

Law Office
John H. Clarke
1717 K Street, NW
Suite 600
Washington, DC 20036
(202) 332-3030
JohnHClarke@earthlink.net

Also admitted in
Virginia and Maryland

FAX (202) 331-3759

April 26, 2005

FREEDOM OF INFORMATION ACT REQUEST

By regular mail and by
Certified mail return receipt requested article No. 7099 3220 0009 2975 0068

Mr. Scott Koch
Freedom of Information and Privacy Coordinator
CENTRAL INTELLIGENCE AGENCY
Washington, DC 20505

Dear Mr. Koch:

1 I write on behalf of my client, Accuracy in Media, Inc. ("AIM"), a District of Columbia 501(c)(3) non-profit corporation. Under the Freedom of Information Act, 5 U.S.C. § 552, AIM requests all 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, or 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 Records of the Senate Select Committee on POW/MIA Affairs which were withdrawn from the collection at the National Archives and returned to the CIA for processing.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 44 individuals who allegedly are Vietnam era POW/MIAs, and whose next-of-kin have provided privacy waivers to Roger Hall, attachment 1, and records relating to those persons who are named on attachment 2, 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.

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, April 23, 1998, and May 28, 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, etcetera.

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 any congressional committee or executive branch agency.

8. All records of whatever nature pertaining to the estimates of fees made in response to the February 7, 2003 Freedom of Information Act request of Mr. Roger Hall and Studies Solutions Research, Inc., and how each estimate was made.

2

For the reasons set forth below, AIM seeks waiver of search and review fees as being a representative of the news media, and seeks public interest waiver of copying costs as disclosure will shed light on the CIA's operations and activities. See 5 U.S.C. § 552 (a)(4)(a)(iii) and 5 U.S.C. § 552 (a)(4)(A)(ii)(II).

3 AIM is an entity that is organized and operated to publish and broadcast news to the American public. It has been disseminating its analysis of news media reporting for more than 35 years. It disseminates information in several ways. Its semi-monthly newsletter, *The AIM Report*, has gone out without fail for 32 years. *The AIM Report* now has about 3,300 subscribers. AIM's other publications include AIM columns, *Briefings* (opinions), *Special Reports*, and *Guest Columns*. AIM's principals have published three books on the subject of the news media: Media Mischief and Misdeeds 1984; Profiles in Deception 1990; and News Manipulators 1993. AIM has also produced several nationally distributed documentaries, including Television's Vietnam, The Clinton Legacy, TWA 800: The Search for the Truth, and Confronting Iraq. More than 100,000 people visit AIM's website nearly every month. AIM has an active speaker's bureau, providing speakers on relevant topics to various groups around the country. Additionally, AIM delivers a daily radio commentary, *Media Monitor*, carried across the country. Oftentimes newspapers and websites around the country have picked up *The AIM Report's* stories. Due to its many efforts, AIM enjoys the ability to convey information to a broad public audience. It is thus clear that AIM gathers information of potential interest to the general public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to its audience.

4 Upon disclosure of the records sought, AIM has concrete plans to make the information public in a *Special Report*, and perhaps also in the *AIM Report*, all in accordance with AIM's news dissemination function. All of its work on the POW/MIA issue will appear on AIM's website, AIM.org. Moreover, a number of AIM's publications in the past have referred John Kerry's record on the POW issue, and AIM has a concrete intention to do so in the future. AIM posts most of the docket sheet of its POW/MIA litigation on its website (see http://www.aim.org/special_report/1763_0_8_0_C/), but it will do more than just making the information available as a library would: AIM will actively disseminate the information. Disclosure of the information will enhance public understanding of the POW/MIA issue as compared with awareness prior to the disclosure.

5 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.

6 Materials on POW/MIAs will necessarily shed light on the operations or activities of the government. Among other things, they will reveal the extent, nature, intensity, and duration of the Government's efforts to locate POW/MIAs, a subject that has long been of intense interest to the public. Records disclosed to AIM is likely to contribute significantly to public understanding of such operations or activities by disclosing records that have remained secret despite congressional inquiries and Presidential

April 26, 2005
Mr. Scott Koch
Page 4

directives to disclose them. The records will provide information regarding the thoroughness, scope, intensity, dedication and creativity of the search for missing POW/MIAs, and whether or not it was conducted in good faith. This information will show the degree to which the CIA has complied with Executive Order 12812 and Presidential Decision Directive NSC 8 and whether it has accurately informed Congress and the public about its search efforts and the information it possesses. It will also show how the CIA cooperated and coordinated its search efforts with other agencies and how and the CIA controlled the documentation other agencies possessed regarding POW/MIAs and detainees.

7

AIM believes that the records it will obtain as a result of this request will shed light on the CIA's operations and activities by revealing that it has withheld information regarding missing POWs from congress and the public. This will show that the CIA has not done what it should have done to locate missing POWs and MIAs. The interest of enhancing the public's understanding of the operations or activities of the U.S. Government is clear, and the records' connection to these government activities is direct. Release of the information is will contribute to an understanding of government operations or activities regarding the POW/MIA issue, as compared with awareness prior to the disclosure.

8

One example of the information that can be found in government documents regarding the POW/MIA issue is that the CIA and the military jointly conducted POW operations. Another example is corroboration of Sergeant Major Jerry Mooney's testimony before the Senate Select Committee regarding live POWs who had been captured but who were not listed as captured. Mooney had worked for the NSA. The NSA's Technical Report 002 confirms Mooney's testimony of there being live POWs who were not listed as captured, but the Committee had discounted his testimony. The POWs' families never received NSA's information. AIM avers that the records show that the CIA also withheld this information from the families of the POWs.

Very truly yours,



John H. Clarke

Enclosures:

- Attachment 1: 44 next-of-kin releases to Roger Hall
- Attachment 2: 30-page Defense Department FOIA division declassification Casualty List primary next-of-kin (PNOK) Authorizations