does so in the presence of "obvious irrationality, disorientation, intoxication, suicidal behavior or preoccupation."

Under the first condition a request for a psychiatric evaluation is discretionary on the part of officials if they feel that the situation cannot be clarified by their usual practices. Such circumstances might occur when asylum seekers change their mind repetitively, when decision making becomes paralyzed, or when there is clear behavioral evidence that they wish to defect, but then changes of mind occur in an inexplicable way, or because of errors in their handling by U.S. officials. Lack of evidence of a clear choice might be seen in physically or psychiatrically disordered individuals and thus an examination may be warranted.

Second-stage: psychiatric evaluation: the competency standard.

The role of the psychiatrist at the second stage is to assess:

"Whether the person lacks substantial capacity to make an understanding and voluntary choice to return to his or her country of origin."

We recommend this standard of competency for the reasons outlined below.

Several standards for competency have been proposed in the psychiatric literature and judicial commentary 1, 2. While these proposals were introduced in the context of consent to research and treatment we feel the same standards are relevant here.

1 Appelbaum, Paul, M.D., and Roth, Loren, M.D., Competency to Consent to Research, Archives General Psychiatry, Vol 39, August 1982 PP 951-958.

2 Roth, Loren, M.D.MPH. Meisel, Alan, J.D., Lidz, Charles, Ph.D., Tests of Competency to Consent to Treatment, American Journal of Psychiatry, Vol 134, March 1977 PP 279-284.

in this context. Distinguishing rational from irrational reasons presents substantial difficulties. Even if the individual's reasons appear irrational, e.g. delusional, it is difficult to prove that the actual decision-making process has been the product of such irrationality. A delusional person may have perfectly good reasons for wishing to seek or refuse asylum. Using "rationality" is too demanding a test for determining whether a person is competent to make a decision to return home.

4. "Ability to understand":

The "ability to understand" test, meaning the ability of the individual to understand the risks, benefits, and alternatives, is probably the most consistent with the law of informed consent. Decision-making, under this test, need not be rational either in the result or the process. An individual is permitted to make choices that others might deem unwise. Nevertheless, at a minimum, the individual must manifest sufficient ability to understand information even if that information is weighed in a manner differently from other evaluators. What matters in this test is that the individual is able to comprehend the elements that are presumed to be an important part of the decision-making at hand. A person's ability to understand may be tested by asking the individual a series of questions concerning risks, benefits, and alternatives. In our opinion, this seems to be an appropriate threshold for competency in "Medvid" type situations.

5. "Actual understanding":

The test of "actual understanding" requires that the physician would have an obligation to educate the person and directly ascertain whether he or she has, in fact, understood. If not, according to this test, the individual may not have provided informed consent. Depending on how sophisticated a level of understanding is to be required, this test delineates a potentially high level of competency, one that may be difficult to achieve. Other difficulties involve problems in defining what constitutes adequate understanding. We feel that this level of understanding places too high a threshold for this situation.

In sum, we feel that the appropriate standard for competency should be the "ability to understand" those areas that would be considered relevant to the making of a choice. This would include the ability to understand the nature of an asylum request and the decision to return, the risks, and available options. This requires the knowledge that the individual has a choice to make, and that he knows who he is, where he is, and what he is doing in signing a paper, i.e. the consequences of electing to seek asylum or return home.

VII. RECOMMENDED PSYCHIATRIC EVALUATION PROCEDURES

Any psychiatric examination should take place in a protected setting, not on a foreign vessel or in a foreign diplomatic

facility. Instead, we recommend a more conventional setting where the potential asylum applicant can receive rest, refreshment, etc. Preferably the interview should not occur in the presence of any foreign officials or non-medical U.S. personnel. If diplomatic considerations require agreeing to demands for greater monitoring, ways to accomplish this include having the foreign officials in the room next door with T.V. monitors, or by conducting the interviews behind one-way screens. The asylum applicant should, of course, be informed of the nature of monitoring. It is beyond our capacity to delineate these pragmatics more specifically. The opportunity for monitoring might allay some concern about parallel rules applied to U.S. citizens in the Soviet Union or other foreign countries, but the principle of having an interview in as private a setting as possible should be followed. We recommend that the potential asylum applicant be given the option of having other people present in the protected area (e.g., permit communication with friends or relatives, permit telephone calls to home and other things which may be helpful in reaching a decision). If the potential asylum applicant indicates a wish to consult with officials from the home country, then that should be permitted. Infringement of the applicant's rights is unfair and can only bias their decision making.

We also recommend full psychiatric (see "advice" section below) and medical workup to the extent deemed medically necessary and feasible within 48 hours, including testing for drugs (urine and blood samples). Possibly other tests should be done such as an EEG or x-rays. This would be a function of medical judgment. These medical tests should be conducted with the applicant's consent, or in the absence of any objection. If the asylum applicant objects to such tests, then they should not be done, save for instances of medical emergency. Any medical emergency requires medical testing (even treatment), over objections. Should a medical emergency arise, at least two physicians should, ideally, make the decision to treat. Furthermore, we would recommend foreign physician involvement to confirm that an actual medical emergency exists. Treatment should not be done in secret. During this time period, to the maximum extent possible, foreign officials should be prevented from communicating directly with the asylum applicant so as to prevent verbal or other reminders of any previously made threats of harm to the individual, the family, etc. If the individual was threatened earlier, we cannot, of course, be sure that the threats have had no effect on the current decision. But we can prevent the person from being reminded or threatened again.

If the competence determination remains unclear, the psychiatrist should request a second psychiatric examination. The second examination should be conducted by an independent civilian psychiatrist over the next 48-72 hours. The role of the second independent psychiatrist is to confirm the presence of any of the

above conditions and to determine whether the asylum applicant meets the relevant standard and still maintains a wish to return home. Assuming these conditions are absent, and that the potential asylum applicant meets the standard for competence and voluntariness, then the psychiatric evaluation should be concluded.

At this point it should be reiterated that the psychiatrist is a consultant to the State Department or other governmental agency. The psychiatrist is not, and should not be, the ultimate decision maker regarding competence, the decision to return the potential applicant, or the length of time the individual is detained. These questions must be decided by the appropriate governmental or judicial officials. Primarily, it is not an appropriate role for a consultant. The psychiatrist will usually not be aware of all the facts or factors that are influencing the situation.

A list of independent psychiatrists willing to perform these evaluations should be developed and maintained. Preferably, they should be able to speak the person's native language. There should be an attempt to use the same psychiatrists in these cases to give them experience.

If, at the end of three days, the relevant conditions persist and/or the potential asylum applicant fails to meet the standard for competence, the situation then becomes even more complicated. If the conditions diagnosed are believed to be temporary and likely to improve shortly, (i.e. clearing intoxication etc.,) then medical information should be given to help officials decide if a longer period of observation is both medically desirable and politically feasible. If the conditions do not appear likely to clear up shortly, or the applicant refuses to give evidence by which his capacity to understand can be assessed, U.S. officials then have three difficult options to select from:

1. Continued observation, for what may be a lengthy period.
2. Treatment to restore competency.
3. Return to the applicant's country of origin; relying on the expressed wish to return, despite substantial reasons to question the individual's competence to make an understanding decision.

VIII. ADVICE TO PSYCHIATRISTS

Psychiatrists who undertake the type of assessment required in the asylum cases should be well trained, experienced clinicians, who have worked in a consultative context. They should also have substantial familiarity with the preparation of forensic reports, and with forensic principles such as competency, informed consent, and voluntariness. Such psychiatrists should ideally be civilians, although circumstances may require the initial

evaluation to be performed by a military or governmental employee. They should also have no conflicts of interest that might interfere with the ability to perform a thorough and objective examination.

The Medvid case underlines the need for psychiatrists performing such assessments to be sensitive to issues that arise from the cross-cultural context. Where possible, it is desirable that the psychiatrist be fluent in the language used by the potential asylum applicant. Misunderstandings and misreadings are more likely to occur if the psychiatrist is using an interpreter to communicate with the potential asylum applicant. Patience, caution, and repetition will aid in conquering these linguistic difficulties.

However, more subtly problematic are the strong prejudices that American psychiatrists might feel against the cultural and political values of the other country, particularly where those countries are Communist. Such feelings can inadvertently lead to assumptions that bias the psychiatric assessment. For example, once Mr. Medvid had returned to the Soviet ship, it might be assumed that he was beaten or tortured. The psychiatrist should certainly keep all eyes and ears open, remaining alert to consider the available evidence. But barring any medical or other clear evidence, it should not be concluded that Mr. Medvid was beaten. Similarly, strong positive feelings about the United States can lead psychiatrists to assert that asylum applicants want to stay in the U.S., in the absence of any supporting evidence. Psychiatrists should be aware that their feelings about America's treatment of another country, or their aggressive feelings towards that other country might complicate the assessment of a potential asylum applicant. The likelihood of having stereotypic notions about other countries and cultures is only one of the reasons that the examiner should minimize speculation in any final reports about the motivation of the potential asylum applicant or about what may have happened when there was no observation by U.S. officials.

Psychiatrists must clarify the tasks of their consultation before commencing the examination of the asylum applicant. It is necessary for the psychiatrist to explain to the asylum applicant the nature and purpose of the examination before it begins, or as soon as possible. In addition, the nature of the relationship between the psychiatrist and those who have sought the psychiatrist's services should be made explicit. Any restriction that seeks to curtail the independence of the psychiatrist should be resisted. The report should reflect the precision of the tasks and parameters of the examination, how long the asylum applicant was examined, who was present in the room, and what tests were ordered.

It is also important for psychiatrists to avoid undertaking tasks that are clearly outside medical expertise. For example, it may be indicated that someone explain the risks and benefits of defection to the potential applicant. But this should not be part of the psychiatrist's functions. On the other hand, if it is decided that such information be given to the asylum applicant, the psychiatrist should ideally be present when this is done. Being present at such a meeting facilitates the psychiatrist's efforts to assess the asylum applicant's handling of information necessary to make an understanding and voluntary choice. It is also appropriate to review with the applicant what he has been told so that his awareness and memory may be assessed.

In these cases, psychiatrists must insist that they be provided the time needed to perform a complete and thorough examination. They must also be allowed access to collateral materials and individuals who can provide useful information about the behavior and thinking of the potential applicant. The site should be conducive to carrying out a careful examination. Whenever elements that are considered necessary for the examination are not provided, the psychiatrist should specifically note this in the report. In some cases, it may be worthwhile to defer the examination or possibly to refuse participation in the process, if minimally acceptable conditions for an examination cannot be established. Psychiatrists should make an audio or audio-visual recording of the examination, if possible, since these cases are likely to generate detailed review and scrutiny. At a minimum, detailed notes should be kept.

The psychiatric examination should include the standard sections such as history of the present problem, past history, family history, and mental status. Collateral medical examinations and laboratory tests that are indicated should be performed. If the standards are not clear or more specific expertise (e.g. psychopharmacology) is needed, the psychiatrist should be willing to consult with other experts before drawing conclusions that may be erroneous.

In arriving at his conclusions regarding competence, the psychiatrist should consider several factors. Among these are:

- 1) Is a choice currently and consistently being evidenced?
- 2) If there has been a change of mind, is there an understandable explanation?
- 3) Is there an ability to understand the consequences of a decision to return to his country of origin or ask for political asylum in the U.S.?
- 4) Is there an ability to understand what political asylum means?

- 5) Is there a mental or physical disorder present that affects reasoning?
- 6) Have any drugs been administered? Has this been verified by laboratory testing? What is the effect of any drugs that have been administered?
- 7) To what known coercive pressures has the individual been subjected?
- 8) Have controllable coercive pressures been sufficiently neutralized so that a decision can be freely stated?

The data that forms the basis for the above should be clearly documented.

The psychiatrist's report should include the following clearly demarcated sections: Introduction - which identifies the person examined, the agency requesting the evaluation, and the purpose of the examination; Sources of Information and when obtained; Nature of Confidentiality; History of the Present Problem; Relevant Past History; Mental Status Examination; Competence Section- data relating to the standard; Summary of Medical and Psychological testing; Diagnostic and Forensic Formulation-opinion relating the data to the legal standard; Recommendations- which relate to the tasks of the examination.

Finally, no opinion should be given on the ultimate question of whether the defecting individual should be allowed to stay in the U.S. or sent back to another country. This remains the responsibility of the INS and the State Department.

It should be clearly recognized that these guidelines will not be applicable to every single case in quite the same way. But psychiatrists, called upon to perform these examinations in this context, will be served well by retaining a general knowledge of them. Political pressures may demand a quick examination and rapid resolution of the issues. It will require energy and concentration to stay attuned to the requirements of a sound psychiatric examination in the midst of security and political demands to take short-cuts. If there is insufficient data from which to draw a conclusion regarding competence or voluntariness, no conclusions should be drawn.

IX. CONCLUSION

A significant issue in the Medvid case was the fact that this was one of the first times that a psychiatric evaluation was formally requested to help in the determination of the competence and voluntariness of a potential asylum applicant's decision to return to the U.S.S.R. after jumping ship and being prematurely returned by U.S. officials. The infrequency of these requests has retarded the development of procedures and clearly defined standards for psychiatrists who may be asked to consult.

We have reviewed the examination performed by the physicians in an effort to learn from their experience under difficult and demanding circumstances. As a consequence of that review we have attempted to develop guidelines and to define:

1. the types of circumstances in which it is appropriate to request a psychiatric evaluation;
2. the relevant standards for voluntariness and competence of decisions to return home, made by potential asylum applicants;
3. the conditions necessary to perform an adequate psychiatric evaluation;
4. the psychiatric and medical test data that needs to be collected and recorded.

We hope that the information provided in this report will help to create a set of procedures and standards that encourage effective psychiatric evaluations, which will provide useful information to the INS and State Department, as they make these difficult decisions.

We anticipate that these principles will be further refined and expanded as more experience and thought is brought to bear on this delicate matter, which has such enormous consequences for a person's life.

APPENDIX C: OTHER REFERENCED MATERIALS

1. *Medvid v. New Orleans Police Department*, (Civil Action No. 85-5065, November 6, 1985, EDLA), court transcript.

2. *Review of INS Procedures and Policy*, Report of Andrew J. Carmichael, Jr., Director, Special Task Force to Alan C. Nelson, Commissioner, INS.

3. *The Attempted Defection of Miroslav Medvid*, Hearings before the Subcommittee on Immigration and Refugee Policy of the Committee on the Judiciary, United States Senate, Ninety-ninth Congress, Second Session on "The Issues of Asylum Procedures for Eastern Bloc Defectors," February 5 and March 7, 1986, Serial NO. J-99-81, printed for the use of the Committee on the Judiciary, S.Hrg. 99-634.

4. *The Case of Miroslav Medvid*, Hearing and Markup before the Committee on Foreign Affairs and its Subcommittee on Europe and the Middle East, House of Representatives, Ninety-ninth Congress, Second Session on H.Res.314, November 7, 1985, printed for the use of the Committee on Foreign Affairs.

5. *The Miroslav Medvid Incident*, Report prepared by the Subcommittee on Immigration and Refugee Policy for the use of the Committee on the Judiciary, United States Senate, July 1986, printed for the use of the Committee on the Judiciary, S.Prt. 99-179.

6. *Examination of the Soviet Vessel "Marshal Konev" and Agricultural Commodities Relating to Grain Purchases*, Hearing before the Committee on Agriculture, Nutrition and Forestry, United States Senate, Ninety-Ninth Congress, First Session, November 12, 1985, printed for the use of the Committee on Agriculture, Nutrition and Forestry, S.Hrg. 99-447.

7. *Political Asylum Procedures for Alien Crewmen*, Hearings before the Subcommittee on Immigration and Refugee Policy of the Committee on the Judiciary, United States Senate, Ninety-Ninth Congress, First Session on "Political Asylum Procedures for Alien Crewmen and How They Were Applied to a Soviet Seaman, Miroslav Medvid," November 5 and 7, 1985, Serial No. J-99-68, printed for use of the Committee on the Judiciary, S.Hrg. 99-541.