

DECLASSIFIED  
Authority: E.O. 13526

STUDY - DETERMINATION UNDER THE MISSING PERSONS ACT (LESS APPENDECES)

STUDY - 6

STUDY  
DETERMINATIONS UNDER  
THE  
MISSING PERSONS ACT  
( LESS APPEDECES )

STUDY - 6

26 MAR 1958

WAR-R 314

MEMORANDUM THRU: Chief, Recovered Personnel Records Branch  
Operations Officer, Recovered Personnel Records Branch  
Deputy Commander, USARGEN

FOR: CO, USARGEN

SUBJECT: Determinations Under the Missing Persons Act

1. **PROBLEM.**--To determine the proper action to be taken in reporting information from the records of Philippine Army personnel to various Government agencies where status under the Missing Persons Act is involved, and the action to be taken in connection with appeals.

2. **REFERENCES.**--

- a. Missing Persons Act, WD Circular 305, 18 Jul 44 (Incl 7, Tab R, Annex 1)
- b. WD Plan for Casualty Administration Upon Reoccupation of the Philippines (Incl 2, Tab R, Annex 1)
- c. Staff Memorandum 14, 27 Dec 45 (Incl 3, Tab R, Annex 1)
- d. War Claims Act of 1948, PL 80-896 with amendments (Tab Z, Annex 3)
- e. Letter 31 Oct 47 from Adj Gen, Hqs, PHILRYCOM to Manager, USVA, MRO Re Activities of AGO, PHILRYCOM in Connection with Certifications of Philippine Commonwealth Army Service to USVA (Tab W, Annex 1)
- f. Letter 17 Jun 48 from Adj Gen, Hqs, PHILRYCOM to TAG, Wash D. C. Re Philippine Commonwealth Army Service (Tab V, Annex 1)
- g. Notes on VA-Army Conference of 6 and 7 Oct 48 (Tab U, Annex 1)
- h. Letter 3 Nov 48 Re Agreements Reached at Joint VA-Army Conference of 28 Oct 48 (Tab T, Annex 1)

- i. Memo 13 Nov 48 from AG, PHILCOM to AGRD Re Responsibilities of AGRD (Tab S, Annex 1)
- j. Letter 7 Dec 48 from Hqs, PHILCOM to TAG, Wash D. C. with 3 Encls and 11 Incl Re Certifications of Service to USVA, MRO (Tab R, Annex 1)
- k. Letter 13 Dec 48 from AGRD, PHILCOM Re Agreements Reached at VA-Army Conference of 6 Oct 48 (Tab Q, Annex 1)
- l. VA Technical Bulletin S-106, 6 Jun 49 (Tab P, Annex 1)
- m. Letter 14 Mar 49 from Manager, USVA, MRO to CG, AGRD Re Title II, PL 346 VA Cases (Tab C, Annex 2)
- n. Notes on VA-Army Conference of 10 Jun 49 (Tab E, Annex 2)
- o. Letter 17 Jun 49 from USVA, MRO to Director, S & C Div, AGRD and Reply 21 Jun 49 Re Agreements Reached at VA-Army Conference of 16 Jun 49 (Tab D, Annex 2)
- p. Letter 2 Aug 49 with Incl from Dir, S & C Div, AGRD to Manager, USVA, MRO Re Review of Certification Procedures (Tab O, Annex 1)
- q. Letter 20 Oct 49 from Adj Off, USVA, MRO to Dir, S & C Div, AGRD and Reply 25 Oct 49 Re Adjudication Criteria Involving Service Certifications (Tab N, Annex 1)
- r. TRX 26 Oct 49 from AGRD to CG, PHILCOM Re Authentication of Certifications to USVA (Tab M, Annex 1)
- s. AGRD Memo 1 Nov 49, Subj: Certification of Service Data to USVA, MRO (Tab L, Annex 1)
- t. Letter 13 Mar 50 from CG, AGRD to Manager, USVA, MRO Re VA-Army Conference of 22 Jun 50 (Tab K, Annex 1)
- u. Revocation of Determination of Status of Individual Under MPA (Tab J, Annex 1)

- v. Letter 23 May 50 from CO, AGREED to Dir, Philippine Operations, WCC Re Estimate of Claims Anticipated Under PL 80-896 (Tab Y, Annex 3)
- w. Memo Re VA-Army Conference of 21 Jun 50 (Tab I, Annex 1)
- x. Notes on VA-Army Conference of 13 Nov 50 (Tab H, Annex 1)
- y. Policy on Reopening Status Determinations Made Under Liberal Interpretation of MPA for USVA Purposes (Tab A, Annex 2)
- z. Instructions on Preparation of Supplemental Army Info Form to USVA, MRO on Philippine Scouts (Tab B, Annex 2)
- aa. DF 20 Jul 51 with Incl from Chief, Veterans Br, AGREED to CO, AGREED Re Answers to Questions of Philippine National Red Cross (Tab F, Annex 1)
- bb. Special Review Project, Philippine Army and Guerrilla Cases (Tab G, Annex 1)
- cc. VA Technical Bulletin 8-198, 3 Dec 51 (Tab E, Annex 1)
- dd. Policy Changes in Handling Cases Regarding Filipino Veterans (Tab D, Annex 1)
- ee. Notes on WCC-Army Conference of 27 Jun 50 (Tab X, Annex 3)
- ff. Letter 1 Aug 50 from CO, AGREED to Commissioner, WCC, Wash Re Availability of Various Card Files in AGREED for Use in WCC Adjudications (Tab W, Annex 3)
- gg. Letter 1 Aug 50 from CO, AGREED to Dept of Army VA Liaison Officer, Wash Re Non-Use of MPA Determinations by WCC (Tab V, Annex 3)
- hh. Notes on WCC-Army Conference of 11 Jan 51 (Tab U, Annex 3)
- ii. WCC Letter 16 Jan 51 Re Processing and Adjudication of WCC Claims (Tab T, Annex 3)
- jj. Letter 17 Jan 51 from Chairman, WCC to The Secretary of the Army Re WCC Plans for Processing and Adjudicating Claims Under PL 80-896 (Tab S, Annex 3)

- kk. Letter 7 Feb 51 from CO, AGRD to Dir, Philippine Operations, WCC Re Status of 500 Test Applications for Ex-Prisoner of War Benefits (Tab R, Annex 3)
- ll. Letter 27 Feb 51 from CO, AGRD to Dir, Philippine Operations, WCC Re Statistics on 500 Test Applications for Ex-Prisoner of War Benefits (Tab Q, Annex 3)
- mm. WCC Memo No. 76, 8 Jun 51 Re Data in Adjudication of Philippine Claims (Tab P, Annex 3)
- nn. DF 12 Jun 51 from Dir, S & C Div, AGRD to Exec Off, AGRD Re Policies and Procedures for Adjudicating Filipino Claims (Tab O, Annex 3)
- oo. Memo 24 Oct 51 from Liaison Officer, WCC to Mr. McCool Re Facts Relative to Furnishing Pertinent Data by AGRD to WCC (Tab N, Annex 3)
- pp. Letter 25 Apr 52 from The Secretary of The Army to Chairman, WCC Re Dept of Army Furnishing Service Data to WCC on Nonreimbursable Basis (Tab M, Annex 3)
- qq. AGRD Adjudication Policy, WCC, 25 Nov 52 (Annex 5)
- rr. MPWC Adjudication Policy, WCC, 31 Aug 53 (Annex 6)
- ss. Letter (Undated) from CO, AGRD to Dir, Philippine Operations, WCC Re Proposed Application Form for Benefits Under PL 60-896 (Tab L, Annex 3)
- tt. DF 3 Sep 53 from CO, MPWC to Chief, Compt Div, TAGO with Incl Re Certification of Military Service of Philippine Army Personnel to USVA (Tab C, Annex 1)
- uu. Letter 12 Oct 53 from CO, MPWC to WCC Re Termination Dates of Prisoner of War Camps in Philippines (Tab K, Annex 3)
- vv. DF 4 Feb 54 from Chief, Compt Div, TAGO to CO, MPWC with Comment 2 Re Processing of WCC Appeal Cases (Tab J, Annex 3)

- ww. Policy on reporting death information to USVA (Tab X, Annex 1)
- xx. Examples of claimant affidavit forms (MPRC Forms 1-648, 1-648a, 1-649, 1-649a) (Tab Y, Annex 1)
- yy. DF 4 Oct 54 from CO, MPRC to Chief, Admin Svc Div, TAGO Re Policy to Review POW Certifications on Philippine Personnel (Tab I, Annex 3)
- zz. Letter 19 Oct 55 from TAG, Wash D. C. and DF 27 Sep 55 from Chief, Pers Svc Br, TAGO to CO, MPRC with Comment 2 Re Conflicting Information Between MPA Determinations and WGC Certifications (Tab H, Annex 3)
- aaa. DF 21 Sep 55 from CO, MPRC to Chief, Admin Svc Div, TAGO with 3 Comments Re Requests from FGSC for Reexamination of Claims for POW Benefits (Tab G, Annex 3)
- bbb. DF 15 Dec 55 from CO, MPRC to Chief, Compt Div, TAGO with Comment 2 Re Notifications to FGSC When No Provision for Payment of Claims Exists (Tab F, Annex 3)
- ccc. VA Letter (Undated) Re Need for Documentary Evidence (Tab B, Annex 1)
- ddd. DF 5 Jun 56 from Chief, Compt Div, TAGO to CO, ARGEN and Comment 2 Re Recertification of Claims Considered Under Sec 6 of War Claims Act of 1948 (Tab E, Annex 3)
- eee. TWX 16 Jul 56 from Chief, Compt Div, TAGO to CO, ARGEN Requesting Number of Redeterminations Made to USVA Since 31 Mar 55 Affecting POW Status (Tab C, Annex 3)
- fff. TELECON 17 Jul 56 Re Notifications to FGSC of Redeterminations Made to UEVA Affecting Prior WGC Certifications Since 31 Mar 55 (Tab D, Annex 3)
- ggg. TWX 17 Jul 56 from CO, ARGEN to Chief, Compt Div, TAGO Re Number of Redeterminations Made to USVA Since 31 Mar 55 Affecting Prior POW Certifications Made to FGSC (Tab B, Annex 3)

- hhh. DF 23 Jul 56 from Chief, Compt Div, TAGO to CO, ARGEN with 2 Incl Re Notification to FGSC Where Redeterminations Are Made Affecting POW Status (Tab A, Annex 3)
- iii. Draft of Proposed State Dept Reply to the Philippine Economic Mission Claim - "Case of the Philippine Army Veteran" (Annex 4)
- jjj. Letter 7 Feb 58 from CO, USARGEN to Manager, USVA, MRO Re Change in Procedure of Certifying Status Under MPA on Philippine Army Veterans (Tab A, Annex 1)

3. GENERAL.--The general problem for study concerns the proper action to be taken in reporting information to various Government agencies from the records of Philippine personnel involving casualty status under the Missing Persons Act. The two Government agencies of primary concern are the Veterans Administration and the Foreign Claims Settlement Commission (formerly the War Claims Commission). All background data included in this report has been obtained from the policy and history files in the Recovered Personnel Records Branch. In order to objectively consider all facts and the basis for various actions, the Philippine program is discussed in three separate phases. They are (a) the initial phase of recovery of personnel and accomplishment of determinations of casualty status under the Missing Persons Act, (b) the Veterans Administration program, and (c) the War Claims Commission program.

#### 4. FACTS BEARING ON THE PROBLEM.--

##### a. Initial Phase.

(1) From its inception, the administration of affairs of Army of the United States Personnel, including Philippine Scouts and War Department civilian employees, were separated from those of the Philippine Army personnel. Reference: Section VII, War Department Plan for Casualty Administration Upon Reoccupation of the Philippines (Incl 2, Tab B, Annex 1).

(2) The Recovered Personnel Division was organized in January 1945 from a Section of G-1, AFPAC. Its mission at that time was processing of recovered Army of the United States, Philippine Scouts and War Department Civilian Employee personnel; the renovation and segregation of these records; and the administration of the Missing Persons Act as it pertained to these three types of personnel (Paragraph 2, Tab V, Annex 1 and Paragraphs 3 and 4, Tab A, Annex 4). On 5 November 1945, the Recovered Personnel Division was transferred from AFPAC to AFRES-PAC (subsequently to PHILRYCOM and then PHILCOM). Prior to 5 November 1945, all records which were secured as a result of the liberation of prisoner of war camps, or by other means, which pertained to the Philippine Army



were transferred to the Philippine Army Headquarters in the same manner that records pertaining to Naval personnel were transferred to the United States Navy, and records of foreign nationals were transferred to Liaison officers of their governments, etc. (Paragraph 3, Tab V and Tab W, Annex 1).

(3) Prior to November 1945, only one branch of the Recovered Personnel Division was in any way concerned with the Philippine Army. The Finance Branch was assigned the task of auditing Philippine Army accounts for arrears in pay as prepared by the Philippine Army and submitted for approval of the Commanding General, USAFFE, which was in accordance with Paragraph 4, Section VII, War Department Plan (Paragraph 4, Tab V, Annex 1).

(4) Up to November 1945 the Philippine Army made very little progress in preparing and submitting accounts for arrears in pay. Therefore, on 25 November 1945, the Recovered Personnel Division was assigned the responsibility for all matters pertaining to arrears in pay for the Philippine Army. Existing 201 files in the Philippine Army Headquarters, containing papers relating to service prior to and including the date of return to military control, were secured from the Philippine Army Headquarters (Paragraph 5, Tab V, Annex 1 and Paragraph 4, Tab A, Annex 4).

(5) In administering the Missing Persons Act, the Recovered Personnel Division was responsible for developing individual service records of members of the Philippine Scouts, Philippine Commonwealth Army and Recognized Guerrilla organizations during the period 8 December 1941 until date of return to military control, including ranks and grades held, periods during which an individual was entitled to pay under the Missing Persons Act and actual, presumed or determined dates of death (Paragraph 3, Letter 7 December 1948, Tab R, and Paragraph 6, Tab V, Annex 1). Such service histories were accomplished in the form of determinations under the Missing Persons Act, PL 77-490, as amended (Inclosure 7, Tab R, Annex 1), implemented by the War Department Plan for Casualty Administration Upon Reoccupation of the Philippines (Inclosure 2, Tab R, Annex 1).

(6) In the beginning of the work of the Recovered Personnel Division, the Missing Persons Act was interpreted as providing benefits to military and civilian personnel for the entire period of the Japanese occupation regardless of their activities during that period, provided those activities did not constitute abandonment of loyalty to the United States Government (Paragraph 8a, Letter 7 December 1948, Tab R, Annex 1). In December 1945 it was brought to the attention of the Recovered Personnel Division that this interpretation of the Act was not in conformity with the provisions of Paragraph 16, Section IV of the War Department Plan. The so-called "Restraint Policy" then came into effect with the publication of Staff Memorandum 14, Headquarters, AFWESPAC,

27 December 1945 (Inlosure 3, Tab R, Annex 1). Under this policy an individual was determined not entitled to pay for the period subsequent to termination or suspension of official military or employment status by enemy occupation which did not deprive him of reasonable freedom of action and opportunity of livelihood and did not cause him or his dependents to suffer serious deprivation by reason of his former official status (Paragraph 8b, Letter 7 December 1948, Tab R, Annex 1).

(7) Prior to 30 June 1948 the primary mission of the Philippines Command was the establishment of individual service histories upon which settlement of arrears in pay could be made (Paragraph 5, Letter 7 December 1948, Tab R, Annex 1). During the arrears in pay program it was the procedure of the Recovered Personnel Division to accept affidavits and like evidence at face value for making status determinations under the Missing Persons Act (Page 4, Tab F, Annex 1). This was done because the law specified a time limit within which payments had to be concluded (by 30 June 1948). Using this procedure enabled the Recovered Personnel Division to complete the arrears in pay program within the allotted time; however, redeterminations for arrears in pay were undertaken up to 31 December 1949. Subsequent to that date no cases were adjudicated or redetermined for arrears in pay because the authority to take such action was withdrawn and the unobligated portion of the appropriations from which such arrears in pay were payable reverted to the United States Treasury.

b. Background (Veterans Administration Program).

(1) Prior to 30 June 1948 the mission of certifying service information to the Veterans Administration was of secondary importance. After 1 July 1948 this became the principal function of the Adjutant General Records Depository (the successor unit of the Recovered Personnel Division) (Paragraph 1d, Tab 3, Annex 1). In the beginning of the Veterans Administration program the same procedures used by the Recovered Personnel Division were used by the Adjutant General Records Depository. The Missing Persons Act determinations were used in providing the basis for certifications of service to the Veterans Administration (Paragraphs 4 and 5, Letter 7 December 1948, Tab R, Annex 1). After a time it became evident that many of the determinations made under the Missing Persons Act for pay purposes were erroneous because the affidavits used contained false statements and misrepresentations of facts (Paragraphs 11, 22, 23, 24 and 25, Tab A, Annex 4). These irregularities were found after verification from official records and historical data available to the Adjutant General Records Depository. Under those circumstances the procedures were changed to do justice to the meritorious cases and to protect the interests of the government. It was deemed necessary to reexamine those cases which were favorably certified to the Veterans Administration based on affidavits alone to determine whether the evidence was sufficient. After reexamination, many cases which had previously been approved for arrears in pay and

Veterans Administration benefits were denied. The denials were based mainly on insufficiency of evidence to establish membership in the military service or a positive finding that no military service was rendered (Pages 4 and 5, Tab F, Annex 1). In such instances a redetermination was made under the Missing Persons Act revoking the prior determinations (Tab J, Annex 1).

(2) Early in the Philippine Program the Veterans Administration began experiencing difficulty in determining benefits under their laws and regulations based on the copies of the Missing Persons Act determinations which were furnished to them by the Adjutant General Records Depository (Paragraphs If and g, Tab S, Annex 1). The Veterans Administration attempted to resolve their problems with the Adjutant General Records Depository. The Veterans Administration maintained that they could not determine a veteran's benefits under their laws and regulations based on copies of the Missing Persons Act determinations (Paragraph 6, Letter 7 December 1948, Tab R, Annex 1). The Adjutant General Records Depository took the stand that since the arrears in pay program was closed no benefit could be derived by the Army to effect redeterminations of status under the Missing Persons Act merely to conform to Veterans Administration laws and regulations. The Veterans Administration did not expect a redetermination of cases but rather a new determination under their laws and precedents and completely separate and apart from the former determinations made under the Missing Persons Act. It was realized by the Adjutant General Records Depository that because the Veterans Administration criteria were more stringent than the Missing Persons Act, entitlement to veterans benefits would be considerably less than would be possible if the Veterans Administration also used the provisions of the Missing Persons Act for their adjudications. It was also realized that many claimants, upon reduction of their basic entitlement, would appeal the determinations made under the more stringent criteria. Consequently, since the Army made the determinations for Veterans Administration purposes, it would be bound to accept the appeals and the corresponding increase in workload connected with them (Paragraph 11, Letter 7 December 1948, Tab R, Annex 1). These differences could not be resolved by the two local agencies and a conference was arranged in the Pentagon in August 1948 between the Army and the Veterans Administration in an attempt to develop procedures acceptable to both sides and set up the machinery for mass processing Veterans Administration claims. This conference was held in Washington on 11 August 1948 (Inclosure 5, Tab R, Annex 1). It was explained by the Veterans Administration at the conference that Missing Persons Act determinations would not be acceptable for adjudicating Veterans Administration claims. It was agreed that the Army (Adjutant General Records Depository) would furnish certifications of service information in such a manner that the Veterans Administration could adjudicate its claims under the laws it was responsible for administering (Tabs E, H, O and P, Annex 1 and Inclosure 4, Tab R, Annex 1).

(3) After the Washington conference on 11 August 1948, additional conferences were held between representatives of the Adjutant General Records Depository and the Manila Veterans Administration Regional Office. One of these conferences was held on 6 and 7 October 1948 (Memo 3 Nov 48, Tab Q, Annex 1, and Tab U, Annex 1). At this conference the procedures for furnishing copies of medical data to the Veterans Administration were formulated. A proposed form for consolidating service information for Veterans Administration purposes was approved by the Manila Regional Office (Paragraph 13, Tab U, Annex 1). It was agreed that in cases where an individual was determined to be an unrecognized guerrilla or was determined to have no military service because of insufficient evidence to indicate that the individual was in the service of the Commonwealth Army, that the following statement would be placed on the VA Form 3101: "Subject individual had no recognized guerrilla service and was not a member of the Commonwealth Army while in the service of the Armed Forces of the United States" (Paragraph 14, Tab U, Annex 1). It was also decided that a statement would be necessary on the VA Form 3101 where a redetermination was made. It was agreed that a rubber stamp would be used and that it would read substantially as follows: "This determination constitutes a redetermination in this case. Such case was redetermined on (Date) and supersedes all determinations previously submitted" (Paragraph 15, Tab U, Annex 1). These statements adopted as a result of this conference are still being used in the Recovered Personnel Records Branch with slight modifications. Negative cases are now certified to the Veterans Administration with the statement: "Subject individual has no recognized guerrilla service, nor was he a member of the Philippine Commonwealth Army in the service of the Armed Forces of the United States." If a prior certification has been made to the Veterans Administration and current policies or additional evidence require a redetermination, the following remark is typed on the VA Form 3101: "This redetermination dated (Date) supersedes all previous determinations."

(4) Despite these conferences some difficulties arose which were irreconcilable by the Adjutant General Records Depository and the Manila Veterans Administration Regional Office because of the basic differences in the Missing Persons Act used by the Army and the laws and precedents used by the Veterans Administration (Letter 13 Dec 48, Tab Q, Annex 1 and Paragraph IJ, Tab S, Annex 1). A letter was written from Headquarters, Philippines Command to The Adjutant General, Washington, D. C. on 7 December 1948 (Tab R, Annex 1). This letter contains a history of the entire Philippine program up to that date with copies of the directives governing the Army and the Veterans Administration. As a result of this letter, a conference was held between high officials of the Veterans Administration and representatives of the Department of the Army on 6 January 1949 in Washington. The results of this conference are contained in the 1st Indorsement dated 19 January 1949 to letter of 7 December 1948 (Tab R, Annex 1). Additional conferences were held between representatives of the Veterans Administration and the Philippines

Command on 28 January 1949 and 21 February 1949 (Inclosures 9 and 10, Tab R, Annex 1). Even after this series of conferences some difficulties still existed between the Adjutant General Records Depository and the Manila Veterans Administration Regional Office. Additional conferences and correspondence between the two local offices resolved some of these differences and the Adjudication Policy for certifying service information to the Veterans Administration was amended from time to time as the various problems were settled (See Memorandum for Certifying Service Data to USVA, MRO, 1 November 1949, Tab L, Annex 1 and Tabs I, K and N, Annex 1).

(5) In February 1950 the Adjutant General Records Depository started a special review project, later referred to as the "Redetermination Program." All cases that had previously been certified to the Veterans Administration based on affidavits alone were reconsidered. Based on the current adjudication policy for handling cases of Filipino veterans, many cases which had been previously determined positive for arrears in pay and certified positive to the Veterans Administration were denied. Such denials were not necessarily based on positive proof that an individual did not have service, but rather there was insufficient evidence or proof of such service (Tab G, Annex 1).

(6) The current adjudication policy being used by the Recovered Personnel Records Branch is a continuation of the policy used by the Adjutant General Records Depository which was developed as a result of the many conferences and voluminous correspondence between Army and Veterans Administration representatives. It provides for the certification of Philippine Army service information to the Veterans Administration independent of the Missing Persons Act determinations. Since the arrears in pay program for Philippine Commonwealth Army personnel terminated on 31 December 1949, redeterminations of status under the Missing Persons Act were not made in those cases wherein the service certification for Veterans Administration purposes was in conflict with the determinations made under the Act for pay purposes. This policy for handling cases regarding Filipino veterans was subsequently concurred in by Chief, Comptroller Division and Chief, Administrative Services Division, TAGO (Tabs C and D, Annex 1).

(7) Many original VA 3101 service requests are currently being received on individuals whose claim files contain a positive Missing Persons Act determination made for arrears in pay purposes. The available information is insufficient to prove that these prior determinations are erroneous in many cases, but is also insufficient to establish service under the current adjudication policy. Such cases have heretofore been certified as negative to the Veterans Administration, notwithstanding a prior positive Missing Persons Act determination. If this Branch is to adopt a policy to consider such Missing Persons Act determinations as correct unless positive proof exists that the Missing Persons Act determination is erroneous, some of the old problems will be revised which existed in the beginning of the program, since all active

duty periods certified to the Veterans Administration must be substantiated by copies of supporting evidence. Such evidence would be lacking in many instances, i.e., periods of missing status accorded for alleged illness, unrecognized guerrilla activities, prisoner of war periods beyond 29 January 1943, etc.

(8) Additional problems arose as the result of the Veterans Administration extending entitlement to education and training benefits to living Philippine Scout veterans. In order to determine the amount of training for which such personnel could be approved, the Veterans Administration informed Adjutant General Records Depository that it would be necessary that additional information to define "active duty" periods be furnished the Veterans Administration (Tab G, Annex 2). As a result of this letter (subsequently referred to as General Lovett's letter of 14 March 1949), Adjutant General Records Depository proposed a form for the purpose of furnishing supplemental information to the Veterans Administration explaining in detail how a determination of service was made in a case. On 10 June 1949 a conference was held at the Manila Veterans Administration Regional Office between representatives of the Manila Veterans Administration Regional Office, Adjutant General Records Depository, and the Records Administration Center, St. Louis (Tab E, Annex 2). This conference concerned a proposed transfer of Project "J" records and functions from Adjutant General Records Depository to Records Administration Center, St. Louis. With the transfer of those records and functions to Records Administration Center, St. Louis which commenced in November 1949, the function of certifying service information to the Veterans Administration on Project "J" personnel, particularly Philippine Scouts, commenced in Records Administration Center, St. Louis on or about December 1949. The procedures developed by Adjutant General Records Depository in processing such cases were continued by Records Administration Center. A comparable form, as used by Adjutant General Records Depository, for the purpose of certifying service information in Title II, PL 346 Veterans Administration requests (educational benefits) was developed. The information furnished on this particular form was considered to be only supplemental information pertaining to the military service of an individual. It was furnished to the Veterans Administration in order that all information regarding an individual's service would be available to the Veterans Administration for their use in determining eligibility for benefits under Veterans Administration laws and policies. Such information was not considered an Official Department of the Army redetermination of status under the Missing Persons Act (Tab E, Annex 2). In the cases of Melanio Bilbao and Silvestre Bugayong, referred to in Memorandum for Colonel Gould from CG, USARVN of 19 December 1957, the service information furnished to the Veterans Administration was in accordance with the procedures and criteria developed through the Army-VA conferences for certifying such information.

(a) In the case of Melanio Bilbao, 10 301 791, the Veterans Administration was furnished a copy of the Redetermination of Casualty Status under the Missing Persons Act dated 15 March 1946, which held that subject was missing in action from 9 April 1942 to 15 August 1942 and not in a casualty status within the meaning of Section 2 of the Act as defined by Staff Memo 14, 27 December 1945, from 16 August 1942 to 4 March 1945. This Missing Persons Act determination was insufficient for Veterans Administration purposes. On 8 August 1949 the Veterans Administration submitted a request for all information in accordance with General Lovett's letter of 14 March 1949 (Tab G, Annex 2). Such information was furnished to the Veterans Administration on 29 November 1949 as Supplemental Army Information without an official redetermination of status under the Missing Persons Act, and was understood as such by the Veterans Administration. It was considered a report of the subject's active duty periods and periods he was considered not under military control (not USC). This information was strictly for use by the Veterans Administration in adjudicating the benefits of the subject under Veterans Administration laws and regulations. It should be noted that this report of supplemental information gave the individual a shorter period of active duty than did the Missing Persons Act determination. A redetermination of status under the Act could not be made merely to establish the service creditable for Veterans Administration purposes. The subject was informed on 9 January 1956 that official records showed that he was missing in action from 9 April 1942 to 15 August 1942, which was in accordance with the determination under the Act of 15 March 1946. It was up to the Veterans Administration to determine his eligibility for VA benefits based on the information furnished to them on 29 November 1949. Subsequently a redetermination of his status under the Act was made on 9 January 1957 extending his period of missing in action status to 1 September 1942 based on a San Lazaro Hospital clinical record. Subject was informed of the redetermination under the Act on 18 January 1957 and the Veterans Administration was so informed in a supplemental report on 24 January 1957. The Veterans Administration was furnished the clinical record to substantiate the fact that the Army extended the missing in action period.

(b) In the case of Silvestre Bugayong, 10 301 436, the Veterans Administration was likewise furnished a copy of the Redetermination of Status under the Missing Persons Act dated 12 January 1946, which held that the subject was a prisoner of war from 9 April 1942 to 28 July 1942; missing in action from 29 July 1942 to 15 December 1942; not in a casualty status from 16 December 1942 to 16 August 1944; and missing in action from 17 August 1944 to 4 March 1945. As in the case of Bilbao, this Missing Persons Act determination was insufficient for Veterans Administration purposes. On 23 March 1949 the Veterans Administration requested all information in accordance with General Lovett's letter of 14 March 1949. As in the case of Bilbao it was furnished as a supplement to the Missing Persons Act determination without an official redetermination under the Act. While the Missing Persons Act



determination was sufficient for Army purposes for settlement of arrears in pay, it was not sufficient for the Veterans Administration to adjudicate VA benefits. No official redetermination under the Missing Persons Act was made by the Army.

(c) The procedures followed in the foregoing cases of Melanio Bilbao and Silvestre Bugayong were established as a result of The Adjutant General's decision dated 1 March 1948 in the case of Teodorico Jason, R-314 641, which was reiterated by the Chief, Personnel Actions Branch in Comment No. 3, 17 August 1950 (Tab A, Annex 2). The information contained in Comment No. 3, 17 August 1950 was the basis for statements made to the Veterans Administration as in the case of Melanio Bilbao that the information that he was not under military control from 9 April 1942 to 4 March 1945, was furnished in order that all information regarding his service would be available to the Veterans Administration for use in determining eligibility for benefits under VA laws and policies, and that it was not an official Department of the Army redetermination of status.

(d) Requests from the Veterans Administration for service certifications for determination of entitlement to benefits under Title II, PL 246 are no longer received, since the program was for World War II veterans and is now closed.

(9) Another problem which developed with the Veterans Administration was the furnishing of additional death data. This problem was brought up by the Veterans Administration in February 1954 and concerned the procedure followed by the Military Personnel Records Center in considering the date a determination or finding of death was made to be the date on which the Veterans Administration case was processed by MPRC. These cases usually pertained to individuals who died early in World War II, but the records data on which the determinations or findings of death were made was in many cases on file as early as 1945. Under the provisions of Public Law 89-419, if an individual eligible for Veterans Administration benefits files claim within one year after a determination or finding of death is made, he is entitled to benefits retroactive to the day following the date of death (See Tab X-7, Annex 1). Under that Act and the existing procedure followed by MPRC, the Veterans Administration was required to pay retroactive benefits for ten to twelve years. This was not considered the intent of the Missing Persons Act. After a series of conferences between the Veterans Administration and the Army a new procedure was adopted which was declared legally supportable in an opinion rendered by The Judge Advocate General (JAGA 1953/9503) (Tab X-6, Annex 1).

(a) Although this new procedure was clear in its meaning involving guerrilla personnel, it did not clearly define the action to be taken in a Philippine Army USAFFE case. On 1 February 1954 The Acting Secretary of the Army advised the Administrator of Veterans Affairs that after a thorough study of the matter by the Department of



the Army it was decided that in all future Veterans Administration cases, the date of determination of death would be that date when the casualty roster bearing the individual's name was finalized and authenticated and that the date on which the finding of death was made would be the date on which evidence necessary to support such finding was on file and of official record in the Headquarters of the activity involved, notwithstanding the fact that the occasion to transmit the determination or finding of death to the Veterans Administration or other agency did not arise until a later date (Tab X-5, Annex 1).

(b) In response to a Veterans Administration proposal to amend their regulation to establish 30 June 1948 as the latest date a determination or presumption of death could be made in cases involving guerrilla service (except for Philippine Scouts and AUS personnel), The Adjutant General advised the Veterans Administration on 26 May 1954 that the Department of the Army took exception to the use of that date since there could conceivably occur a case in which the date a determination or presumption of death was made subsequent to 30 June 1948 (Tab X-4, Annex 1).

(c) The new procedure for certifying the date a determination or presumption of death was made became fully effective on 1 March 1954. As a result of this procedural change, several hundred supplemental requests were received from the Veterans Administration acknowledging receipt of prior reports in the cases involved and requesting the earliest date a determination or finding of death was made phrased in a variety of ways. Many of these requests implied that two different dates were expected in the Army's reply, i.e., the earliest date determination of death was made and the earliest date of evidence on file which would have supported same. On the basis of the implication contained in these requests, MPRC began reporting two dates - one date as the date of determination or finding of death, and an earlier date as the date of receipt of evidence. On 8 July 1955 the Assistant Administrator for Administration, Veterans Administration Central Office, brought up the point in a letter to the VA Liaison Officer, MPRC, that this practice was a deviation from the original agreement. A conference was held at MPRC on 25 July 1955 to discuss the problem. It was suggested by representatives of MPRC that future Veterans Administration requests be worded in the following or similar language:

"Please furnish a certification of the earliest date of determination or finding of death, taking into consideration the earliest date of receipt of evidence adequate to make such a determination or finding of death."

In reply to such a request, MPRC agreed to phrase replies in the following language:

"Earliest date of determination (or finding) of death is \_\_\_\_\_, which is the earliest date a determination or finding was

made, or the earliest date when evidence adequate to support such certification of death was received by this Department."

It was necessary for MPRC to include the clause ".....which is the earliest date a determination or finding was made....." because some current certifications were based on earlier determinations or findings, which in turn were founded on evidence no longer available (Tab X-3, Annex 1).

(d) In a letter of 24 October 1955 from the Veterans Administration Central Office to the VA Liaison Officer, MPRC the above-mentioned phrasing was considered satisfactory if the word "presumption" were substituted for the word "finding" (Tab X-2, Annex 1). This proposal was accepted by MPRC and these paragraphs were subsequently published in the RFR Branch Standing Operating Procedures of 2 November 1955 (Tab X-1, Annex 1).

(e) In adopting the procedure of taking into consideration all types of available evidence to determine if they were adequate to make a determination or presumption of death, and the date such evidence was received by Recovered Personnel Division or its successor units, has created the situation where in many cases, the date being furnished to the Veterans Administration as the date such determination or presumption was made is different from the date shown in the Missing Persons Act determination. This particular problem is the subject of another study being made for the CG, USARCEN by a representative of Review and Analysis Branch, Comptroller's Office, DDMPRC.

(10) The problem of the 14th Infantry (Philippine Army). The 14th Infantry (Philippine Army) was a unit composed of stragglers from various elements of the U. S. Armed Forces in the Far East who became isolated in northern Luzon by the Japanese seizure of lines of communication during the early stages of the invasion of the Philippine Islands. After the surrender of the U. S. Forces in the Philippines by General Wainwright on 6 May 1942, some elements of this unit refused to surrender and continued in existence, maintaining radio contact with General MacArthur's headquarters in Australia. In a radiogram from General MacArthur's headquarters dated 12 July 1942, Lt. Colonel Makar, at that time commanding the 14th Infantry, was authorized to induct certain members of his organization into the Army of the United States. Blocks of 1,000 enlisted men and 100 officer serial numbers were allotted. Makar subsequently informed General MacArthur that he had inducted all personnel.

(a) By 1946 a total of 3,500 claims were received by Recovered Personnel Division, AFRESFAC, from individuals who claimed membership in this unit and induction into the AUS. Eventually, 1,235 of the claims were approved for AES status by Recovered Personnel Division. During the period from late 1949 through 1950, the adjutant

General Records Depository, as successor to Recovered Personnel Division, had occasion to restudy many of those cases and to revoke AUS status in 543 of them. Adjutant General Records Depository then reached a conclusion that a complete review was necessary. Permission for review was granted by The Adjutant General, but the authority of Adjutant General Records Depository was limited to recommendations with the final decision reserved to the Records Administration Center, St. Louis. In the course of the review, AGRD recommended that of 1,195 cases submitted for review, only 46 be granted AUS status. In the remaining 1,149 cases, it was recommended that AUS status either remain revoked or be revoked. RAC made determinations on these 1,195 cases and continued in AUS status 649 of those cases recommended by AGRD for revocation. In addition, RAC restored AUS status in 534 cases previously revoked by AGRD and recommended by AGRD for continued revocation. In all, RAC awarded AUS status in 1,183 of the 1,195 cases. Because of the entirely different viewpoints reached by RAC and AGRD, it became apparent that a decision was necessary by The Adjutant General as to which, if either, of the two agencies was correct and that a firm and final decision had to be made.

(b) On 6 May 1952 The Adjutant General decided that another complete review would be made of all cases of those individuals who at one time or another had 14th Infantry AUS status. The objective of the review was to ascertain finally those individuals who were legitimately entitled to AUS status in that unit. AGRD was directed to undertake an exhaustive research project to develop all possible factual data regarding the 14th Infantry. This project was not completed until 17 June 1953, after the functions of AGRD were transferred to Military Personnel Records Center, St. Louis.

(c) The final review of the 1,235 cases alleging 14th Infantry, AUS status started in MPRC in August 1953 and was completed in December 1953. After completion of this review it was determined that 122 members of the 14th Infantry were appointed or inducted into the AUS. An official roster of those individuals was published on 14 January 1954. This roster is considered final and no additions or deletions thereto are authorized.

(d) All revocation actions during that review were accomplished by memorandums for record approved by civilian supervisory personnel. Letters of revocation of AUS status were sent to the veterans concerned or their next of kin. With the revocation of AUS service in a case, any service the individual may have had was considered to be as a member of the Philippine Army. Subsequent service reports to the Veterans Administration or other agencies were made in those cases without an official redetermination of status under the Missing Persons Act having been made.

c. Background (War Claims Commission Program).

(1) Public Law 80-896, 3 July 1948, established a commission to be known as the "War Claims Commission" and provided, in part, for the payment of compensation to members of the military or naval forces of the United States who were held as prisoners of war by an enemy government after 7 December 1941. Survivors of deceased ex-prisoners of war were also eligible to file claim under this law. (Tab E, Annex 3). However, it was not until August 1952 that certifications of prisoner of war status started to be made by Adjutant General Records Depository to the War Claims Commission on Philippine Army personnel.

(2) A meeting was held in Washington on 27 June 1950 between representatives of the Army and the War Claims Commission. The purpose of the meeting was to formulate plans for furnishing information to the WCC (See Tab X, Annex 3). Adjutant General Records Depository agreed to make available to the WCC certain card files pertaining to USAFFE personnel. Samples of the various cards were furnished to the WCC by letter on 1 August 1950. It was pointed out to the WCC in this same letter that such card files were not considered to be a positive indication of military service and that many determinations of positive service for arrears in pay purposes were erroneous (Tab W, Annex 3). Because AGRD thought that the WCC might decide to make their awards based on prior arrears in pay determinations made by AGRD, Colonel Gold, then Commanding Officer of AGRD, wrote a letter on 1 August 1950 to Lt. Colonel Eugene S. Graham, Department of the Army Liaison Officer with Veterans Administration, requesting that he (Colonel Graham) express his views to the WCC to not use arrears in pay determinations to make their awards (See Tab V, Annex 3).

(3) On 1 November 1950 the War Claims Commission established a field office at Manila, Philippines to receive Philippine claims under the War Claims Act of 1948. Based on conferences with the Veterans Administration, the War Claims Commission planned to use the information contained in the files of the Veterans Administration in adjudicating Philippine prisoner of war claims. It was believed that the majority of the prisoner of war claims could be substantiated by information in the VA files. It was felt, though, that in some claims the allegations of military service and capture and release dates would require verification from Adjutant General Records Depository records (Tab P and U, Annex 3).

(4) A test of 500 ex-prisoner of war claims was arranged for between WCC, Manila and AGRD in December 1950 (Tab R and T, Annex 3). On 27 February 1951 a report was furnished by AGRD to WCC, Manila on the completed claims. One interesting aspect of the test was the comparison of the number of days of POW determined for arrears in pay purposes against those periods of POW certified for War Claims Commission

purposes. A total of 411 of the claim files involved contained a copy of the arrears in pay determination work sheet. The total number of days difference between the POW periods shown on the arrears in pay determination work sheets and the certifications made for WCC purposes amounted to 18,150 fewer days certified to WCC, or an average of 44 fewer days per case (Tab Q, Annex 3). This test also revealed that less than 10% of the 500 claims tested were made for persons who had a Veterans Administration claim also of record. Based on these statistics, it was apparent that the WCC could not satisfactorily obtain from the VA the information they would require to adjudicate the majority of their prisoner of war claims. Verification of service information and prisoner of war periods had to be obtained from Adjutant General Records Depository records. Answers to several questions raised by the WCC regarding availability of records and prisoner of war information are contained in Disposition Form, 12 June 1951, from the Director, S & C Division, AGED to the Executive Officer, AGED (Tab O, Annex 3). This report stated that 90% of the AGED 201 files contained arrears in pay determination work sheets. Since experience showed such a high degree of error in those determinations, in simple justice to the United States Government, they could not be made available to any agency for use in determining either basic military identity or periods of status. AGED had the most complete information known to be available on the two main prisoner of war camps - O'Donnell and Malaybalay, including rosters at both camps, plus information from the Manila Tribune files, and various hospital registers. Such information could be assembled and reproduced for use by the War Claims Commission at considerable expense, but it was considered of very little value because the names required identification with the subjects of claims through a meeting of the 201 files (See Paragraphs 4 and 5, DF 12 June 1951, Tab O, Annex 3).

(5) The War Claims Commission formally requested the Secretary of the Army to approve that any verifications of military service and prisoner of war periods furnished by AGED be made on a non-reimbursable basis (See Tab S, Annex 3). On 9 March 1951 the Secretary of the Army advised the WCC that the Department of the Army could not furnish information on file at Adjutant General Records Depository to the War Claims Commission on a non-reimbursable basis (Tab M, Annex 3). In response to a subsequent request from the WCC of 26 March 1952, the Secretary of the Army on 25 April 1952 advised the WCC that the Department of the Army would furnish the WCC the desired information on Filipino claimants on a non-reimbursable basis (Tab M, Annex 3).

(6) After the Secretary of the Army informed the WCC that the Department of the Army would furnish them the desired information in Filipino claims on a non-reimbursable basis, preparations were made to begin the certification program on a large scale. Adjutant General Records Depository proposed an application form for prisoner of war benefits which was submitted to WCC for approval. The reasons for a type of form distinctive from that designed on the basis of the Army of

the United States operating in Europe were: The new form was designed as a protection against fraud; it was better suited to the type of records in the custody of AGRD which consisted of identifying data supplied by secondary evidence in the form of affidavits; and it could be used for both living and deceased claims (Tab L, Annex 3).

(7) It was decided that the arrears in pay determinations would not be used in making certifications of military identity and prisoner of war periods to the WGC, because those determinations were not considered reliable. After those original determinations were made, field investigations and correlation of historical data proved many of the original determinations to be incorrect. This policy was subsequently concurred in by The Adjutant General in TAG letter of 19 October 1955 (Tab E, Annex 3).

(8) Based on the approved procedures between the Department of the Army and the WGC, an adjudication policy for WGC work units was published in Veterans Branch Memorandum 20, Headquarters, Adjutant General Records Depository, 25 November 1952 (Annex 5). After the relocation of the Philippine Records to St. Louis in 1953 this adjudication policy was republished in Recovered Personnel Records Branch Memorandum No. 10, 31 August 1953 (Annex 6). These SOP's served as the basis for determining eligibility and certifying information to the WGC concerning ex-prisoner of war claims. They provided that the determination of prisoner of war service would be based on archive data when possible (Paragraph 1, Section VI, Annexes 5 and 6). Since the archives did not contain full information as to length of time of confinement, a determination of actual period was made based on the claimants' statements. When conflicting statements were made the shortest period alleged was accepted, except that the determined period of POW could not extend beyond the known expiration date of POW known to have occurred at the place of proven concentration (Paragraphs 5 and 6, Section VI, Annexes 5 and 6 and Tab K, Annex 3).

(9) In War Claims Commission cases where a certification was made to the Veterans Administration, the latest VA certification of record was examined to establish whether it had been made under the Redetermination Project (on or after February 1950) (Tab F, Annex 1). If the certification to the VA was made under that project, such certification was followed in making certification to War Claims Commission. If not certified to VA under the Redetermination Project, a new certification was furnished the Veterans Administration. When the new VA certification had been completed, the War Claims Commission certification was made in accordance therewith. No deviations were to be made from any VA certifications (Paragraph 2, Section IV, Annexes 5 and 6). In all other cases the War Claims Commission certification was based on adjudication of the 201 file of the subject, together with archive data and other applicable evidence (Paragraph 3, Section IV, Annexes 5 and 6).



(10) The certification made in the War Claims Commission cases where a prior Veterans Administration certification was not of record, consisted only of proof of military identity and prisoner of war service. A complete redetermination of inclusive dates of military service and status under the Missing Persons Act was not required in such cases. In a case wherein the military identity was considered negative because of insufficient proof, the WCC certification was to reflect "No Record" for USAFFE. In those "No Record" cases, the prisoner of war period was also certified negative using "None" or "No Record," as appropriate (Paragraph 10, Section VI, Annexes 5 and 6). Since the records available to the Department of the Army were not complete and correspondence with the claimant was not authorized, it was decided that in cases where the evidence did not conclusively establish prisoner of war status, but did not preclude prisoner of war status, a certification of "No Record" was to be made. If the evidence of record was sufficient to establish that an individual was not a prisoner of war within the meaning of the War Claims Act of 1948, a certification of "None" was to be made, except in those instances where a doubt existed as to whether or not a certain POW record pertained, in which case the certification was to reflect "No Record." All certifications of "No Record" made during the certification program implied that a doubt existed and such certifications were subject to change upon submission of additional evidence or evidence which made possible the identification of archive records (Paragraph 3, Tab I, Annex 3). Based on the criteria established for reporting a case as "None" for prisoner of war status, there was no basis at that time for reconsideration of such cases unless evidence was received to establish that a particular area not previously recognized by the Department of the Army as a concentration area was in fact a bona fide prisoner of war concentration camp. One such situation involved the Taaloban Area and a study was made by Recovered Personnel Records Section based on evidence submitted with a claim referred by the War Claims Commission. That evidence was determined acceptable and all cases of the individuals listed in the evidence were reviewed and recertified where appropriate (Paragraph 4, Tab I, Annex 3).

(11) The Liaison Officer, War Claims Commission submitted proposed criteria for processing War Claims Commission Appeal cases to the Chief, Records Management, TAGO on 1 February 1954. This correspondence was forwarded by Chief, Comptroller Division, TAGO to the Commanding Officer, Military Personnel Records Center, TAGO on 4 February 1954 for comments. In connection with the problem of appeal cases a conference was held at the offices of the War Claims Commission in Washington on 18 February 1954. Based on the results of the conference, reply was made to Chief, Comptroller Division, TAGO on 2 March 1954, regarding the processing of War Claims Commission Appeal cases (Tab J, Annex 3). A decision was made at the conference of the types of evidence that would be accepted for review, on appeal, by MPRC. The only cases to be returned to MPRC were those wherein the WCC certification indicated that the military service of the individual had been

established but was certified negative for POW. Such cases would be reexamined if the appeal contained positive evidence of POW service; the appeal pertained to one of the 500 cases certified in the original stages of formulating plans and procedures of the War Claims Commission Project and the appeal evidence indicated a review was warranted; or the appeal pertained to a case adjudicated by the War Claims Commission based on an existing Veterans Administration certification where the appeal evidence indicated a review would result in a change of certification. Where the War Claims Commission certification indicated the military service of the individual had not been established, such cases would be reexamined only if the appeal evidence consisted of the original induction paper indicating the individual was actually inducted (Paragraph 2, Tab J, Annex 3).

(12) On 4 October 1954 a recommendation was made by the Commanding Officer, Military Personnel Records Center to the Chief, Administrative Services Division that cases certified as "No Record" for prisoner of war status be returned to MPFC for automatic review. This recommendation was made based on a sampling of 1,000 cases in which it was found that 41 or 4% had been certified "No Record" for prisoner of war status. A review of those 41 cases revealed that seven cases or 17% required a positive recertification. It was estimated that a total of 5,400 cases had been certified as "No Record" for prisoner of war status and that 17% or 918 of those cases could be recertified as positive. As a result of this recommendation all cases previously certified as "No Record" for prisoner of war status were returned to MPFC for automatic review (Tab I, Annex 3). Any other cases were returned only when the specific criteria described in paragraph 4c(11) above were met.

(13) In a letter dated 5 April 1955 the Foreign Claims Settlement Commission (the new designation for the War Claims Commission) notified The Adjutant General that the provisions of PL 80-896 pertaining to monetary benefits of World War II prisoners of war had expired. The expiration date for filing such claims was 31 March 1955. The Commission requested that the Department of the Army not forward any correspondence to the Commission on the subject, but that the writers be notified that there was no provision for the continued payment of such benefits (Inclosures 1 and 2, Tab F and Tab G, Annex 3). This procedure was in effect until December 1955 when an appeal was received from an individual in whose case a prior negative certification was made for prisoner of war status. Examination of the POW rosters revealed a name under a different spelling which was identified as pertaining to the individual. A request was submitted to the Foreign Claims Settlement Commission on 4 January 1956 as to whether they desired a new certification in cases of that nature in view of the expiration of the provisions of Public Law 80-896 (Inclosure 3, Tab F, Annex 3). The Commission replied on 6 February 1956 that even though the claims program terminated on 31 March 1955, certain liquidating functions remained and required attention. Since the Commission was interested in ascertaining the



propriety of its actions they desired to be advised of any cases where the previous certifications to them were revised or reversed (Inclosure 4, Tab F, Annex 3).

(14) Based on a decision of the Comptroller General of the United States on 27 April 1956 (B-127556) it was held that the Foreign Claims Settlement Commission had the power to modify its determinations on the ground of errors or new evidence. In view of this development the Commission requested the Department of the Army to continue to recertify any cases where previous certifications were revised or reversed. The Commission was also interested in the possibility of determining the exact number of recertifications affecting status of prisoner of war personnel furnished the VA between 31 March 1956 and May 1956 (Inclosure 1, Tab E, Annex 3). Because of the cost involved in screening 800,000 files to obtain the exact number, the task could not be undertaken. It was estimated that not more than 200 such recertifications had been furnished the VA during the period following 31 March 1955 (Tabs B, C and D, Annex 3). The Commission was informed by The Adjutant General on 19 July 1956 that the Department of the Army would advise them of all future cases where recertifications affecting prisoner of war personnel were furnished the VA. Also that appeal cases received direct from claimants or from the Commission would continue to be reviewed, and recertifications furnished the Commission for appropriate action when warranted (Inclosure 2, Tab A, Annex 3). This policy is still in effect.

#### 4. Discussion (Veterans Administration Program).

(1) Many differences exist in the reporting of service information to the Veterans Administration on Philippine Army personnel in that the original Missing Persons Act determinations were not followed in making those certifications prior to 19 December 1957.

(2) Certifications of service to the Veterans Administration on Philippine Scouts were made based on the latest determination of status under the Act contained in the individual 201 files. In instances where the current determination was found to be in error, a redetermination of status under the Act was made prior to certifying the individual's service to the Veterans Administration. In accordance with agreements made between the Department of the Army and the Veterans Administration, certain additional information was furnished to the Veterans Administration regarding an individual's activities during the Japanese occupation of the Philippine Islands which was not in agreement with the determinations made under the Act. Such information was furnished strictly for Veterans Administration purposes, without an official redetermination of status by the Department of the Army.

(3) Up until the transfer of the functions of Adjutant General Records Depository to St. Louis in January 1953, all

certifications made to the Veterans Administration on Philippine Army personnel were signed by an officer of the Department of the Army acting in behalf of the Commanding Officer, who was delegated by the Secretary of the Army to make determinations under the Missing Persons Act (Tab M, Annex 1). Those certifications could be considered as determinations under the Missing Persons Act, except that such certifications indicated Recognized Guerrilla Service rather than "Missing" or "Missing in Action" based on Recognized Guerrilla Service during the period covered by the Act. When a certification of service and status was furnished to the Veterans Administration which conflicted with a prior report furnished that agency, including copies of prior MPA determinations, a remark was placed on the VA Form 3101 that "This determination supersedes all prior determinations."

(4) In February 1953, in connection with the activation of the then Recovered Personnel Record Section under Colonel Lindquist as officer in charge, the matter of authenticating certifications to the Veterans Administration was referred to the Commanding Officer. The decision was made that the Center's procedures for civilians to authenticate such reports would prevail, which required the use of a rubber stamp showing the name of The Adjutant General without his signature. Since February 1953 supervisors and reviewers have approved and signed all certifications of service and status on Philippine Army personnel to the Veterans Administration. No changes were made in the cases of other Philippine personnel (including Philippine Scouts and War Department Civilian Employees). All determinations or redeterminations of status under the Missing Persons Act involving those personnel were properly prepared for the signature of the Commanding Officer delegated authority to make official determinations under the Act.

(5) In line with paragraph 3 of Memorandum for Colonel Gould of 19 December 1957, from CG, USARVN, the practice of reporting service information not in accordance with an official determination under the Missing Persons Act was discontinued. When the records indicate a determination previously made to be in error, an official redetermination of status is being made. All cases where it is found that the prior official determination under the Missing Persons Act cannot be supported by the current SOP for adjudicating Philippine Army Veterans Administration cases are being held pending a policy decision on this matter.

(6) It is a requirement in processing Veterans Administration requests on Philippine Army personnel to furnish that agency with documentary proof in support of "active duty" status as distinguished from an "active service" status. The Veterans Administration under their laws must make a determination in Philippine Army cases as to whether a veteran was in an active duty status at the time of disability or death. Although that agency contends that it cannot question the finding of the service department that an individual was in the military service, it is

not bound by the same conclusion reached by the service department concerning "active duty" status as distinguished from being carried on the rolls at the time. For example, a soldier may be considered by the service department to be in a missing status based on unrecognized anti-Japanese activities under Staff Memo 14, RFD, AFWESPAC. The Veterans Administration does not consider such activities as an "active duty" status. On the other hand, a soldier may be considered by the service department to be in a missing status based on unrecognized guerrilla service under a commissioned officer of the Commonwealth Army of the Philippines recognized by and cooperating with the U. S. Forces. In such cases the Veterans Administration does consider those activities as an "active duty" status, when supported by documentary proof from the service department. Documentary proof is furnished in the form of affidavits of the officers concerned or extracts of the guerrilla archives in the custody of the Recovered Personnel Records Branch, USARGEN. This documentary proof serves as the basis for the Veterans Administration to make their determination of "active duty" status. The Veterans Administration has expressed their views for the continued need of documentary proof in support of "active duty" periods in a letter from the Assistant Administrator for Administration, Veterans Administration Central Office, Washington to the Veterans Administration Liaison Officer, Army Records Center (Tab B, Annex 1).

(7) Action has already been taken to effect a slight change in the procedure for certifying service data to the Veterans Administration in connection with Philippine Army claims, with respect to the periods covered by the Missing Persons Act. Prior to 19 December 1957 some service certifications were being made to the Veterans Administration indicating status periods under the Missing Persons Act as "Recognized Guerrilla Service" in Item 4 of ARGEN Form 632. Such status is defined under the Act as a "Missing Status." In order to prevent further reporting of information not in accordance with an official determination under the Missing Persons Act, or the Department of the Army's interpretation of "Missing Status" under Staff Memo 14, RFD, AFWESPAC, 27 December 1945, a change in procedure was effected to hold to the definitions of status defined in the Missing Persons Act when reporting status under the Act in Item 4 of ARGEN Form 632. Four VA Form 3101 requests involving different types of service certifications were selected for examples of the procedural change. These claims were prepared in final form and returned to the Manager, Veterans Administration Regional Office, Manila, Philippines by cover letter on 7 February 1958. No change was made in the procedure of explaining all periods of "Missing Status" in Item 6 of ARGEN Form 632, therefore, the change in procedure should not create any problems to the Veterans Administration (Tab A, Annex 1).

e. Discussion (War Claims Commission Program).

- (1) As in the Veterans Administration Program, differences

also existed in the prisoner of war certifications made to the Foreign Claims Settlement Commission and the original Missing Persons Act determinations. Based on the statistics developed for the purpose of establishing the procedures to be followed in making certifications to the Foreign Claims Settlement Commission, it was ascertained that 90% of the Philippine Army claim folders contained a determination under the Act. However, those determinations were not considered when making certifications of prisoner of war status to the Commission.

(2) The reason for not using the Missing Persons Act determinations was that because of the time limit imposed on the arrears in pay program, the Army had to make the determinations based on the face value of affidavits without the benefit of investigation. Subsequently many errors were discovered after verification from official records and historical data available to Adjutant General Records Depository. This brought about a change in procedures and apparently served as the basis for the Special Review Project commencing in February 1950 involving the Veterans Administration certifications on Philippine Army personnel. It was decided through conferences and agreements not to use the determinations under the Missing Persons Act for certifying prisoner of war status to the War Claims Commission. As a result, detailed procedures were established and published in SOP form (Annexes 5 and 6). The procedural instructions provided that the determination of prisoner of war status would be based mainly on archive data. Although this did not result in a material difference in the fact of prisoner of war status as previously determined under the Missing Persons Act, it did affect the duration of prisoner of war periods, since certifications to the War Claims Commission were in many cases shorter than those established by the official Missing Persons Act determinations. Utilization of the notices of releases as published in the Manila Tribune, the newspaper published in the Philippines during the occupation, is one factor that contributed to these changes. The test of 300 ex-prisoner of war claims conducted between December 1950 and February 1951 revealed that 411 files contained a determination of status under the Act. The certifications made for War Claims Commission purposes in those 411 cases amounted to 18,150 days less than what was determined for the same personnel on the determinations made under the Act. This amounted to an average difference of 44 days per case. If the procedure of using archive data to establish prisoner of war periods was considered correct it appears that in all of those cases wherein a period of prisoner of war status differed from the determination under the Act, a corrected re-determination under the Act should have been made.

(3) Although military identity was a requirement for eligibility for benefits under the War Claims Act of 1948, an individual must have been an ex-prisoner of war to qualify for entitlement to any payments. During the entire program the original determinations of status under the Missing Persons Act were disregarded as proof of military identity or prisoner of war status. Where the individual's records

did not contain a certification to the Veterans Administration and his name was not found on the rosters or other archive data of known prisoners of war, his case was usually certified to the Commission as negative for service and for prisoner of war status without regard to the determination of status under the Missing Persons Act. No special effort was made to establish the individual's military identity under the criteria existing at that time if it could not be established that he had a prisoner of war status. Subsequent to the reports made to the FCSC, requests on these same individuals in many instances were received from the Veterans Administration. In the event the service report to the Veterans Administration contained no period of prisoner of war, no amending certification to FCSC was made. However, after 19 July 1956, it was the procedure to amend the certifications to FCSC when new reports to the Veterans Administration contained periods of POW resulting from Philippine Army USAFFE service. Accordingly, many records do contain reports to the Veterans Administration dated subsequent to the report to FCSC which are contradictory in regard to military identity. Effective 2 October 1957 the latter situation was rectified by direction of GO, USARGEN. Present procedure requires a corrected report to FCSC whenever the prior report is not in agreement with the current service report to the Veterans Administration.

(4) In all cases determined positive for prisoner of war status a special effort was made to equalize the periods of such status in the Foreign Claims Settlement Commission and Veterans Administration certifications. All certifications of prisoner of war status made to the Veterans Administration were accepted without question in making a certification to the Foreign Claims Settlement Commission if such Veterans Administration certification was made subsequent to 10 February 1950. If the Veterans Administration certification was made prior to that date a recertification of service to that agency was required prior to making a certification of prisoner of war status to the Foreign Claims Settlement Commission.

#### 5. CONCLUSIONS:

a. The policy and procedures in effect in the Recovered Personnel Records Branch do not provide for using the official determinations of status under the Missing Persons Act in reporting Philippine Army service data to various Government agencies. This has resulted in the reporting of casualty status data under the Missing Persons Act in many cases which is inconsistent with the official determinations.

b. The certifications made to the Veterans Administration on VA Forms 1101 and AGED Forms 32, certifications to FCSC (WOC), and signed by an officer of Adjutant General Records Depository, imply action under the delegation of authority from the Secretary of the Army. These have been considered as an official determination of status and service to the present date. The fact that these VA reports carried the remark

"This redetermination supersedes all prior determinations" leaves little basis to doubt the intent (paragraph 4d(3) above and Tab M, Annex 1).

c. Those certifications made to the Veterans Administration and Foreign Claims Settlement Commission from Military Personnel Records Center and USARGEN during the period from 8 February 1953 to 19 December 1957, were signed by certain officers and civilian personnel under authority granted to them by the then Commanding Officer, who had the authority from the Secretary of the Army to take action under the Missing Persons Act. These certifications may be of doubtful validity as official redeterminations under the Missing Persons Act (paragraph 4d (4) above). It clearly remains that a means must be approved to eliminate the necessity of reexamining all service and status reports made during that period because of the numbers involved. Based on the production figures taken from the Workload and Personnel Reports, it is estimated that about 94,144 VA reports and at least 29,600 of the 111,011 total FCSC (WGC) reports would be affected.

d. Re-evaluation of evidence submitted in support of prior Missing Persons Act determinations is warranted because of inconsistencies and attempted fraud as brought out in the investigation of the Bagio Ring and the Bataan Military District (Tab G, Annex 1 and Paragraph 4b (10) above).

e. Effective 19 December 1957, at the instructions of the Commanding Officer, USARGEN, certifications to the Veterans Administration are made following the prior Missing Persons Act determination unless the available evidence indicates a determination previously made to be in error. When a change is warranted by the evidence and circumstances of record in a file, a redetermination of status under the Act is made and approved by an officer with delegated authority. Since this action conflicts with the Standing Operating Procedures of the Recovered Personnel Records Branch for processing Philippine Army and guerrilla cases, it establishes a need for a policy decision concerning the handling of certain categories of cases described in (1) and (2) below which are currently placed in suspense:

(1) Where the evidence of military identity as required by the Standing Operating Procedures is lacking and the prior determination under the Missing Persons Act shows positive military identity and status.

(2) Where the evidence is lacking to support a particular casualty status under the Missing Persons Act, i.e., missing for periods of illness, or periods of alleged guerrilla service, etc.

f. A uniform procedure is necessary to reflect the status of Philippine Army (including recognized guerrilla) personnel under the Missing Persons Act.

6. RECOMMENDATIONS.

a. That certifications of service and status to the Veterans Administration made by Adjutant General Records Depository prior to the transfer of the functions of that agency to St. Louis be considered as official determinations or redeterminations of status under the Missing Persons Act, since they were signed by an officer acting under the delegation of authority from the Secretary of the Army.

b. That retroactive delegation of authority be obtained, for certain officers and civilian personnel of the Recovered Personnel Records Branch, to take action under the Missing Persons Act for the Secretary of the Army, for the period 8 February 1953 through 19 December 1957, in matters relating to personnel of the Philippine Army in the service of the Armed Forces of the United States. Reports made during that period to the Veterans Administration and the Foreign Claims Settlement Commission and signed by such personnel will no longer be of doubtful validity and will have the full effect of official determinations and/or redeterminations under the Missing Persons Act in accordance with the policies in force during that period.

c. The instructions of the Commanding Officer, USARGEN that the reporting of information from the records conform to the status determinations made under the Missing Persons Act be continued.

d. That the criteria contained in the Standing Operating Procedures of Recovered Personnel Records Branch for establishing military identity and service in the Philippine Army, USAFFE (including recognized guerrillas) be continued in force.

e. That the procedures for the evaluation or re-evaluation of affidavit evidence submitted as verification or proof of Philippine Army, USAFFE service or status be continued and where actual errors are found in a prior Missing Persons Act determination, an official redetermination of status be made.

f. That the requirements be relaxed to permit the acceptance of the affidavits of co-soldiers even though their own military identity has not been established, if their statements are compatible with their own claims and other known facts in a case.

g. Since the evidence to support a positive determination previously made under the Missing Persons Act will be lacking in many cases, the policy be expanded to suspend such cases and to afford the claimants or next of kin an opportunity to furnish new proof of service and casualty status required to support the previous determination made. This can be done by use of a form patterned after the MPSC Forms 1-648, 1-648a, 1-649, and 1-649a (Tabs Y-1, 2, 3, 4, Annex 1). These forms were declared obsolete 25 January 1954. The Forms 1-648 and 648a were used in deceased cases and the Forms 1-649 and 1-649a were



used in cases where the alleged soldier was still living. The use of such forms might secure the required evidence which is lacking to support the prior Missing Persons Act determination.

h. That when sufficient evidence is not available in a file to support a prior positive Missing Persons Act determination and an effort to obtain the necessary information from the individual concerned or his next of kin is unsuccessful, the case should be redetermined on its individual merits.

i. That no change be considered for determining recognized guerrilla service, since that was a separate function of the Guerrilla Affairs Division and there is no existing authority to amend the approved rosters by adding or deleting names. That is the only source from which it can be authoritatively determined that an individual was granted recognized guerrilla service.

j. That redeterminations under the Missing Persons Act be made in cases of civilian guerrillas who were previously determined to have status under the Missing Persons Act and recognition was subsequently revoked by reconstruction of the Guerrilla Affairs Division rosters.

k. That redeterminations under the Missing Persons Act be made in cases of civilian guerrillas previously determined to have status under the Missing Persons Act and their names were subsequently removed from revision rosters by Guerrilla Affairs Division and are now listed only on initial troop rosters. This action is necessary to correct the prior determination which is currently in error.

l. That corrective action be taken in any cases where it is found that information has been furnished to a Government agency which is not in agreement with the latest official determination under the Missing Persons Act.

ANNEXES:

1. Background Information for Philippine Army VA Program
2. Background Information for Philippine Scout VA Program
3. Background Information for WCC Program
4. Draft of State Department Reply to Philippine Economic Mission Claim
5. AGED - WCC SOP
6. MPRC - WCC SOP

*A. J.*  
ANTON IMHOFF JR.  
Management Analyst  
RPR Branch



DECLASSIFIED

Authority UND 883078

	<u>CONCURRENCE</u>	<u>NON-CONCURRENCE</u>	<u>SEE ATTCHD COMMENT</u>
Chief, RPR Branch	( )	( )	( )
Operations Officer, RPR Branch	( )	( )	( )
DCOM, USARCEN	( )	( )	( )

APPROVED:

C. J. BARRY JR  
Colonel, AGC  
Commanding

**DECLASSIFIED**  
Authority AND 88-3078