

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ROGER HALL, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.: 04-0814 (RCL)
)	
CENTRAL INTELLIGENCE AGENCY,)	ECF
)	
Defendant.)	
_____)	

CIA’S PROPOSED CASE MANAGEMENT PLAN

Pursuant to the Court’s Order of August 3, 2012 [Dkt. No. 186], the Central Intelligence Agency (CIA) respectfully submit the following proposed case management plan.¹ The CIA, barring unforeseen circumstances, proposes, and is able to,

1. conduct additional searches for Item 7 records on or pertaining to any search conducted regarding any congressional committee requests pertaining to Vietnam War POW/MIAs, and provide Plaintiffs with all non-exempt records and photographs, within 6 months, *i.e.*, by February 2013 (Meeks Decl. ¶ 4);²
2. conduct a reasonable search for and produce missing attachments, enclosures, photographs, and reports referenced in 14 previously released documents on or before September 7, 2012 (*id.* ¶ 5);

¹ Although the parties exchanged electronic mail communications and held discussions earlier this week, and again on this date, they were unable to agree on a joint proposal. Accordingly, it was decided that separate filings would be made.

² In its August 3, 2012 Memorandum Opinion, the Court indicated that it required estimates for anticipated length of file reviews, including estimated staff time for the projects. [Dkt. No. 187 at 7]. Accordingly, the CIA herewith submits Michelle L. Meek’s declaration explaining how the Agency arrived at its conclusions regarding project completion time for the various remaining search and production of documents and photographs.

3. release previously withheld names and photos (pursuant to Exemption 6), in three documents identified by Plaintiff Hall, as soon as practicable after the United States Department of Justice (DOJ) has made a determination of no appeal;³
4. conduct a search,⁴ for the remaining 1677⁵ names, for remaining Item 5 records contained in the following systems:

- a. CIA Automatic Declassification and Release Environment (CADRE) – anticipated completion of search for the 136,835 documents identified is 6.3 years, based on a 2-minute review time per page for 137,000 two-page documents (*id.* ¶ 10).

- b. Archived records, from various CIA directorates and the National Clandestine Service (NSC), of 16,545 hard copy file folders that could contain responsive records – anticipated completion of retrieval unsealing, and manual review of each document in each folder is 5.7 years based, on an estimated 40 minute per box task completion time (*id.* ¶ 11);⁶

³ Although the CIA has indicated that it will be prepared to make the release by September 7, 2012 (*id.* ¶ 6), it will have no authority to do so until DOJ has made a no appeal determination.

⁴ The estimates provided are based upon one staff person assigned full time to each search. They are only for search and responsiveness review, and do not include the time it will take to redact responsive documents per applicable exemptions. It is impossible to estimate how long the review and redaction phase will take without knowing the universe of responsive documents. *Id.* ¶¶ 7-9.

⁵ Plaintiffs originally submitted 1711 names, and the CIA has already searched for the 34 names.

⁶ Unless Plaintiff is willing to significantly modify its request and/or provide additional identifying information, the CIA must file a motion to stay the proceedings, and stands at the disposal of the Court to provide the parties with further guidance.

The CIA will provide quarterly updates with regard to the pending Item 5 search documents.

Regarding Item 5 Referrals to other government agencies, CIA has taken affirmative steps to follow-up with the agencies to which documents were referred. Specifically, the documents were referred to the National Security Agency and the United States Department of Defense (“DOD”) for direct response to the Plaintiffs. The CIA is currently taking steps to follow-up with those agencies, and was informed that DOD expects to have its response to Plaintiffs within 30 days. *Id.* ¶ 12. The CIA will file a supplemental notice to advise the Court regarding the NSA referrals within the next two weeks, i.e., no later than September 6, 2012.

Further, pursuant to the Court’s August 3, 2012 Memorandum Opinion [Dkt. No. 187 at 31], paragraph 5B of the June 2012 Tisdale declaration [Dkt. No. 177-13] was unclear regarding the question of whether the DOD consulted the PNOK list. The government herewith submits the attached supplemental Declaration of Mr. Roland Tisdale, explaining that the names of the individuals in question were not found on the PNOK list. Specifically, Mr. Tisdale states,

a. DPMO maintains a list indicating whether the primary next of kin of missing Americans (“PNOK”) has given his or her consent to the disclosure of treatment, location and/or condition information for purposes of the McCain Bill (as defined in paragraph 5.B. of my May 9, 2012 declaration.) Tisdale Decl. ¶ 3(a).

b. I consulted that list before redacting the individual names of 19 missing persons from the 29 documents listed in paragraph 5.B. of my May 9, 2012 declaration. For all of these 19 individuals, the PNOK had not provided the necessary consent under the McCain Bill. Accordingly, the names of these 19 individuals were redacted. *Id.* ¶ 3(b).

Respectfully Submitted,

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[Proposed] ORDER

Upon consideration of the parties proposed case management plans, and the entire record herein, it is hereby ORDERED that the CIA,

- conduct additional searches for Item 7 records on or pertaining to any search conducted regarding any congressional committee requests pertaining to Vietnam War POW/MIAs, and provide plaintiffs with all non-exempt records and photographs, within 6 months, *i.e.*, by February 2013;
- conduct a reasonable search for and produce missing attachments, enclosures, photographs, and reports referenced in 14 previously released documents on or before September 7, 2012;
- release previously withheld names and photos (pursuant to Exemption 6), in three documents identified by Plaintiff Hall, as soon as practicable after the United States Department of Justice (DOJ) has made a determination of no appeal;
- conduct a search, for the remaining 1677 names, for remaining Item 5 records contained in the following systems:
 - a. CADRE – and to complete the search for the 136,835 documents identified a

possibly responsive within 6.3 years.

b. Archived records, from various CIA directorates and the National Clandestine Service (NSC), of 16,545 hard copy file folders that could contain responsive records – and to complete the retrieval, unsealing, and manual review of each document in each folder, within 5.7 years and thereafter provide the Court with quarterly status reports on the searches;

- shall file a supplemental notice with this Court to advise the Court regarding the NSA referrals within the next two weeks, *i.e.*, no later than September 6, 2012, and;
- and may file a motion to stay this matter by September ____, 2012.

So ORDERED on the ____ day of _____ 2012.

ROYCE C. LAMBERTH
United States District Chief Judge