

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

PLAINTIFF'S LOCAL RULE 7.1(h) STATEMENT

Pursuant to Local Civil Rule 7.1(h), plaintiffs Roger Hall ("Hall") and Studies Solutions Results, Inc., submits the following statement of material facts as to which there is no genuine dispute:

1. The CIA has not searched its operational files for records responsive to my request. Declaration of Scott A. Koch ("Koch Decl."), ¶ .

2. The subject of missing Prisoners of War ("POWs") and persons Missing in Action ("MIAs") as a result of the Vietnam War has been investigated by the Senate Select Committee on MIA/POW Affairs, the Senate Foreign Relations Committee, and the Senate Armed Services Committee. It was also investigated by the House POW/MIA Task Force in the 1980s. Hall Decl., ¶¶ 3, 26.

3. During the Vietnam War, the CIA Political Adviser ("POLAD") at the Commander in Chief Pacific ("CINCPAC") was the originator and/or party to MIA/POW operations, tasking, and reporting. Additionally, the POLAD played a role in, and generated records concerning, the transfer of POWs in captivity from one

Southeast Asian country, and to other communist countries. Hall/SSRI have not been provided with any such records. Id., ¶ 5.

4. The CIA created and maintained briefing boards on camps throughout Southeast Asia where American POWs were held. The information on the briefing boards had to be backed up by reports and analysis. Hall/SSRI have not been provided with such materials. Id., ¶ 6.

5. Former Ambassador to Laos William Sullivan revealed in a position that Air Force and CIA employee Richard Secord, when a Major, had submitted requests to rescue American POWs in Laos to the CIA. Hall/SSRI have not been provided with these records. Id., ¶ 7.

6. In 1965 there was a planned rescue attempt codenamed "DUCK SOUP" by the Army Delta Compound unit. This was an attempt to rescue then Captain David Hrdlicka and Captain Charles E. Shelton in the Sam Nuea area of Laos. These two POWs held by the Pathet Lao were rescued using CIA assets, including Air America, a CIA proprietary, and American military assets, and indigenous Controlled American Source ("CAS") personnel from the H'mong tribe of northern Laos, Thai forces, and others. One American participant was General Clifford Reesel. These POWs were then recaptured. The CIA has not provided Hall/SSRI with any records pertaining to this. Id., ¶ 8.

7. A later rescue attempt was planned for and occurred in Laos in 1971 or 1972. Special Forces Sgt. John Cavaiani was involved in the rescue or planned rescue. Such an attempt would

not even have reached the planning stage unless the identities and locations of the POWs had been confirmed. Hall/SSRI have not been given any records related to this. ¶ 9.

8. Admiral Elmo Zumwalt revealed in a conversation he had with Hall that the CIA wanted to present information on their ongoing MIA/POW operations in Laos to him in 1973 when he was Chief of Naval Operations. Hall/SSRI have not been provided with any records pertinent to this. ¶ 10.

9. Operation Tailwind, an operation aimed at a particular POW camp in Laos, was approved and tasked by the CIA. Journalist April Oliver revealed this on CNN. Ten foot lockers of documents were removed from this POW interrogation site. The CIA has supplied Hall/SSRI with no records pertaining to this. ¶ 11.

10. In 1994/1995, Hall interviewed Admiral Thomas Moorer, former Chairman of the Joint Chiefs of Staff. Moorer told Hall that in 1972 he had authorized a rescue of 60 POWs in Laos. Admiral Moorer told me that, as planned, this raid was second in complexity only to Son Tay. They knew the names, locations and other information on the POWs. The rescue attempt was cancelled because of the pending Peace Agreement of January 1973. Admiral Moorer stated that the CIA and the Department of Defense had information on this operation, and that Hall should check with the indigenous personnel files known as Controlled American Source. He said this was a joint CIA/military operation. Hall/SSRI have not received records regarding this planned rescue operation. Id 12.

11. POWs were taken from Vietnam, Laos and possibly Cambodia to the Soviet Union. Hall/SSRI have not been provided records regarding such transfers. Id., ¶ 13.

12. The North Vietnamese and other communist embassies in Laos were the subject of electronic surveillance by the CIA, whose employees, advised by the National Security Agency ("NSA"), were gathering information regarding POWs. Hall/SSRII have not been provided with any records which reflect this. Id., ¶ 14.

13. During the Reagan administration, the CIA ran a reconnaissance into Laos based on satellite imagery of a camp where POWs were reportedly being held. There were also NSA intercepts related to this satellite imagery and other intelligence. This operation was originally set to be run by Special Forces members from the Delta Compound at Fort Bragg, North Carolina. The CIA took over control of this operation, informing, informing the military that Laos was their domain and they would run it. On the insistence of the Special Forces, a Marine Corps Captain was assigned to the operation. Photographs and voice recordings were taken. Hall/SSRI have not been provided with any satellite imagery, photographs, voice recordings, or other records related to this operation. Id., ¶ 15.

14. MIA/POW satellite imagery was given to the Senate Committee, but was not included in the Committee's 1993 Report, perhaps because it was received too late. The imagery was given to Barry Toll. Barry Toll, Carol Hrdlicka, wife of a POW, and George Carver then gave it to Mr. Kent Weideman, who accepted it for Mr.

Anthony Lake of the National Security Council. This and all other satellite imagery has not been provided to Hall/SSRI. ¶ 16.

15. In 1993-1995, Hall spoke with Mr. Harry Pugh, a CIA employee about American POWs in China. He told Hall over the telephone that all that documentation was in the basement of the CIA, and he did not have time to go through it all. The record in this case does not reflect a search of this location. Id., ¶ 17.

16. Former communist Czechoslovakia General Major Sejna has stated that he ran an operation in Czechoslovakia which received over 100 American POWs who were transferred from Vietnam, then in turn to ^The Soviet Union in the 1960s. Hall/SSRI have been supplied with no records related to this. Id., ¶ 18.

17. It is known that the CIA had certain guards on the payroll at POW camps in Laos and North Vietnam. Hall/SSRI have not obtained any records regarding information reported by them. Id., ¶ 19.

18. CIA employee John Syphrit was present and clearly overheard CIA Director William Casey inform President Ronald Reagan that the Vietnamese had made an offer of live Americans for cash. At President Reagan's request, Casey instructed a CIA employee to go back to the CIA and bring the confirming documentation to the White House for the President. Syphrit was a witness to this, too. Hall/SSRI have been provided with no records regarding this. ¶ 20.

19. The CIA has not stated that it searched any overseas field stations for responsive records. Witnesses before the Senate Committee testified repeatedly to the involvement of CIA field sta-

Anthony Lake of the National Security Council. This and all other satellite imagery has not been provided to Hall/SSRI. ¶ 16.

15. In 1993-1995, Hall spoke with Mr. Harry Pugh, a CIA employee about American POWs in China. He told Hall over the telephone that all that documentation was in the basement of the CIA, and he did not have time to go through it all. The record in this case does not reflect a search of this location. Id., ¶ 17.

16. Former communist Czechoslovakia General Major Sejna has stated that he ran an operation in Czechoslovakia which received over 100 American POWs who were transferred from Vietnam, then in turn to ^The Soviet Union in the 1960s. Hall/SSRI have been supplied with no records related to this. Id., ¶ 18.

17. It is known that the CIA had certain guards on the payroll at POW camps in Laos and North Vietnam. Hall/SSRI have not obtained any records regarding information reported by them. Id., ¶ 19.

18. CIA employee John Syphrit was present and clearly overheard CIA Director William Casey inform President Ronald Reagan that the Vietnamese had made an offer of live Americans for cash. At President Reagan's request, Casey instructed a CIA employee to go back to the CIA and bring the confirming documentation to the White House for the President. Syphrit was a witness to this, too. Hall/SSRI have been provided with no records regarding this. ¶ 20.

19. The CIA has not stated that it searched any overseas field stations for responsive records. Witnesses before the Senate Committee testified repeatedly to the involvement of CIA field sta-

tions in Vietnam, Laos, Cambodia, and Thailand in the gathering of information about POW/MIAs. See, e.g., pages from the Chief, East Asian Division (1976-1981) and Chief of Station Ventiane (1968-1970), which are reproduced as Attachment . Thus, there should be CIA records on POW/MIAs in those field stations or in archives created for such records. Hall/SSRI have not been provided any records from the CIA's field stations. ¶ 21.

20. Many terms not used by the CIA in its search for responsive documents have been commonly used to describe POW/MIAs. For example, Hall's research shows that prisoners of war were routinely referred to by native populations and in published news/propaganda reports as "war criminals," "criminals," "pirates," or "air" or "sea"pirates." In the Senate Committee's Report it mentions the notations "unaccounted for" and "last known living" as terms used throughout the government in connection with POW/MIAs. After the war officially ended in 1973, any report of a "Caucasian" in any of the countries of Far East Asia was likely to be a report about a suspected POW/MIA. Id., ¶ 22.

21. In Hall's review of publicly released reports and documents from the CIA and other agencies, the following code names have surfaced as the designations for operations related to or connected with POW/MIAs: Bright Light (a DOD collection and reporting system on POWs and Prison Camps), Trail Watch (a project using, among others, Controlled American Sources and "indigenous personnel" to observe POW and military movements on routes in Laos and else-where), Project Alpha (an Air Force mission to track the

location of POW/MIAs to protect them against inadvertent U.S. bombings, Operation Pocket Change (a 1981 plan to reconnoiter--including using photography and listening devices--and rescue those believed held in Laos), Project Corona (an operation to photograph, including imagery taken by satellite--and interpret troop movements in South East Asia, including along the Ho Chi Minh Trail), and Duck Soup (the CIA/Air America name for a supply operation also used to rescue POWs, possibly including Col. Hrdlicke, from Laos). In each of these operations, there is publicly available evidence of the CIA's involvement. The CIA should have searched under these names, and under the CIA's own codename for these operations, if it had one, as well as under any code or operational names know by it to be related to intelligence gathering about POW/MIAs. Hall/SSRI have not received records regarding these operations. Id., ¶ 23.

22. It is also clear that the CIA kept a list of suspected prison sites by name and grid-coordinates. See CIA document #94-0036, reproduced as Attachment hereto, showing one such list (date unknown). These prisons have not been used as search terms. Id., ¶ 24.

23. These operations and other documents released by other agencies show that the CIA worked in close collaboration with the Department of Defense, each of the military branches, NSA, and other agencies, both in gathering and analyzing information about POW/MIAs. To date, the CIA has neither acknowledge nor released documentation (transmittal letters, requests for analysis, etc.), reflecting this collaborative effort. Id., ¶ 25.

24. Former congressman Billy Hendon from North Carolina, who served on the House POW/MIA Task Force in the 1980s, told Hall about several meetings he and others had with CIA Directors to discuss POW/MIA matters. He specifically remembered being shown aerial reconnaissance photographs of escape and evasion codes photographed on the roof of a prison in North Vietnam. He also remembered in some detail being shown photographs of the construction through completion of a prison in Nhom Marrott, Laos. Cong. Hendon's declaration attesting to this is reproduced as Attachment . In both cases, he understood that the pictures and other documents that he was being shown were CIA records. The photographs to which Cong. Hendon refers have never been acknowledged or released, nor has any other information about these meetings been released by the CIA. Id., ¶ 26.

25. Former Congressman John LeBoutillier has confirmed Cong. Hendon's statements with respect to certain briefings that occurred at the CIA. In addition, LeBoutillier has stated in affidavit that he had meetings with officials in Laos where they confirmed that there were live prisoners in that country as late as 1981 and 1982, and that the United States Government agreed to supply medical supplies in exchange for information and possibly the release of these prisoners. He states that the then CIA Director William Casey was directly involved in these discussions. The CIA has never released information about the activities reported in Cong. LeBoutillier's affidavit, nor has it done so with respect to his meetings with Director Casey. Id., ¶ 27.

26. The CIA has not shown that it searched the files of the National Photographic and Interpretative Center ("NPIC"), a component of the CIA. NPIC was the entity responsible for aerial reconnaissance and photography during the time frame relevant to my requests. Hall has been told that NPIC was part of the Directorate of Intelligence until the 1970s, when it was transferred to the Directorate of Science and Technology ("DS&T"). It is now the National Imagery and Mapping Agency. It is likely that the photographs described by Congressmen Hendon and LeBoutillier would be found in NPIC files. Id., ¶ 28.

27. In the records of the National Archives, Hall found a copy of handwritten notes concerning a February 1981 meeting with the President, Vice-President, CIA Director Casey, and others in which a North Vietnamese proposal to trade information about POW/MIAs for money (specifically 4 billion dollars) was discussed. See Attachment . The CIA has not released or acknowledge any information about this meeting or about any such proposal from a foreign country. From research Hall has done in the files of the Senate Committee, he believe that a Secret Service Agent, John F. Syphrit, was in attendance at that meeting. This meeting is mentioned in the Senate Report, at page 32. Id., ¶ 29.

28. Richard V. Allen, deputy national security adviser under President Nixon (1968-69) and senior foreign policy and national security adviser to President Reagan (1978-1982) testified to the Senate Committee about seeing in 1981 a photograph of escape and evasion codes stamped in the grass at what was understood to be a

Vietnamese prison. He testified that President Reagan launched an operation to investigate the site. However, when the mission arrived at the site, the camp was found to be abandoned. Despite Mr. Allen's testimony about CIA involvement in the preparation for and conduct of this mission, the CIA has failed to release any records pertaining to it. Id., ¶ 30.

29. Ray Innman, who served as Deputy Director of Central Intelligence from early 1981 through 1982, testified before the Senate Committee about the CIA's involvement in monitoring activities of possible POW/MIA movements in 1981. In the declassified portion of his testimony, Admiral Innman confirms the CIA's involvement in the preparation of maps and gathering human source reports of live sightings. Id., ¶ 31.

30. From NARA Hall obtained copies of Briefing Board notes that accompanied Briefing Board and maps of verifying prison camps in Vietnam, including the Son Tay camp, where a success raid to rescue POWs was conducted. While the identity of the agency which created these documents is not apparent, Hall believes they were either created by the CIA or based in substantial part on information provided by the CIA. This is supported by a Defense Intelligence Agency memorandum of January 23, 1981, which specifically requests the CIA to prepare a model of a camp. It is apparent from these documents that they were maintained on each known or suspected facility and were updated regularly. While the Library of Congress has a fairly complete collection of these reports for Vietnam prior to the end of the war, nothing has been

acknowledged or released about camps in Laos or Cambodia or other countries. The CIA has also released Intelligence Cables documenting that it collected this kind of detailed information on POW/MIA movements and suspected camps. However, all of the records acknowledged and released by the CIA predate the end of the war. Id., ¶ 32.

31. Hall has reviewed the depositions of Martin Murphy and Thomas Meurer before the Senate Committee. Both men accompanied Ross Perot on various trips, starting in 1969, to deliver supplies to POW/MIAs and to visit prison camps in South Vietnam and Laos. Both men testified to meeting with CIA station chiefs in Laos, where they were shown documents and briefed about the location of camps and POW/MIAs. The CIA has never acknowledged or released documents pertaining to these meetings. They also testified that at these meetings there were briefing maps that detailed the precise locations of POW/MIAs. These maps and other briefing materials have never been acknowledge or released by the CIA. Id., ¶ 33.

32. Hall has obtained a copy of deposition of Terry Reed, an Air Force intelligence officer during the Vietnam War, which was given in a FOIA lawsuit in filed by John Cummings against the Department of Defense. Mr. Reed testified about "the Project," a special mission carried out by Task Force Alpha in Thailand in 1970. According to Reed, this mission involved gathering information and targeting strikes in Laos. Intelligence had discovered that American POW/MIAs were being moved into what Mr. Reed called

"hostile, threatening environments to try to prevent Americans from targeting those spots in Laos and North Vietnam. His group's mission was to maintain a computer database system that identified the location of all POW/MIAs and likely prison camps in order to prevent inadvertent U.S. bombings of those locations. Mr. Reed testified that he was ordered to remove safeguards sometime later in 1970. Hall/SSRI have not been provided with records related to these activities. Id., ¶ 34.

33. Hall obtained from NARA several briefing documents prepared for the White House Situation Room. He understand these documents are commonly referred to as "Exclusive For" documents. Each of the five documents are from the 1980s. Each was prepared by the CIA. The absence of such documents for other periods of time when it is well known that the CIA was regularly briefing the President on POW/MIA matters indicates that the CIA has not conducted an adequate search in response to Hall's request. Id., ¶ 35.

34. At NARA Hall also located a copy of an undated Draft MACVSOG Documentation Study that summarizes the cooperation between the DOD and the CIA with respect to covert operations in Vietnam and Laos prior to 1964. It explains the history and origins of MACSOG. In addition to confirming a connection between SOG and the CIA, this document makes several references to "SACSA," "OSACSA," and "CAS," which appear to be acronyms for CIA/DOD efforts. Other records reflect direct SACSA involvement in the rescue of POWs. I have only one CIA document, dating to 1971, that

refers in any way to SACSA. From that document, it is clear that the briefing involved the collection of intelligence on POW/MIAs, and it references the CIA's involvement in such activities.

35. At NARA I located a document reporting on the Nhom Marrott Detention Facility. It reports on a suspected prison camp in Laos where 30 POWs were said to be held. It refers to a CIA report. In addition, the document ends with a DIA request for the CIA to conduct an operation to verify information about the suspected prison camp, which the CIA agrees to undertake. This document supports the testimony of Cong. Hendon, see Paragraph 24 above, about the Nhom Marrott incident. Despite these two sources of information about CIA involvement with intelligence gathering on Nhom Marrott, the CIA has never acknowledge or released any information on this facility. Id., ¶ 37.

36. With respect to Item 3 of Hall's request, which requests documents on POW/MIAs in Laos from 1971-1975, it is clear from the information Hall has set forth above that the CIA was involved in collecting and monitoring such information. In addition, CIA station chiefs testified before the Senate Committee that the CIA had primary responsibility for interviewing all human sources of such intelligence, including refugees during this period. Id., ¶ 38.

37. The Koch Declaration does not state that an original classification authority has properly classified the Exemption 1 material at issue procedurally under Executive Order 12958.

38. The classified information at issue is more than 25 years old.

39. The CIA has not submitted an identification by an original classification authority which identifies or describes the damage to national security which could reasonably be expected to occur on disclosure of the classified information. Koch Decl., Vaughn index.

40. The CIA has not explained how disclosure would damage national security. Id.

41. The CIA has not described the kinds of information to which its Exemption 2 claims pertain. Id.

42. The information which the CIA has withheld under Exemption 2 appears to include administrative markings, routing information, file locations or numbers, etc. This kind of information is of interest to the public because it provides knowledge of where records are located, who was aware of what, who did what, etc. HHall Decl., ¶ 39.

R Response to Defendant's Statement of Material Facts

Plaintiffs Roger Hall and Studies Solutions Results, Inc. respond as follows to defendant's Statement of Material Facts:

A. Plaintiffs admit the allegations in paragraphs 1-11, 13, 15, 17-23, 25, 30, 32, and 33.

B. With respect to the following numbered paragraphs, plaintiffs respond as follows:

11. Admit, except to deny that they were the only requesters.

14. Plaintiffs are without sufficient knowledge to admit or deny and therefore deny.

16. Admitted as to plaintiffs Hall and SSRI.

26. Denied.

27-29. 31. Denied.

32. Denied.

Respectfully submitted,

\s\

JAMES H. LESAR #114413
1003 K Street, N.W.
Suite 640
Washington, D.C. 20001
Phone: (202) 393-1921

Counsel for Plaintiff