

Central Intelligence Agency



Washington, D.C. 20505

11 May 2005

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VIA FACSIMILE TO 301.657.3699
VIA CERTIFIED MAIL

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

Dear Mr. Lesar:

This is a follow-up to our letter dated 15 June 2004, in which we requested additional information pertaining to several items in the 7 February 2003 Freedom of Information Act (FOIA) request that you submitted on behalf of your client, Roger Hall. We have received no further information from you, and as a result, we are unable to accept portions of your request, as described below.

On 7 February 2003 you requested records pertaining to:

1. Southeast Asia POW/MIAs (civilian or military) and detainees, who have not returned, or whose remains have not been returned, to the United States, regardless of whether they are currently held in prisoner status, and regardless of whether they were sent out of Southeast Asia.
2. POW/MIAs sent out of Southeast Asia (for example, to China, Cuba, North Korea, Russia).
3. Prepared by and/or assembled by the CIA between January 1, 1960 and December 31, 2002, relating to the status of any United States POWs or MIAs in Laos, including but not limited to any reports, memoranda, letters, notes or other documents prepared by Mr. Horgan or any other officer, agent or employee of the CIA for the Joint Chiefs of Staff, the President, or any federal agency.
4. Records of the Senate Select Committee on POW/MIA Affairs which were withdrawn from the collection at the National Archives and returned to the CIA for processing.

5. Records relating to 47 individuals who allegedly are Vietnam era POW/MIAs, and whose next-of-kin have provided privacy waivers to Roger Hall (attachment 1), and those persons who are on the Prisoner of War/Missing Personnel Office's list of persons whose primary next-of-kin (PNOK) have authorized the release of information concerning them (attachment 2).
6. All records on or pertaining to any search conducted for documents responsive to Roger Hall's requests dated January 5, 1994, February 7, 1994, and April 23, 1998, including but not limited to all instructions and descriptions of searches to be undertaken by any component of the CIA and all responses thereto, and all records pertaining to the assessment of fees in connection therewith, including but not limited to any itemizations or other records reflecting the time spent on each search, the rate charged for the search, the date and duration and kind of search performed, etc.
7. All records on or pertaining to any search conducted regarding any other requests for records pertaining to Vietnam War POW/MIAs, including any search for such records conducted in response to any request by Congressional Committee or executive branch agency.

With regard to item 4, as we stated in our 15 June 2004 letter, the Court, in your client's previous litigation (98-1319), concluded that Senate documents are not "agency records" subject to the FOIA. For that reason, we cannot accept this item as part of this request.

We stated in our 15 June 2004 letter that we cannot accept item 5, which includes two attachments, one of which contains approximately 1700 names, until we receive additional information from you. As we explained, we require, at a minimum, the date and place of birth and the full name of all individuals listed in attachments 1 and 2 to item 5. We further stated that "[i]n accordance with CIA policy, we will hold this aspect of your request in abeyance for forty-five (45) days pending receipt of this additional information and will thereafter deem this aspect of your request closed." More than 45 days has passed since the date of our letter, and we have received no further information from you. As a result, this item is closed, and we will not accept it as part of your 7 February 2003 request.

~~As we explained in our 15 June 2004 letter, item 7 imposes an unreasonably burdensome search requirement on the Agency and requires research that the FOIA does not mandate. We will not accept this item as part of your 7 February 2003 request.~~

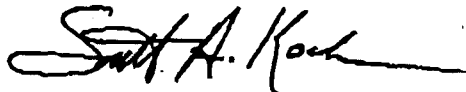
In its order dated 13 April 2005, the district court denied the plaintiffs' motions for fee limitations and a fee waiver. As such, we have determined that your client's request falls into the "all other" fee category, which means that you will be required to pay charges incurred for searching for and reproducing responsive records (if any) beyond the first 100 pages of reproduction and the first two hours of search time, which we will furnish without charge. Copies will be furnished at ten cents per page after that.

We estimate the costs of conducting searches for all of the documents that you have requested in items 1-3 and 6 of your 7 February 2003 request to be \$40,466.00. This differs from the estimate we provided in our 15 June 2004 letter because the estimate included items 5 and 7, which we have indicated we will not accept as part of your 7 February 2003 request. Search fee estimates for item 5 of your request, including attachments 1 and 2, were approximately \$518,220. Search fee estimates for item 7 of your request were approximately \$83,520.

We requested in our 15 June 2004 letter, and we again require, that you submit a deposit in advance before we will begin to process your request. Given that the fee estimates are lower due to the fact that we are not accepting items 5 and 7, we now require a deposit in the amount of \$20,000.00.

We are returning your checks numbered 1030 and 1980 totaling \$10,906.33 for searches related to your previous FOIA request, which is the subject of the prior litigation. We cannot apply these checks toward the \$20,000.00 deposit because the checks are ten (10) months old, and would likely not be honored by your bank. Please send a new check for the deposit in the amount set forth above.

Sincerely,



Scott A. Koch
Information and Privacy Coordinator

Enclosure