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May 21, 2021

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National Archives and Records Administration
National Archives at College Park
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Room 5500
College Park, MD 20740-6001

By email Thomas.duffey@usdoj.gov

Thomas W. Duffey, Esq.
Assistant United States Attorney
555 Fourth Street, NW
Washington, DC 20530

Re: Freedom of Information Act Request
Previous Request April 20, 2020, NARA Case number 20-46127
Lois Moore, et al., v. NARA, Civil Action No. 20-1735 (RCL)

Dear Ladies and Gentlemen:

This is request under the Freedom of Information Act, 5 USC § 552 *et seq.* ("FOIA"), made on behalf of Lois Moore, Robert Moore, Jana Orear, Christianne O'Malley, John Zimmerlee, Mark Sauter, Captain Eugene B. McDaniel, U.S. Navy (Ret.), Carol Hrdlicka, and the POW Investigative Project, Inc.

These are the same requesters as in the captioned FOIA Request, made on April 20, 2020, as well as the addition of two other individuals. They are Captain Eugene B. McDaniel, U.S. Navy (Ret.), and Carol Hrdlicka.

Exhibit 1

The captioned April 24, 2020 FOIA request identified four of the requesters as relatives of Captain Harry Cecil Moore, who survived the June 1, 1951 shoot down of his F-51 aircraft over North Korea. The government learned that he was a POW, on or before February 27, 1952, but failed to apprise his family. These four requesters are Lois Moore, Robert Moore, Jana Orear, and Christianne O'Malley.

Mark Sauter is a "member of news media" under the FOIA, as set forth in the April 2020 FOIA Request, a copy of which is attached. That letter also sets forth the interests of requesters John Zimmerlee and the POW Investigative Project, Inc.

Captain McDaniel. On May 19, 1967, Captain Eugene "Red" McDaniel piloted an A-6 Intruder over North Vietnam, accompanied by his navigator, James Kelly Patterson. It was their 81st mission. Attacked by surface-to-air missiles, they dodged one, but were hit by another, and ejected a second apart from one another, into the jungle. As a POW, Captain McDaniel would suffer brutal and barbaric torture for almost six years.

While Red never saw him again, Patterson had survived, and had been taken prisoner. An expert in the use of his aircraft's state-of-the-art electronic system being used to defeat Vietnam's Russian-made missile defense system, Patterson was shipped to the Soviet Union, where, as late as 1991, he was held in a military missile research facility that was developing technology to circumvent the American countermeasures.

In 1978, as Director of Navy/Marine Corps Liaison to the U.S. House of Representatives, Red had viewed several aerial photographs, and read reports of first-hand sightings of POWs who had not been repatriated. In 1986, after retiring from the Navy, Red began to speak out publicly about our missing men. The National Security Council reacted by telling him that we had living American POWs in Southeast Asia, but advised him to be patient, as the government expected their repatriation in two or three more years. Captain McDaniel's story is chronicled in the book, *Scars & Stripes: The True Story of One Man's Courage in Facing Death as a Vietnam POW*.

Carol Hrdlicka. On May 18, 1965, Carol's husband, Air Force Captain David Hrdlicka, piloted an F-105 over Laos, when it was shot down. He was captured. David was held in Sam Neua, Laos, at the Pathet Lao Headquarters. Over the years, the government repeatedly told Carol that David had died. Each time, documentation had proven that David was alive, that the claims of death had been false, and known to have been false when made.

Request 1

All records regarding James Kelly Patterson, shot down and captured over North Vietnam on May 19, 1967 while serving as navigator of the American F-51 piloted by Captain Eugene McDaniel, including Patterson's incarceration, interrogation, transportation from North Vietnam to the Soviet Union, where he was held as late as 1991.

Request 2

All records regarding David Louis Hrdlicka, shot down and captured over Laos on May 18, 1965 while piloting an F-105, incarcerated in Sam Neua, Laos, at the Pathet Lao Headquarters, where he was held as late as 1988.

Request 3

All indices, lists, or any other records describing of the contents of all boxes in the following Record Groups:

Record Group 263

Record Group 457

Record Group 218

Decimal Correspondence Files, 1942-1958

Geographic Correspondence Files, 1942-1958

Declassified Incoming and Outgoing Messages Relating to Operations in the Far East, 5/29/1950 - 8/2/1953

Classified Incoming and Outgoing Messages Relating to Operations in the Far East, 1950-1953

Monograph "History of the Korean Conflict: Korean Armistice Negotiations, May 1952-July 1953", 1953-1955

Correspondence, Memorandums, Reports, and Other Records, 1953-1970

Records Relating to the Korean War, 1951-1953

Record Group 319

Prisoner of War, Missing in Action, and Detainee Intelligence Files, 1948-1967

Prisoner of War, Missing in Action, and Detainee Intelligence Files, 1948-1967

Korean Conflict Prisoners of War (POW), Missing In Action (MIA) and Detainee Intelligence Files, 1944-1986

Prisoners of War (POW), Missing in Action (MIA), Detainee Intelligence, and Intelligence/Counterintelligence Source Files, 1947-1974

Intelligence Reports and Files, 1950-1958

Record Group 38

Records Relating to Prisoners of War, 1949-1954

Request 4

All correspondence between NARA and the Agency that transferred the records identified in the Record groups identified above in Request 3, regarding those transfers.

Request 5

McCain Bill. On December 5, 1991, Congress enacted 50 USC § 435 Note as Public Law 102-190, commonly referred to as the McCain Bill. The statute requires the Secretary of Defense to make available to the public in a "library like setting" all information relating to the treatment, location, and/or condition (T-L-C) of United States personnel who are unaccounted-for from the Vietnam War. The facility chosen to receive this information is the Library of Congress. The Secretary of Defense is named as the "official custodian." The McCain Bill has been amended twice since it was originally signed. The first amendment was in the FY95 National Defense Authorization Act. This amendment incorporated the Korean and Cold War unaccounted-for under similar provisions as the Vietnam War unaccounted-for. However, the statute established the National Archives as the "library like setting" for this material and made the Archivist of the United States the "official custodian." Section (a)(2) of the McCain Bill states:

Whenever a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

FOIA Request. All correspondence, memoranda, or other writing, including communications with, or by, transferring Agencies, regarding adherence to, or implementation of, the McCain Bill, including any records of review and identification of records responsive to the McCain Bill, whether by the transferring Agency, or by NARA.

Kindly produce these records in electronic format, PDF. *See* 5 U.S.C. § 552(a)(3)(B): "In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format."

The requesters seek a news media waiver of search and review fees under 5 U.S.C. §§ 552 (a)(4)(a)(iii), and a waiver of copying costs under 5 U.S.C. §§ 552 (a)(4)(A)(ii)(II), as disclosure will shed light on the government 's operations and activities.

Sincerely,

/s/
John H. Clarke

Enclosure:
April 20, 2020 FOIA Request

cc:
Lois Moore
Robert Moore
Jana Orear
Christianne O'Malley
John Zimmerlee
Mark Sauter
Eugene McDaniel
Carol Hrdlicka