

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

MICHAEL DRIGGS, *et al.* )  
 )  
Plaintiffs, )  
 )  
v. )  
 ) Civil Action No. 23-01124  
CENTRAL INTELLIGENCE AGENCY, )  
 )  
Defendant. )  
\_\_\_\_\_ )

**PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANT**

Pursuant Rule 36 Federal Rules of Civil Procedure, plaintiffs propound the following Interrogatories to the Defendant Central Intelligence Agency, to be responded to separately and fully, in writing and under oath, within the time prescribed by the Federal Rules of Civil Procedure, in accordance with the Instructions and Definitions set forth below.

**INSTRUCTIONS**

1. These instructions should be construed to require answers based upon the knowledge of, and information available to, the responding party, as well as its agents, representatives, and, unless privileged, its attorneys.
2. These Interrogatories are continuing in character, so as to require that supplemental answers be filed seasonably if further or different information is obtained with respect to any interrogatory.
3. No part of an interrogatory should be left unanswered merely because an objection is interposed to another part of the interrogatory. If a partial or incomplete answer is provided, the responding party shall state that the answer is partial or incomplete.

4. In accordance with Fed. R. Civ. P. 26(b)(5), where a claim of privilege is asserted in objecting to any interrogatory or part thereof, the responding party shall, in the objection to the interrogatory, identify with specificity the nature of the privilege that is being claimed.

5. If, in answering these Interrogatories, the responding party encounters any ambiguities when construing a question, instruction, or definition, the responding party's answer shall set forth the matter deemed ambiguous and the construction used in answering.

### **DEFINITIONS**

Notwithstanding any definition below, each word, term, or phrase used in these Interrogatories is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.

1. The terms "you" or "your" include the CIA, its agents, representatives, and attorneys.

2. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. "All" means "any and all," "any" means "any and all." "Including" means "including but not limited to."

3. The term "responsive records" refers to records of Korean and Vietnam era American prisoners of war, and should be read to include individuals reported to have been killed in action, and individuals reported to have been missing in action.

4. The term "operational records" is defined in the CIA Act, 50 U.S. Code § 3141 *Operational files of the Central Intelligence Agency.*

5. The Affidavit of Bob Smith is attached to the Complaint as Exhibit B ("*Smith Aff.*"). As U.S. Senator representing New Hampshire (1990-2003), Senator Smith served as vice-chairman of the 1991–1993 Senate Select Committee on POW/MIA Affairs. On November 10, 1992, he released his 54-page Report on Korean War American POWs and MIAs; CHRONOLOGY OF POLICY AND INTELLIGENCE MATTERS CONCERNING UNACCOUNTED FOR U.S. MILITARY PERSONNEL AT THE END OF THE KOREAN CONFLICT AND DURING THE COLD WAR. That Report appears in his Affidavit, verbatim.

6. The term "Request" refers to one of the 28 items in Plaintiffs' July 12, 2023 FOIA Request, attached to the Complaint as Exhibit A.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** If your search terms for responsive records do not include the names of POW/MIA's identified in Request 20, which seeks "[a]ll records relating to any of the POW/MIAs named in the attached list," state your reasons for omitting these search terms.

**INTERROGATORY NO. 2:** If your search terms for responsive records do not include the names of Russian prison camps identified in Request 21, which seeks "[a]ny and all records relating that any POW/MIAs may have been held in the prisons identified in the attached list of Russian prison camps," state your reasons for omitting these search terms.

**INTERROGATORY NO. 3:** Identify all search terms you will use in your search for responsive records. Include in your answer whether the search terms used include:

- (a) Prisoner of War;
- (b) American prisoners of war;
- (c) POW camps;
- (d) China POW camps;
- (e) Reform POW camps
- (f) Peace POW camps

- (g) Manchuria POW camp;
- (h) Hard labor;
- (i) U.S. captives;
- (j) Detention center;
- (k) Gulag;
- (l) Camp officers;
- (m) North Korean prison;
- (n) Soviet Union;
- (o) Canton;
- (p) Tung Hua Road;
- (q) Propaganda tour;
- (r) Camp officers;
- (s) Project American;
- (t) Yuri Rastvorov;
- (u) Pirates; and
- (v) Duck Soup [codename for CIA rescue/reconnaissance operation of David Hrdlicka].

**INTERROGATORY NO. 4:** Will your search for responsive records include

repositories of records of:

- (a) *Combined Command for Reconnaissance Activity Korea, or CCRAK;*
- (b) *U.S. Army Combined Command Reconnaissance Activities Far East, or CCRAFE;*
- (c) *Military Assistance Command, Vietnam-Special Operations Group, or MACVSOG; and*
- (d) *President's Daily Brief, or PDB.*

**INTERROGATORY NO. 5:** Will your search for responsive records include

repositories of records of communications with the following agencies and their successor organizations:

- (a) *Defense POW/MIA Accounting Agency, or DPAA;*
- (b) *Air Force Office of Special Investigations, or AFOSI;*
- (c) *6004th Air Intelligence Service Squadron;*
- (d) *United States Air Force Security Service (USAFSS);*
- (e) *Naval Criminal Investigative Service, or NCIS;*
- (f) *Army Criminal Investigation Command, or CID;*
- (g) *Army Security Agency, or ASA;*
- (h) *Army Intelligence and Security Command, or INSCOM;*
- (i) *Office of Naval Intelligence, or ONI;*
- (j) *Naval Security Group;*
- (k) *Armed Forces Security Agency, or AFSA;*

- (l) National Security Agency, or NSA;
- (m) the State Department;
- (n) the Department of Defense; and
- (o) Members of Congress.

**INTERROGATORY NO. 6:** Will your search for responsive records include repositories of records generated in response to then Air Force Chief of Staff General Nathan Twining's 1954 request that the CIA provide information on POWs?

*INTERROGATORY NO. 6 Background:* On March 16, 1954, General Nathan Twining sent to then CIA Director Allen Dulles a Memorandum regarding *U.S. Prisoners of War Remaining in Communist Custody After Termination of Exchange of Prisoners Under Terms of Korean Armistice Agreement*. General Twining sought "clandestine and covert action to locate, identify, and recover" the "substantial number" of POWs, and asked that all information "be immediately forwarded to this Headquarters." Dulles agreed. See FOIA Request, attachment A to the Complaint.

**INTERROGATORY NO. 7:** The *Smith Aff.*, Report on Korean War American POWs and MIAs, cites to eleven CIA records that were released, redacted. These records are cited at paragraphs 30-34, 42, 44, 45, 51, 53, 58, 60, and 68 of the *Smith Aff.* Will your search for responsive records a review of these redactions?

**INTERROGATORY NO. 8:** Will your search and review of responsive records include records previously in redacted form?

**INTERROGATORY NO. 9:** During your Decennial Reviews in 2005 and 2015, explain all steps in the process employed by you to determine whether to release records responsive to FOIA Requests 27 and 28, including:

- (1) The government's assessment of the historical or other public interest value in the records, or portions of those records
- (2) Explain each factor, and the weight assigned to it, for the decision to continue withholding the information, including especially the impact of the passage of time; and
- (3) State the government's position on the potential for declassifying a significant part of the information contained in those records.

For your reference, FOIA requests 27 and 28 appear below.

Request 27

The withheld-in-full version of the CIA's February 2000 *Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the Charges Levied by A Critical Assessment of the Estimate.*

Request 28

The redacted portions of the November 1998 *Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*, by Senator Bob Smith.

**INTERROGATORY NO. 10:** Will your search for responsive records include repositories of operational records?

**INTERROGATORY NO. 11:** Do you contend that you are entitled to describe your search of repositories of "operational records" under the CIA Act with less specificity than you are obligated to describe you search of records that are subject to the FOIA? If so, describe how, specifically, a description of databases of operational records adversely affects your mission.

Date: September 5, 2023.

---

John H. Clarke (VSB No. 023842)  
1629 K Street, NW  
Suite 300  
Washington, DC 20006  
(202) 344-0776  
Fax (202) 332-3030  
john@johnhclarkelaw.com  
*Attorney for Plaintiffs*