



Washington, D.C. 20505

1 July 2005

VIA FACSIMILE 301.657.3699  
VIA CERTIFIED MAIL

James H. Lesar, Esquire  
Attorney at Law  
1003 K Street, N.W., Suite 640  
Washington, D.C. 20001

Reference: No. F-2003-00449 (Civil Action No. 04-00814)

Dear Mr. Lesar:

We received your letter of 23 May 2005 on 3 June 2005. In that letter, you asserted that your clients Roger Hall and Studies Solutions Research, Inc. (SSRI) are entitled to a public interest fee waiver of costs associated with their Freedom of Information Act (FOIA) request dated 7 February 2003. Alternatively, Mr. Hall and SSRI seek placement in the "news media" fee category, which would render Mr. Hall and SSRI responsible only for the copy costs, beyond the first 100 pages of reproduction, associated with their request.


In its order dated 13 April 2005, the Court in the ongoing litigation related to your clients' 7 February 2003 FOIA request, denied Mr. Hall's and SSRI's motion for a public interest fee waiver. We have considered the information you have provided in your letter dated 23 May 2005 supporting Mr. Hall's and SSRI's request for a fee waiver. We have determined that your clients have not met the standards for a public interest fee waiver as set forth in subpart 1900.13 of title 32 of the Code of Federal Regulations. Therefore, we deny Mr. Hall's and SSRI's request for a fee waiver.

With respect to your clients' request to be placed in the "news media" fee category, in its order dated 13 April 2005, the Court also determined that "plaintiffs fail to demonstrate their eligibility for fee limitations based on news media status." We have considered the information you have provided in your letter dated 23 May 2005 supporting Mr. Hall's and SSRI's request for a fee limitation. We have determined that your clients fail to meet the definition of a representative of the news media as set forth in subpart 1900.02 of title 32 of the Code of Federal Regulations, and in applicable case law. We have therefore placed Mr. Hall and SSRI in the "all other" fee category. As a result,

Mr. Hall and SSCI will be responsible for all copy costs, beyond the first 100 pages of reproduction, and for all search costs, beyond the first two hours of search time.

If you disagree with the fee waiver denial, you may appeal the Agency's determination by filing an appeal within 45 days of the date of this letter. Please address your appeal to the Executive Secretary of the Agency Release Panel. We encourage you to provide any additional pertinent explanation or argument in support of your fee waiver request. Agency regulations provide that either the Chair of the Agency Release Panel or the full Agency Release Panel may adjudicate appeals of denials of requests for fee waivers. Please note that, in accordance with Agency regulations, because the Agency has started to process your FOIA request, the Agency will only accept your appeal of the fee waiver denial if you agree to be responsible for the costs in the event of an adverse administrative or judicial decision.

Sincerely,



Scott Koch, Ph.D.  
Information and Privacy Coordinator

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May 23, 2005

Mr. Scott Koch  
 Freedom of Information and Privacy  
 Coordinator  
 Central Intelligence Agency  
 Washington, D.C. 20505

VIA CERTIFIED MAIL  
NO. 7002 2410 0006 2154 7353

Re: F-2003-00449

Dear Mr. Koch:

I write on behalf of my clients, Mr. Roger Hall and Studies Solutions Research, Inc. (SSRI) to supplement the application they made for status as representatives of the news media and for a public interest fee waiver in connection with their February 7, 2003 Freedom of Information Act request for records pertaining to missing prisoners of wars ("POWs") and persons missing in action ("MIAs") as a result of the Vietnam conflict.

Mr. Hall obtains information on POWs and MIAs from a variety of sources, including veterans, family members of POW/MIAs, and government documents. He disseminates this information through SSRI, a non-profit corporation, in several ways. First, when he obtains documents which contain new information of interest to the segment of the public that is concerned with POW/MIA issues, he sends copies of such records to those on his SSRI email list together with his expert commentary on the significance of the information. This email list contains approximately 3,000 names, including many veterans organizations, news organizations, and so forth. The persons on his email list in turn re-disseminate the information to others.

To give examples of the broadscale dissemination which is achieved through Web links and emails, Hall notes the number of subscribers who are reached when his emails are redistributed by just three of the 3,000 persons and organizations on his email list:

Vietnam Veterans of Brevard, Florida	30,000-40,000
Task Force Omega of Kentucky	50,000
National Alliance of POW/MIA Families	40,000+

In disseminating this information, Mr. Hall uses his editorial skills to make a distinct product. He uses those skills to select which documents are important and to provide an appropriate commentary pointing out what is significant about the documents.

Secondly, Mr. Hall disseminates information by authoring articles which contain this information and his commentary on it which are published in magazines, newspapers, newsletters and web sites.

Third, Mr. Hall disseminates the information to veterans groups, congressional staffers and others in the form of public speeches, radio appearances, and private briefings.

Mr. Hall and SSRI do not merely "make information available" as a library would. Rather, as indicated above, they actively disseminate information to persons on his email list and others. SSRI is a 501(c)(3) not-for-profit organization whose Articles of Incorporation specifically provide that its purposes include:

(1) To research, identify and obtain access to and copies of available, lost, unknown and/or otherwise withheld information or documentation of general interest (historical or otherwise) to the public from governmental organizations, individuals, or any other entity having possession of such information or documentation;

(2) to concentrate on those subjects that are otherwise neglected or cost prohibitive to individuals to obtain;

(3) To prepare studies and analysis of the information and documentation obtained;

(6) To provide access to and broadly disseminate the information and analysis to the public.

See Attached copy of Articles of Incorporation.

To achieve these goals, Mr. Hall and SSRI have used the above methods of dissemination in the past and firmly intend to keep doing so in the future. In addition, Mr. Hall has an agreement with Mr. Sydney H. Schanberg to write a story or stories on the materials released to him as a result of this lawsuit. Mr. Schanberg won a Pulitzer Prize for reporting on the fall of Cambodia to the Khmer Rouge. His book The Life and Death of Dith Pran, a memoir of his experience covering the war in Cambodia for the New York Times, was the basis for the movie "The Killing Fields," which won several Academy awards. His many other journalistic awards include two George Polk awards, two Overseas Press Club awards and the Sigma Delta Chi prize for distinguished journalism. See attached letter from Sydney Schanberg to James H. Lesar and bio appended thereto.

With respect to his application for a public interest fee waiver, Mr. Hall believes that the records he will obtain as a result of his request will shed light on the CIA's operations and activities by revealing that it has withheld information regarding missing POWs from the public which will show that the CIA has not done what it should have done to locate missing POWs and MIAs.

As an example of the kind of information which can be found in government documents regarding the POW/MIA issue, Mr. Hall notes that the Senate Select Committee on the POW/MIA issue discounted the testimony of Sergeant Major Jerry Money's (?) testimony regarding live POWs who had been captured but who were not listed as captured. Money worked for the NSA. Mr. Hall has obtained NSA Technical Report 002 which confirm's Master Sergeant Money's testimony that there were live POWs who were captured but who were not listed as captured. This shows that NSA had information had information regarding POWs which their families had never received. He believes that the documents which the CIA has not yet released will show the same thing.

In this regard, he notes that Sergeant Major Money worked for the NSA but was assigned to the CIA to assist it in placing illegal wiretaps and bugs in Laotian and Cambodian Embassies. Sgt. Maj. Money has told Mr. Hall that the CIA was engaged in joint military operations regarding POWs. He believes the CIA has documents regarding these operations which have not yet been made public.

Mr. Sydney Schanberg has addressed the strong public interest in the records sought by Mr. Hall in his letter to Mr. Lesar:

My research to date has shown that in the Vietnam War alone, a significant number of prisoners were not returned by the Hanoi government, but were held back as bargaining chips for war reparations that never came. The POW/MIA story is clearly of national importance since men and women will continue to be called to war by our nation's leaders--as they have been presently in Iraq. The history of what has happened to those captured in other wars is therefore obviously of interest to . . . the nation at large.

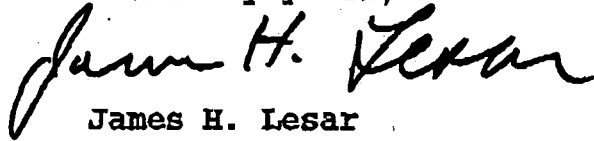
The information Mr. Hall is seeking has been withheld by our government through seven presidencies across 32 years, starting with Richard Nixon, who was in office in 1973 when we signed the peace agreement with North Vietnam. Nearly 600 prisoners were released. Our history in Vietnam will never be complete until we learn what happened to the hundreds of others who were alive and not returned.

4

See Letter from Sydney Schanberg to James H. Lesar attached hereto.

Finally, Mr. Hall notes that there is a pending House Resolution which would establish a new POW/MIA committee. This indicates that this issue is still of current interest to the American public.

Sincerely yours,

A handwritten signature in black ink that reads "James H. Lesar". The signature is written in a cursive style with a large, sweeping initial "J".

James H. Lesar