

Central Intelligence Agency



Washington, D.C. 20505

26 November 2024

John H. Clarke  
1629 K Street, NW  
Suite 300  
Washington, DC 20006  
202-344-0776

Reference: F-2023-01619; Civil Action No. 23-cv-01124

Mr. Clarke:

This letter is an interim response to the 12 July 2023 Freedom of Information Act (FOIA) request submitted by your client, Michael Driggs, et al., and subsequent litigation, seeking information regarding 28 categories of Prisoner of War (POW)/Missing in Action (MIA) information from the Korean and Vietnam Wars (hereinafter, "Letter").

We have completed a review of seven (7) additional documents for release. The seven (7) documents, comprising 107 pages, can be released in segregable form with redactions made on the basis of FOIA exemptions b(1), (b)(3), and b(6). Exemption (b)(3) pertains to Section 6 of the Central Intelligence Agency Act of 1949, 50 U.S.C. § 3507, as amended, noted as exemption "(b)(3)CIAAct" on the enclosed documents; Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C § 3024(i)(1), as amended, noted as exemption "(b)(3)NatSecAct" on the enclosed documents; Section 102A(i)(1) of the National Security Act of 1947, 10 U.S.C. § 424, as amended, noted as exemption "(b)(3) 10 USC 424" on the enclosed documents; and/or Section 102A(i)(1) of the National Security Act of 1947, 50 U.S.C. § 3605, as amended, noted as exemption "(b)(3) 50 USC 3605" on the enclosed documents.

All remaining responsive material is currently being coordinated with other agencies.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen Glenn".

Stephen Glenn  
Information and Privacy Coordinator

Enclosure (CD)

SERVICE CENTER

COPY NUMBER

ROUTINE  
R 021852Z MAY 88  
FM CIA/DDO  
TO DIA//VO-PM

ZYUW RUEAIIA6602 1231900

(b)(1)  
(b)(3) NatSecAct

~~SECRET~~  
SECTION 1 OF 2  
CITE CIA/DDO 035883

(b)(3) 10 USC 424 (b)(1)  
(b)(6) (b)(3) NatSecAct

WINTEL ~~SECRET~~ NOFORN ROCCA COMMUNICATIONS-DOD HANDLE AS ROCCA  
MATERIAL PASS TO ROCCO CONTROL OFFICER ONLY

SUBJECT: VIETNAMESE BOAT AND LAND REFUGEE SOURCE MIA/POW  
REPORTING FROM ARANYAPRATHET AND TRAT THAILAND

(b)(3) CIAAct

(b)(1)  
(b)(3) NatSecAct  
(b)(6)

REF: [redacted] 29 MARCH 1988; SUBJECT: VIETNAMESE  
REFUGEE SOURCE MIA/POW REPORTING FROM [redacted]

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct

1. AS FOLLOUP TO REFERENCE WE ARE FORWARDING THE  
FOLLOWING INFORMATION ON [redacted]

[redacted] WHO HAVE PROVIDED VARIOUS TYPES OF LIVE SIGHTING, DOG  
TAG/REMAINS REPORTING ON THE MIA/POW ISSUE BETWEEN NOVEMBER  
1986 AND APRIL 1987. THE [redacted] WERE INTERVIEWED AT THE  
[redacted] ALL INTERVIEWS  
WERE CONDUCTED BY OUR [redacted] WHICH PASSED THE  
LEADS TO JCRC FOR FOLLOUP ACTION ON THE DATES NOTED BELOW WITH  
NO FURTHER FORMAL DISSEMINATION. YOUR COMMENTS ARE REQUESTED  
IN ORDER TO HELP DETERMINE THE VALUE OF THIS REPORTING AND  
WHETHER THERE ARE ANY DISCERNABLE PATTERNS IN THIS REPORTING  
WHICH WE SHOULD BE MADE AWARE OF. YOU ARE AUTHORIZED TO USE  
[redacted] WITH JCRC AND STONY BEACH.

(b)(1)  
(b)(3) NatSecAct

(b)(1)  
(b)(3) NatSecAct  
(b)(6)

2. ON 14 NOVEMBER 1986, JCRC WAS PASSED INFORMATION ON  
VIETNAMESE [redacted] CLAIMED HE SAW A  
LIVE AMERICAN IN 1976 WITH GROUP 776 IN THE (YEN BAI REEDUCATION)  
CAMP.

3. ON 19 NOVEMBER 1986, JCRC WAS PASSED DOG TAG  
INFORMATION OBTAINED FROM [redacted] DOG TAG  
RUBBINGS WERE PROVIDED ON [redacted]  
THE RUBBINGS WERE GIVEN TO THE WIFE OF A SMUGGLER  
IN EARLY NOVEMBER 1986 BY UNIDENTIFIED RESIDENTS IN KOMPONG  
CHAM PROVINCE. THE RESIDENTS CLAIMED THEY HAD THE  
CORRESPONDING REMAINS AND WOULD DELIVER THEM TO U.S.  
AUTHORITIES UPON RECEIPT OF A PROMISE TO RESETTLE 42 FAMILIES.

(b)(1)  
(b)(3) NatSecAct

[redacted] HELD THE REMAINS OF TWO AMERICANS AT BA CHIEU, BINH  
THANH DISTRICT, DONG NAI PROVINCE. [redacted] CLAIMED THAT TWO YEARS  
AGO HE SENT DOG TAGS OF THESE REMAINS TO A RELATIVE IN  
CALIFORNIA. IN EARLY 1986, TWO REPRESENTATIVES OF THE SRV  
MINISTRY OF INTERIOR CAME TO [redacted] FAMILY TO TAKE THEIR  
BIOGRAPHY, PICTURES AND FINGERPRINTS. [redacted] ASSUMED THAT THIS  
VISIT WAS IN RELATION TO HIS SENDING THE DOG TAGS TO THE U.S.  
[redacted] ALSO CLAIMED THAT AN OLDER MAN HAD THE REMAINS OF  
FIVE AMERICANS AT/NEAR CHU LAI AIR BASE.

D. VIETNAMESE [redacted] REFUGEE [redacted]  
CLAIMED A FORMER ARVN CAPTAIN IN SAIGON HAD THE REMAINS  
AND DOG TAGS OF: [redacted]

E. VIETNAMESE [redacted] REFUGEE [redacted]  
CLAIMED HER BROTHER [redacted] HAD SEEN A LARGE GROUP  
OF AMERICANS BEING HELD IN (HA NAM NINH) WHILE HE WAS IN  
REEDUCATION.

5. ON 28 JANUARY 1987, JCRC WAS PASSED THE FOLLOWING  
INFORMATION OBTAINED FROM VIETNAMESE [redacted] REFUGEE [redacted]  
[redacted] CLAIMED HE KNEW THE WHEREABOUTS OF THE REMAINS  
OF FOUR AMERICANS: [redacted]  
[redacted] ALSO CLAIMED HIS BROTHER KNEW  
THE WHEREABOUTS OF OTHER AMERICAN REMAINS. HIS BROTHER LIVED  
IN HO CHI MINH CITY (HCMC).

6. ON 17 FEBRUARY 1987, JCRC WAS PASSED INFORMATION ON:

(b)(1)  
(b)(3) NatSecAct  
(b)(6) [redacted] WITH TWO SMALL BONE  
FRAGMENTS. JCRC ADVISED THAT THE NAMES [redacted]  
AND [redacted] DID NOT RELATE TO ANY CASE OF INTEREST; HOWEVER,  
THE NAMES [redacted]  
WERE ASSOCIATED WITH AN EARLIER REPORTED SCAM WHEREIN THESE  
THREE WERE NAMED TO JCRC AS ALLEGED POW'S IN VIETNAM. FOR THIS  
REASON, JCRC WAS INTERESTED IN ANYTHING FURTHER ABOUT THE  
REPORT. JCRC ALSO ADVISED THAT [redacted] CORRELATED TO  
[redacted] WHO WAS LOST IN A UH1H CRASH SOUTH OF  
QUANG TRI ON 2 MAY 1972 WITH PARTIAL REMAINS RECOVERED TO

~~SECRET~~  
FINAL SECTION OF 2  
CITE CIA/DDO 035883

(b)(1)  
(b)(3) NatSecAct

WINTEL ~~SECRET~~ NOFORN ROCCA COMMUNICATIONS-DOD HANDLE AS ROCCA  
MATERIAL PASS TO ROCCO CONTROL OFFICER ONLY

SUBJECT: VIETNAMESE [redacted] REFUGEE SOURCE MIA/POW  
REPORTING FROM ARANYAPRATHET AND TRAT THAILAND

(b)(1) SUFFICIENTLY ESTABLISH IDENTITY. [redacted] DID NOT CORRELATE TO  
(b)(3) NatSecAct INTEREST.

21 JANUARY 1987, JCRC WAS PASSED THE FOLLOWING:

A. VIETNAMESE [redacted] REFUGEE [redacted] HAD ARRIVED AT A  
BORDER CAMP WITH BONE FRAGMENTS AND DOG TAGS OF: [redacted]

[redacted] (b)(1)  
(b)(3) NatSecAct  
(b)(6)

B. VIETNAMESE [redacted] REFUGEES [redacted]

CLAIMED THAT USAF PILOT [redacted] HAD BEEN SHOT DOWN OVER  
HAMOI ON 19 JANUARY 1971. THEY CLAIMED THAT THROUGH VARIOUS  
INTERMEDIARIES THEY HAD CONTACT WITH [redacted] WHO WAS BEING HELD  
IN A JAIL IN THE U MINH THUONG, KIEN GIANG PROVINCE. THEY  
PRODUCED A LETTER WHICH THEY CLAIMED WAS FROM [redacted] (THE  
LETTER APPEARS BOGUS BUT WILL BE DELIVERED TO YOU TODAY.) BOTH  
[redacted] SAID THAT [redacted] CLAIMED THERE WERE 186 AMERICANS  
BEING HELD AT THE JAIL IN THE U MINH THUONG [redacted] A FORMER  
ARVN CAPTAIN ALSO CLAIMED TO HAVE KNOWLEDGE ABOUT THE REMAINS  
[redacted]

(b)(1)  
(b)(3) NatSecAct  
(b)(6) [redacted] VIETNAMESE BOAT REFUGEE [redacted] (b)(1)  
[redacted] POLICEMAN FOR TEN YEARS CLAIMED HIS (b)(3) NatSecAct  
(b)(6)

ACTION DIA/SPEC(10)

MCN=88123/05175 TOR=88123/19007 TAD=88123/2012Z CDSN=MIA941

Nov 26, 2024

PAGE 1 000001

# 8383

~~SECRET~~ ~~RODCA~~

CODE INFORMATION  
SERVICE CENTER

CCF NUMBER 19

[Redacted]

(b)(1)  
(b)(3) NatSecAct  
(b)(6)

9. AS OF 8 APRIL 1987, JCRC WAS PASSED THE FOLLOWING DOG TAG INFORMATION FROM UNNAMED VIETNAMESE BOAT REFUGEES WITH NO FURTHER IDENTIFYING DATA. JCRC ADVISED THAT NONE OF THE NAMES MATCHED THEIR RECORDS. DOG TAG DATA WAS PROVIDED ON:

[Redacted]

(b)(1)  
(b)(3) NatSecAct  
(b)(6)

THERE WERE ALSO SOME BONES.

10. ON 15 APRIL 1987, JCRC WAS PASSED THE FOLLOWING:

A. VIETNAMESE [Redacted] REFUGEE [Redacted] CLAIMED HIS FATHER HAD BURIED AN AMERICAN WHOSE F-105 WAS SHOT DOWN ABOUT 1966 AT MON ME, KIEN GIANG PROVINCE. [Redacted] WAS AT [Redacted]

(b)(1)  
(b)(3) NatSecAct

B. VIETNAMESE [Redacted] REFUGEE [Redacted] CLAIMED HEARSAY FROM A FORMER ARVN MAJOR WHO CLAIMED TO HAVE BEEN IMPRISONED WITH A NUMBER (ABOUT 60) OF AMERICANS IN A PRISON CAMP ALONG THE LAO BORDER. THE ARVN MAJOR TOLD [Redacted] THAT HE WAS WITH THE AMERICANS FOR ABOUT ONE YEAR. [Redacted] WAS AT [Redacted]

(b)(1)  
(b)(3) NatSecAct

C. VIETNAMESE [Redacted] REFUGEE [Redacted] CLAIMED FORMER ARVN LIEUTENANT COLONEL [Redacted] A RESIDENT OF HCMC, KNEW A WOMAN WHO WAS HOLDING THE REMAINS OF AN AMERICAN. [Redacted] WAS AT [Redacted]

<sup>at</sup>  
(b)(1)  
(b)(3) NatSecAct

D. VIETNAMESE [Redacted] REFUGEE [Redacted] CLAIMED AN AMERICAN HELICOPTER WAS SHOT DOWN IN 1974 IN THE DUYN HAI AREA, LONG TOAN DISTRICT, WITH TWO AMERICANS ON BOARD. ONE DROWNED IN THE BIEN GIA RIVER AND THE OTHER WAS "EXCHANGED." [Redacted] ALSO CLAIMED HE HAD GIVEN A DOG TAG TO HIS COUSIN BEFORE LEAVING VIETNAM. [Redacted] WAS AT [Redacted]

(b)(1)  
(b)(3) NatSecAct

E. VIETNAMESE [Redacted] REFUGEE [Redacted] CLAIMED THAT WHILE IMPRISONED AT PHAN DANG LUU PRISON IN HCMC ANOTHER INMATE TOLD HIM OF THE DEATH OF FIVE AMERICANS. INMATE [Redacted] SAW THE FIVE AMERICANS BURIED IN 1970 IN AN ABANDONED WELL IN MUI LON, CU CHI DISTRICT. ACCORDING TO [Redacted] THE BODIES WERE STILL THERE AS OF 1985. [Redacted] WAS AT THE VIETNAMESE [Redacted]

(b)(1)  
(b)(3) NatSecAct

11. NOT RELEASABLE TO FOREIGN NATIONALS.  
12. DECL OADR DRV [Redacted] BT

*Copy # 10 A - Sent to VO  
Copy # 10 B Sent to VO PW  
per Mr Benedict  
3 MAY - 0900*

~~SECRET~~ ~~RODCA~~

000002

**SECRET SPECAT**

COPY NUMBER-----

DEPARTMENT OF DEFENSE  
JCS MESSAGE CENTER  
+++EXCLUSIVE+++

PRIORITY  
P 082253Z AUG 86  
FM CIA  
TO

ZYUW RUEAIIA6592 2202258

(b)(3) CIAAct

(b)(3) CIAAct

WARNING: REPORT CLASS SECRET--WARNING NOTICE-INTELLIGENCE  
SOURCES OR METHODS INVOLVED--NOT RELEASABLE TO FOREIGN NATIONALS--  
NOT RELEASABLE TO CONTRACTORS/CONSULTANTS--DISSEMINATION AND  
EXTRACTION OF INFORMATION CONTROLLED BY ORIGINATOR  
DECL: [redacted] ALL  
ORCON WMINTEL  
PORTIONS CARRY CLASSIFICATION AND CONTROLS OF ORIGINAL DOCUMENT.  
BT

(b)(3) CIAAct

~~SECRET~~ SPECAT NOFORN NOCONTRACT ORCON WMINTEL  
CITE: CIA 003108  
SERIAL:  
PASS:

(b)(3) CIAAct

CENTRAL INTELLIGENCE AGENCY

WARNING: INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE.  
REPORT CLASS ~~SECRET~~ WMINTEL--NOFORN--NOCONTRACT--ORCON  
ORCON WMINTEL

EXCLUSIVE DISSEMINATION TO ADDRESSEES LISTED AT END OF REPORT

DIST: 8 AUGUST 1986  
COUNTRY: LAOS

(b)(3) 10 USC 424  
(b)(6)

SUBJ: POW/MIA: ALLEGED SIGHTINGS OF LIVE AMERICAN POWS IN  
SARAVAN PROVINCE; ALLEGED LOCATION OF REMAINS  
OF TWO AMERICAN SERVICEMEN IN SAVANNAKHET PROVINCE

DOI: 1984-1985

SOURCE: (b)(1)  
(b)(3) NatSecAct

TEXT: 1. ON 5 AUGUST 1986, [redacted] (b)(1)  
[redacted] (b)(3) NatSecAct

[redacted] STATED THAT HE HAD HEARD THAT THERE WERE TWO LIVE AMERICAN POWS AT A  
DETENTION CAMP IN TA-OY (XC 6148) DISTRICT, SARAVAN PROVINCE.  
COMMENT: THE PRESENCE OF A DETENTION CAMP IN TA-OY WITH  
AMERICAN POWS WAS ALSO REPORTED BY A SEPARATE SOURCE [redacted]  
[redacted] HE HEARD ABOUT THE  
DETENTION CAMP IN 1985 FROM HIS NEPHEW, [redacted] WHO  
HAD HEARD ABOUT THE CAMP FROM AN UNIDENTIFIED FRIEND WHO  
CLAIMED TO HAVE SEEN TWO AMERICAN POWS IN TA-OY IN 1985. THE  
UNIDENTIFIED FRIEND STATED THAT THE TWO AMERICANS WERE FARMING  
AND GROWING VEGETABLES. [redacted] ALSO TOLD [redacted] THAT HE HAD  
HEARD THAT THERE WERE SIX AMERICAN POWS BEING HELD IN HUE, [redacted] V N  
SOCIALIST REPUBLIC OF VIETNAM. COMMENT: [redacted] DID  
NOT TELL [redacted] WHERE HE HAD LEARNED ABOUT THE SIX POWS IN HUE.)

*VO-PW,  
has been  
informed +  
will pick up  
copy from  
T MCH  
Sat (9 Aug)*

2. [redacted] ALSO STATED THAT IN 1984, HE HAD SEEN THE  
WRECKAGE OF AN AMERICAN HELICOPTER AND PARTS OF AN AMERICAN  
UNIFORM AT LOUAI (NCA) VILLAGE, VINKO (XD 6058) CANTON, SEPONE  
ORCON WMINTEL  
DISTRICT. [redacted] WAS TOLD [redacted]

[redacted] THAT THERE HAD BEEN TEN SOUTH VIETNAMESE AND TWO  
AMERICANS ON THE HELICOPTER AND THAT THEIR REMAINS WERE AT (b)(1)  
TANGA (XD 6058) VILLAGE, VINKO CANTON, SEPONE DISTRICT. (b)(3) NatSecAct

ACQ: (AUGUST 1986).

DISSEM [redacted] (b)(3) CIAAct

ACTION [redacted] (M.C)

SPECAT EXCLUSIVE	
RTS-2D2	
DISTRIBUTION	
DR	DD ED VP DIO
DB	DE NWS AT
<del>DI-1</del>	<del>DI-2</del> <del>DI</del>
<del>DI-5</del>	<del>VO</del> <del>VO-OC</del> <u>VO-PW</u>
DIA ALERT CENTER TEAM CHIEF DISTRIBUTION:	
<u>JS</u>	<u>3B</u> [redacted]
<u>JSI</u>	<u>3B2A</u> <u>TC</u>
<u>3</u>	<u>3DSK</u>
MYLES M. WOLFMAN, GS-14 Team [redacted] SIGNATURE	

8

DEPARTMENT OF DEFENSE  
JCS MESSAGE CENTER

*Copy*

*Handwritten notes*

ROUTINE  
R 292235Z OCT 84  
FM CIA  
TO DIA (b)(3) 10 USC 424

SECRET  
CITE: CIA 131624  
WARNING NOTICE--SECRET--INTELLIGENCE SOURCES AND METHODS INVOLVED

SUBJECT: POW INFORMATION  
(b)(3) CIAAct

1. [redacted] OBTAINED THE FOLLOWING INFORMATION WHICH CONCERNS AMERICAN POWS IN LAOS AND VIETNAM:

A. "ON 5 SEPT 83, [redacted] CROSSED INTO LAOS. HE REPORTED

(b)(1)  
(b)(3) NatSecAct

TEAM HAD SIGHTED TWO AMERICANS, NAMELY:  
"1.1: MR. PAUG SONMER (BASED ON LAO SPELLING), TYNL 502 308149, B. POS, CUTH RAN, WHO IS MARRIED TO A LAOTIAN GIRL FROM THE KHAMU TRIBE. THEY HAVE ONE CHILD. HE IS CURRENTLY WORKING ON A FARM IN THE AREA OF BAN PHU MUT.

"1.2: MR. DAERON THONASO, 323 368944, TR. O. POS, BARZIST, WHOSE PLANE CRASH LANDED IN MUANG SIPHON, KHWAENG SAWANNAKHET, IN AUGUST 1971. HE IS MARRIED TO A LAOTIAN GIRL FROM THE KHAMU TRIBE. THEY HAVE ONE CHILD. HE IS NOW WORKING ON A FARM IN BAN PHU MUT.

(b)(1)  
(b)(3) NatSecAct

[redacted] ADDED THAT THERE ARE STILL NINE MORE AMERICAN POWS DETAINED IN THE AREA OF PHU MUT. ONE OF THEM IS KNOWN AS MR. SARIDINE, AN AMERICAN TOURIST WHO WAS ARRESTED ON 15 JUN 1974, IN MUANG PAK HINNABUN, KHWAENG KHAMMUAN.

B. "IN ORDER TO GET TO THE AMERICAN POWS IN ITEMS 1.1 AND 1.2 ABOVE, MONEY MUST BE PAID TO THE VILLAGE HEADMAN AND THIS CAN BE DONE ONLY BY THROUGH [redacted] HE IS THE ONLY PERSON WHO CAN GET IN TOUCH WITH THE VILLAGE HEADMAN OF BAN PHU MUT.

(b)(1)  
(b)(3) NatSecAct

C. "IN MAY 1984, [redacted] CROSSED INTO THAILAND AND IDENTIFIED HIMSELF AS A MEMBER OF THE COMMITTEE WHICH CONTROLS THE AMERICAN POWS AT A DETENTION CAMP IN VIETNAM LOCATED CLOSE TO THE LAO BORDER. HE CLAIMED THERE ARE 180 AMERICAN POWS IN THE CAMP, WHICH ARE CONTROLLED BY 40 SOLDIERS - 20 PAVN TROOPS AND 20 LAOTIAN TROOPS - FROM THE KHAMU TRIBE.

D. [redacted] WANTED A REWARD FOR THE ABOVE INFORMATION AND CLAIMED THEY SAW A [redacted] AFTER GIVING HIM A RING FROM AN AMERICAN POW, HE GAVE THEM 16,000 BAHT, AN ENGLISH BIO DATA FORM FOR AMERICAN POWS AND A CAMERA. THESE ITEMS WERE TO BE HANDED OVER TO [redacted] IN ORDER THAT THE AMERICAN POWS COULD FILL OUT THE FORMS AND HAVE THEIR PICTURES TAKEN.

(b)(1)  
(b)(3) NatSecAct

"IN AUGUST 84, [redacted] RETURNED TO THAILAND WITH THE COMPLETED BIO DATA FORM AND PICTURES OF 10 MEN. HE DEMANDED 50,000 BAHT IN EXCHANGE FOR THE LOCATION OF THE CAMP. BECAUSE [redacted] DID NOT HAVE THE MONEY TO PAY HIM, HE RETURNED TO LAOS WITH THE DOCUMENTS.

(b)(1)  
(b)(3) NatSecAct

E. "ON 5 SEPT 84, [redacted] IN THAILAND AND STATED THAT IF THE U.S. AUTHORITIES ARE INTERESTED IN HELPING THE POWS, HE WILL SEND [redacted] BACK TO LAOS TO CONTACT [redacted] TO "TAKE ACTIONS AFTERWARD" (SIC)."

(b)(1)  
(b)(3) NatSecAct

2. ON 15 OCTOBER AN OFFICER [redacted] DISCUSSED THE ABOVE [redacted] JCRC BELIEVES THAT "MR PAUG SONMER" IS PROBABLY IDENTICAL TO ((PAULSON)), MERLYN LE ROY, WHOSE C-130 WAS SHOT DOWN IN LAOS IN MARCH 72, AND WHOSE SERIAL NUMBER IS IDENTICAL TO THE ONE GIVEN IN I.1 ABOVE. JCRC CONCLUDES THAT "MR. DAERON THONASO" IS PROBABLY IDENTICAL TO ((DAFFRON)), THOMAS CARL, SERIAL NUMBER 323368914 (NOTE SLIGHT VARIATION) WHOSE F-4C WENT DOWN IN LAOS IN FEB 70. ADDITIONALLY, JCRC BELIEVES THAT "MR.

(b)(3) 10 USC 424

ACTION [redacted] (U,6,7,F)  
INFO CJCS(4) DJS:(2) J1(1) J3(6) NIDS(1) SECDEF:(1)  
SECDEF(9) USDP(15) ASD:MIL(2) ASD:PA(1) NMIC(1)  
DC-4A(1) AT-3(1) DE-2(1) DB-2(1) DB-2C(1) DB-4A(1)  
DB-4G(1) DB-5D3(1) DIA(1) DC-4A3(1)  
+ANMCC FT RITCHIE MD  
+CMC CC WASHINGTON DC  
+USCINCPAC HONOLULU HI  
+SAFE

CIA-841029-337

MCN=84304/00290 TOR=84304/0114Z TAD=84304/0115Z CDSN=MAK433

PAGE 1  
292235Z

NND 982017-188

SECRET

Nov 26, 2024

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~~SECRET~~  
DEPARTMENT OF DEFENSE  
JCS MESSAGE CENTER

SARIDINE" IS PROBABLY IDENTICAL TO CHARLES ((DEAN)), A U.S. CIVILIAN CAPTURED BY THE PATHET LAO IN SEPTEMBER 74. NUMEROUS REPORTS FROM VARIOUS SOURCES INDICATE THAT DEAN WAS ALIVE AND IN PATHET LAO HANDS DURING 74-75 TIME FRAME.

[Redacted]

- 4. NOT RELEASABLE TO FOREIGN NATIONALS.
- 5. DECL OADR DRV [Redacted] ALL ~~SECRET~~. BT

(b)(1)

(b)(3) NatSecAct

MCN=84304/00290 TOR=84304/0114Z TAD=84304/0115Z

CDSN=MAK439

PAGE 2 of 1553  
292235Z OCT 84

NND 982017-189

~~SECRET~~

Nov 26, 2024

000005

~~SECRET~~

15 March 1973

MEMORANDUM FOR: Chief, Far East Division

SUBJECT : Status and Treatment of Prisoners of War  
in Laos

This report was obtained in conversations with [redacted]  
[redacted] SOD/JOIC on 14 March 1973. This information was  
extracted from DIA POW files with exception of the note  
following paragraph A.

(b)(1)  
(b)(3) CIAAct  
(b)(6)

(b)(1)  
(b)(3) CIAAct  
(b)(6)

A. Status

DRV provided list of 10 U.S. POWs in Laos 1 February  
1973:

Four had been reported by returnees as being seen  
in Hanoi Hilton (Ha Lo Prison) during February 1971:

[redacted], [redacted], (b)(6)  
Contract Pilot  
Walter M. Stischer, Major, USAF  
[redacted], USAF (b)(6)  
Henry J. Bedinger, Lt. (jg) USN

One has been reported as being in Laos as of recent  
date:

[redacted] (b)(6)

Until the list was released on 1 February, there was  
some doubt about the status of the others:

(b)(6) [redacted] was carried by USAF  
as missing  
(b)(6) [redacted], USAF, was carried as  
missing

~~SECRET~~

[redacted]

(b)(3) CIAAct

~~SECRET~~

- (b)(6) [redacted] USAF, was felt to be a POW but was carried by USAF as missing
- (b)(6) [redacted] Canadian civilian, was carried as POW
- (b)(6) [redacted] USAF, was downed in December 1972 and carried as missing

As of 30 December 1972 DIA carried a total of ten persons as POW in Laos, including 2 Navy, 6 USAF and 2 Civilians. DIA lists 359 MIA in Laos not accounted for by the North Vietnamese or Pathet Lao to date.

- (b)(6) [redacted] has been carried as POW for many years but was not on the releasee list. Since the return and debriefing of escapee [redacted] it has been (b)(6)
- (b)(6) felt that [redacted] chances of survival were slim.

NOTE: During the course of its representations to the Lao Patriotic Front representative in Vientiane concerning the POW question, the American Embassy received the impression that the Lao Communists may be holding American prisoners in addition to those revealed by Hanoi but the Front has refused to provide any specific information on additional prisoners beyond implying that information may be forthcoming during negotiations between the Front and the Lao government when the overall question of all prisoners in Laos is to be discussed. A date has not been set for these discussions because the Front wants to settle political and other military questions before negotiating on the prisoner issue as such.

B. Treatment

- (b)(6) Although we do not have very much definitive information on treatment of American POWs in Laos, we do have the debriefings of [redacted] and [redacted] (b)(6)
- (b)(6) [redacted] Navy pilots who were captured and escaped.

~~SECRET~~



S E C R E T

Their reports indicate that the conditions of captivity, techniques of interrogation and pressures of indoctrination were quite similiar to those practiced by the Vietnamese Communists. Physical conditions in North Vietnam in the regular prisons were at times quite tolerable, and probably better than conditions in Laos. Near the Pathet Lao capital, however, there were prisons dug back into the karst limestone cliffs and these may have been fairly tolerable.

As would be expected, treatment varied from time to time, depending on what the captors were trying to get from the prisoner. At times treatment was brutal, physical and psychological pressures being used to break the prisoners' will and ability to resist.

(b)(6) [redacted] was captured in Luang Prabang, moved across Laos to Dien Bien Phu where he was held in a fairly small cage for two years, and then taken with his radio operator to Hanoi. He survived. These rough indicators are about all that we can say on treatment in Laos.

S E C R E T

3

*Laos*

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED	CONFIDENTIAL	SECRET	
<b>OFFICIAL ROUTING SLIP</b> <b>SECRET</b>			
TO	NAME AND ADDRESS	DATE	INITIALS
1	ACFE/TBL/L [Redacted]	14 MAR 1973	<i>JM</i>
2			
3	ADC/TBL [Redacted]		<i>JA</i>
4			
5	CFE/TBL [Redacted]		<i>PLS</i>
6	ADC/TBL		
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
<p>Remarks: <i>3 to 6: I suggest we have OLC draw on this to make oral response to Holdsmith.</i>  Response to Chief, Far East Speed Letter on status and treatment U.S. POW's being held in Laos. <i>Agree, Tell me when this has been done and I will ensure</i>  Responsibility for compiling this CFE info lies with DOD and State. Attached info was given to TBL [Redacted] by SOD/JOIC, our office responsible for coordinating with DOD on POW matters. All attached info sourced to DOD. SOD/JOIC stated the <u>Legislative Counsel levied a verbal request on C/VNO for the same information.</u></p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
ACFE/TBL/LOC 5 E 2506 7288/1308			14 MAR 1973
UNCLASSIFIED	CONFIDENTIAL	SECRET	

(b)(3) CIAAct  
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(b)(6)

(b)(1)  
(b)(3) CIAAct  
(b)(6)

FORM 23/ (Use previous editions)

**SECRET**

*Pr/min*  
*Korea*

RUAJMAB/FOSIF/WESTPAC  
RUHGOAA/COMSEVENTHFLT  
RUAGAAA/COMUSKOREA SEOUL KOR//SA  
PAGE 2 RUEAIIA 5782 ~~SECRET~~  
RUAGAAA/CINC UNC SEOUL KOR//SA

<SUBJ>  
SUBJ: POW/MIA:  
ABSENCE OF U.S. POWS IN NORTH KOREA

<TEXT>  
BT  
SECRET NOFORN NOCONTRACT ORCON WNINTEL  
CITE CIA 339795

SERIAL: [REDACTED] (CORRECTED)  
(CORRECTION TO CIA 339190, DTG 041522ZNOV)  
PASS: NSA FOR ZKZK OO DLS DE (FOR NSOC).

(b)(3) CIAAct  
(b)(3) NatSecAct

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CENTRAL INTELLIGENCE AGENCY  
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WARNING: INFORMATION REPORT, NOT FINALLY EVALUATED INTELLIGENCE.  
REPORT CLASS ~~SECRET~~--WNINTEL--NOFORN--NOCONTRACT--ORCON

REISSUED TO CORRECT THE DISSEM NUMBER FROM [REDACTED] TO  
PAGE 3 RUEAIIA 5782 ~~SECRET~~ (b)(3) CIAAct  
[REDACTED] (b)(3) NatSecAct

(b)(3) CIAAct  
(b)(3) NatSecAct

DIST: 04 NOVEMBER 1988  
COUNTRY: NORTH KOREA  
SUBJ: POW/MIA:  
ABSENCE OF U.S. POWS IN NORTH KOREA  
DOI: 1965-EARLY MARCH 1988  
SOURCE: [REDACTED] A NORTH KOREAN CITIZEN [REDACTED]

WHO WAS [REDACTED]  
OF THE NORTH KOREAN PEOPLE'S ARMED FORCES. WE ARE IN  
THE PROCESS OF ESTABLISHING HIS BONA FIDES. THIS  
REPORT WAS PREPARED BY A DEFENSE INTELLIGENCE AGENCY  
ANALYST.

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

TEXT: 1. (FIELD COMMENT: THE FOLLOWING IS A PERSONAL OBSERVATION  
PAGE 4 RUEAIIA 5782 ~~SECRET~~  
OF THE SOURCE. HE HAD NOT DISCUSSED THE SUBJECT WITH ANY NORTH  
KOREAN PEOPLE'S ARMED FORCES PERSONNEL, BUT BELIEVES OTHER MILITARY  
OFFICERS OF HIS RANK OR HIGHER IN P'YONGYANG WOULD HAVE SIMILAR  
VIEWS.)

2. THE SOURCE HAD NOT HEARD OF OR SEEN AMERICAN KOREAN WARERA  
PRISONERS-OF-WAR (POWS) IN NORTH KOREA. HE DID NOT BELIEVE THERE  
WERE ANY LIVING U.S. POWS IN NORTH KOREA. HE STATED THAT EVEN IF  
THERE HAD BEEN U.S. PRISONERS AT THE END OF THE KOREAN WAR, THEY  
WOULD NOT HAVE RECEIVED ANY SPECIAL OR DIFFERENT TREATMENT THAN OTHER  
PRISONERS. THEY WOULD NOT HAVE HAD SPECIAL DESIGNATIONS SUCH AS  
"POW," FOR EXAMPLE, AND IF THEY DIED, THEY WOULD HAVE BEEN BURIED AS  
ANY OTHER PRISONER WAS BURIED. THIS TYPE OF TREATMENT WOULD BE  
NORMAL NORTH KOREAN CULTURAL PRACTICE FOR SOMEONE CONSIDERED TO BE AT  
THE SOCIAL LEVEL OF A PRISONER.

Nov 26, 2024

000010

(b)(1)  
(b)(3) CIAAct  
(b)(3) NatSecAct

ACQ: (MID-OCTOBER 1988).

DISSEM: FIELD: SENT TO [ ] USCINCPAC, IPAC, PACAF, PACFLT,  
WESTCOM, COMSEVENTHFLT, FOSIF/WESTPAC, USFK.

PAGE 5 RUEAIIA 5782 ~~SECRET~~

WARNING: REPORT CLASS ~~SECRET~~--WARNING NOTICE--INTELLIGENCE  
SOURCES OR METHODS INVOLVED--NOT RELEASABLE TO FOREIGN NATIONALS--NOT  
RELEASABLE TO CONTRACTORS/CONSULTANTS --DISSEMINATION AND EXTRACTION  
OF INFORMATION CONTROLLED BY ORIGINATOR .

DECL: OADR DRV [ ] BY RECORDED REPORTING OFFICER. ALL PORTIONS  
CARRY CLASSIFICATION AND CONTROLS OF OVERALL DOCUMENT.

BT  
#5782 (b)(3) CIAAct  
(b)(3) NatSecAct

<SECT>  
SECTION: 01 OF 01  
<SSN>  
5782  
<TOR>  
881104152625 MSG000215969185

~~SECRET~~

29 October 1992

SUBJECT: Possible Senate Testimony of Czech Defector Jan Sejna

1. In a 28 October 1992 meeting of representatives of various U.S. government agencies involved in supporting the activities of the U.S.-Russian Joint Commission on POWs/MIAs, Frances Zwenig, Staff Director of the Senate Select Committee on POW-MIA Affairs, noted that Czech defector Jan Sejna would probably be called upon to testify at the Committee's open hearings, scheduled for 10 and 11 November.

2. Sejna, who defected to us in early 1968 and provided valuable information on Czech military and communist party matters at that time, was turned over to the U.S. military and the DIA for debriefing a few months after his defection. His reporting relationship with us was terminated in 1978 when it was determined that he had been thoroughly debriefed on all matters to which he had access. Sejna [redacted] (b)(1)

[redacted] (b)(3) 10 USC 424

[redacted] (b)(3) NatSecAct

[redacted] (b)(6)

[redacted] Sejna is a big spender and has made numbers of bad financial decisions. [redacted] he has recently been refused services by several banks due to his history of overdrafts.

(b)(1)

(b)(3) CIAAct

3. Although Sejna admitted at the time of his defection that he had no hard information on intelligence-related matters. he has, over the years, given repeated magazine/newspaper interviews in which he proclaimed himself an authority on subjects of headline interest. Often through his publicist [redacted]

[redacted] Sejna has been the source of sensationalist and highly speculative reports on Soviet espionage, sabotage and other topics certain to provoke journalistic interest. These like the POW issue, were not areas in which he claimed any knowledge during his CIA debriefings. [redacted] (b)(3) 10 USC 424 (b)(6)

offered Sejna to the DCI for debriefing on "the activities of the East European and Soviet intelligence services that are still of major relevance to U.S. security." The DCI turned down the offer. [redacted] (b)(3) 10 USC 424 (b)(6)

4. On 21 October, Sejna was interviewed by Senate POW-MIA Committee investigators, relating a story he had told DIA late in 1991 concerning U.S. POWs psychologically and physically experimented upon in a Czech military hospital in Korea during the Korean War and then moved by the Soviets through Prague to the Soviet Union for internment there. Sejna claimed in the interview that he had told the CIA about the hospital. His

[redacted] (b)(3) CIAAct

~~SECRET~~

Nov 26, 2024

000012

~~SECRET~~

SUBJECT: Spot Report on Jan Sejna

Agency debriefers do not recall any such subject covered by Sejna, and an overview of his reporting does not indicate that he provided information on the issue. A summary of his debriefings states he had peripheral, hearsay information on Soviet and Eastern European relations with Korea and Viet Nam. CE Division

(b)(1) has recalled the Sejna case records [redacted]

(b)(3) CIAAct [redacted] to determine whether he did report on the POW matter at the time of his debriefings. (b)(1)

(b)(1) (b)(3) NatSecAct

(b)(3) CIAAct 5. We are somewhat ahead of the game, however, since [redacted] queried [redacted] in January 1992

(b)(1) for anything it could provide on the Sejna information, passed to

(b)(3) CIAAct DIA as unsourced material for corroboration [redacted]

The [redacted] specific information on each of the individuals named in the DIA material, concluding that what [redacted] was highly unlikely. (b)(3) 10 USC 424

(b)(1) (b)(3) CIAAct (b)(6)

6. During the 28 October meeting, DIA officer [redacted] reviewed Sejna's history with DIA and DIA's negative assessment of the veracity of his information on POWs. [redacted] (b)(6) (b)(3) CIAAct

[redacted] the CIA agreed with the assessment.

(b)(6) Ms. Zwenig said after the meeting that if the improbability of Sejna's information could be demonstrated, she believed he might

(b)(3) CIAAct not be called to testify. CE Division has put together the information [redacted] in a memo to [redacted]

and is preparing it to be passed to the DIA, the Commission, and the Committee, with the coordination of ORMS, the DDO, and OCA.

(b)(1) (b)(3) 10 USC 424  
(b)(3) NatSecAct (b)(6)

~~SECRET~~

Nov 26, 2024

000013



U.S. Department of Justice

06C-02/00-00

United States Attorney  
District of Minnesota

600 United States Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
www.usdoj.gov/usao/mn

(612)664-5600

June 8, 2000

VIA FEDERAL EXPRESS

(b)(3) 10 USC 424  
(b)(6)

[Redacted]  
National Security Agency  
Office of General Counsel  
9800 Savage Road, [Redacted]  
Fort Meade, MD 20755 [Redacted]

[Redacted]  
Defense Intelligence Agency  
OGC  
[Redacted]  
Washington, D.C. 20301-7400

(b)(3) CIAAct  
(b)(6)

[Redacted]  
CIA  
Office of General Counsel  
Washington, D.C. 20505

(b)(3) 50 USC 3605

(b)(3) 10 USC 424

Re: Minnesota Won't Forget POW/MIA v. CIA, et al.  
Civil No. 99-1822

Dear Counsel:

Enclosed for your file is a copy of the Memorandum in Opposition to Central Intelligence Agency's and Defense Intelligence Agency's Motions for Summary Judgment in Opposition to National Security Agency's Motion for Stay of Proceedings, and in Support of Minnesota Won't Forget's Motion for Order Requiring National Security Agency to Release Documents; Affidavit of Richard A. Daly; Notice of Motion and Motion of Minnesota Won't Forget for Partial Summary Judgment and Order Requiring National Security Agency to Release Documents (faxed to you today); and proposed Order concerning the above-referenced matter. Please reply to Plaintiff's response, if any, by June 14, 2000, and to their Motion June 28, 2000.

Nov 26, 2024

000014

## FAEGRE & BENSON LLP

2200 NORWEST CENTER, 90 SOUTH SEVENTH STREET  
MINNEAPOLIS, MINNESOTA 55402-3901

TELEPHONE 612-336-3000  
FACSIMILE 612-336-3026

WILLIAM L. ROBERTS  
wroberts@faegre.com  
612/336-3473

June 7, 2000

**HAND DELIVERED**

Patricia R. Cangemi  
United States Attorney's Office  
600 United States Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

Re: Minnesota Won't Forget POW/MIA v. CIA, et al.

Dear Ms. Cangemi:

Enclosed and served upon you in the above matter please find one copy of the following:

1. Memorandum in Opposition to Central Intelligence Agency's and Defense Intelligence Agency's Motions for Summary Judgment, in Opposition to National Security Agency's Motion for Stay of Proceedings, and in Support of Minnesota Won't Forget's Motion for Order Requiring National Security Agency to Release Documents,
2. Affidavit of Richard A. Daly,
3. Notice of Motion and Motion of Minnesota Won't Forget for Partial Summary Judgment and Order Requiring National Security Agency to Release Documents,
4. Proposed Order.

Since we have prepared a single, combined Memorandum both opposing defendants' motions and in support of plaintiff's motion, we will keep the original and two copies in our file so that we can file them along with defendant NSA's opposition (if any) to plaintiff's Motion for Partial Summary Judgment and our reply brief regarding same (if any).

I presume that the Court will want to hear all of these motions at the same time, which would make the filing of all of these motion papers (both yours and ours) at the same time appropriate.

Please contact me if you have any questions or comments.



Patricia R.  
June 7, 2000  
Page 2

Very truly yours,

A handwritten signature in black ink, appearing to read "William L. Roberts", with a long horizontal flourish extending to the right.

William L. Roberts

WLR:pellm  
Enclosures

cc: Caryn A. Kauffman (w/encl.)  
Ann Marie Hanrahan (w/o encl.)  
Ms. Angela Chianelli (Calendar Clerk for Judge Davis) (w/out encl.)

M2:20317769.01

Nov 26, 2024

000016

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

MINNESOTA WON'T FORGET	)	Civil File No. 99-1822 MJD/JGL
POW/MIA,	)	
	)	
Plaintiff,	)	
v.	)	<b>MEMORANDUM IN OPPOSITION TO</b>
	)	<b>CENTRAL INTELLIGENCE</b>
CENTRAL INTELLIGENCE AGENCY,	)	<b>AGENCY'S AND DEFENSE</b>
DEFENSE INTELLIGENCE AGENCY,	)	<b>INTELLIGENCE AGENCY'S</b>
and NATIONAL SECURITY AGENCY,	)	<b>MOTIONS FOR SUMMARY</b>
	)	<b>JUDGMENT, IN OPPOSITION TO</b>
Defendants.	)	<b>NATIONAL SECURITY AGENCY'S</b>
	)	<b>MOTION FOR STAY OF</b>
	)	<b>PROCEEDINGS, AND IN SUPPORT OF</b>
	)	<b>MINNESOTA WON'T FORGET'S</b>
	)	<b>MOTION FOR ORDER REQUIRING</b>
	)	<b>NATIONAL SECURITY AGENCY TO</b>
	)	<b>RELEASE DOCUMENTS</b>
	)	
	)	
	)	<b>ORAL ARGUMENT IS REQUESTED</b>

INTRODUCTION

Plaintiff Minnesota Won't Forget POW/MIA ("Minnesota Won't Forget") respectfully submits this memorandum in opposition to defendant Central Intelligence Agency's ("CIA") and defendant Defense Intelligence Agency's ("DIA") motions for summary judgment, in opposition to defendant National Security Agency's ("NSA") motion for a stay of proceedings, and in support of Minnesota Won't Forget's motion for an order requiring NSA to release documents responsive to Minnesota Won't Forget's Freedom of Information Act.

CIA and DIA have failed to conduct an adequate search. A review of the declarations submitted by CIA and DIA and the six documents produced by CIA and DIA in response to Minnesota Won't Forget's Freedom of Information Act request reveals that neither CIA nor DIA conducted an adequate search of agency records. Indeed, Minnesota Won't Forget specifically requested—and the six produced documents refer to—several additional documents that were never produced by CIA or DIA. Moreover, it appears that thousands of CIA documents have not been declassified despite the existence of a Presidential Directive requiring such declassification. The documents requested by Minnesota Won't Forget may be contained in those improperly classified documents. Finally, DIA has never stated that it conducted its own independent search of its records in response to Minnesota Won't Forget's Freedom of Information Act request. Obviously, such an independent search is required. Accordingly, summary judgment is inappropriate.

NSA is not entitled to the indefinite stay of proceedings that it seeks. In March 1999, NSA told Minnesota Won't Forget that it would comply with part of Minnesota Won't Forget's Freedom of Information Act request within approximately three months. More than fifteen months later, NSA has still failed to comply with any of Minnesota Won't Forget's request. NSA should not be granted an indefinite stay to perform activities that it should have done more than a year ago. Moreover, NSA has identified 2,500 additional pages of documents that are responsive to Minnesota Won't Forget's request, but has failed to release them.

NSA should be required to release the responsive documents it has identified in their current form within sixty days. NSA has admitted that it has 2,500 pages of previously-

reviewed and redacted documents responsive to Minnesota Won't Forget's FOIA request. It should be ordered to produce them in their current form within sixty days, as it has articulated no justification for further delay.

### **STATEMENT OF UNDISPUTED FACTS**

#### **A. Minnesota Won't Forget**

Minnesota Won't Forget POW/MIA ("Minnesota Won't Forget") is a Minnesota non-profit corporation that works to locate, acquire, and disseminate information about prisoners of war and individuals missing-in-action (collectively "POWs/MIAs") who are still unaccounted-for and/or missing.<sup>1</sup> The purpose of Minnesota Won't Forget is to gather POW/MIA information and disseminate that information to the public. All of the members of Minnesota Won't Forget are unpaid volunteers. Many of the members of Minnesota Won't Forget are families of POWs/MIAs. These families and other supporters have put in countless hours since the 1960s to find out the truth about POWs/MIAs.

Richard A. Daly ("Daly") is the Executive Director of Minnesota Won't Forget. Daly works to gather POW/MIA information and disseminate that information to the public. As part of that effort, Daly conducts interviews and searches Library of Congress and other records.

In recent years, due in part to the efforts of groups such as Minnesota Won't Forget, an effort has been made to seek declassification and release of POW/MIA records. In 1992, President Bush signed Executive Order 12812. A copy of Executive Order 12812 is attached

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<sup>1</sup> All factual assertions in this memorandum are supported by the Affidavit of Richard A. Daly.

as to the Daly Affidavit as Exhibit A. Executive Order 12812 ordered all executive branch agencies to "expeditiously" review all records pertaining to POWs and MIAs lost in Southeast Asia for declassification purposes. All agencies were to make such records publicly available with exceptions for privacy or the release of which would impair the deliberative processes of the executive branch.

In 1993, President Clinton signed Presidential Directive 8. A copy of Presidential Directive 8 is attached to the Daly Affidavit as Exhibit B. Presidential Directive 8 ordered all executive branch agencies and departments, including the Central Intelligence Agency ("CIA"), Defense Intelligence Agency ("DIA"), and National Security Agency ("NSA"), to review, declassify, and release records pertaining to American POWs and MIAs missing in Southeast Asia. Presidential Directive 8 further ordered that the review, declassification, and release of records must be completed by Veterans Day, November 11, 1993. The most important aspect of Presidential Directive 8 is that, for the first time, instead of using words like "promptly" or "expeditiously", a specific date was used for the declassification deadline. The deadline was not subject to agency interpretation.

It appears that the CIA and NSA have failed to comply with President Clinton's Presidential Directive 8 ordering all POW/MIA documents to be declassified and released by Veterans Day 1993. Attached as Exhibit C to the Daly Affidavit are letters from Gary Sisco, Secretary of the United States Senate and Michael L. Gillette, Director of the Center for Legislative Archives. The letters state that, as of March 2000, NSA had reviewed only 558 of 9,800 pages of documents that NSA was charged with reviewing for declassification and release pursuant to Presidential Directive 8. Even worse, CIA has not reviewed any of the

39,000 pages of documents that it was supposed to declassify and release. These still-classified documents include documents provided by CIA to the 1991-1992 Senate Select POW/MIA Committee. See Exhibit C to Daly Affidavit.

**B. Freedom of Information Act Requests to CIA and DIA**

On September 26, 1994, Daly, on behalf of Minnesota Won't Forget, filed a Freedom of Information Act request with the CIA, seeking photo negatives and all records relating to a 1969 aerial photograph of an area near Bon Nakai, Laos (the "Bon Nakai records"). The Bon Nakai records are significant to families of POWs/MIAs because it is believed that the 1969 aerial photograph shows non-Asian prisoners playing volleyball. In his request to CIA, Daly specifically asked for "all photo negatives of overhead imagery . . . and all related documents, analysis, and records." A copy of Minnesota Won't Forget's 1994 CIA request is attached to the Daly Affidavit as Exhibit D.

On May 1, 1995, Daly, on behalf of Minnesota Won't Forget, filed a Freedom of Information Act request with the DIA also seeking the Bon Nakai records. As with its CIA request, Minnesota Won't Forget specifically asked for "all photo negatives of overhead imagery . . . and all related documents, analysis, and records." Minnesota Won't Forget noted in its 1995 DIA request that it preferred negatives of the 1969 aerial photograph, but that he would accept a photograph instead of a negative if that was all that was available. A copy of Minnesota Won't Forget's 1995 DIA request is attached to the Daly Affidavit as Exhibit E.

On April 4, 1995, CIA notified Minnesota Won't Forget that after conducting a search of its records, no documents responsive to its request were located. Exhibit F to Daly

Affidavit. After receiving CIA's April 4, 1995 letter, Minnesota Won't Forget made repeated additional Freedom of Information Act requests with DIA and CIA seeking the Bon Nakai records. Minnesota Won't Forget also made significant follow up efforts and pursued administrative appeals with both DIA and CIA. Minnesota Won't Forget tried to provide additional information that would help process its Freedom of Information Act requests. For example, on April 20, 1995, Minnesota Won't Forget provided CIA with a poor-quality photocopy of a photograph related to the 1969 aerial photograph. See Exhibit G to Daly Affidavit. By letter dated November 7, 1995, Minnesota Won't Forget provided additional information and specifically requested a CIA memorandum regarding the Bon Nakai photograph that was quoted in the final report of the 1991-1992 Senate Select POW/MIA Committee. See Exhibit H to Daly Affidavit. On February 7, 1997, Minnesota Won't Forget wrote another letter to CIA and included the specific quote of the CIA memorandum from the Senate Select POW/MIA Committee final report. See Exhibit I to Daly Affidavit. Minnesota Won't Forget's later Freedom of Information Act requests to DIA and CIA made it clear that it would be willing to accept a photograph instead of a negative of the 1969 aerial photograph. See Exhibits J and K to Daly Affidavit.

After not receiving any substantive response to its CIA and DIA Freedom of Information Act requests for more than four years, Minnesota Won't Forget commenced this action against CIA and DIA, requesting that the Court: (1) enjoin the CIA and DIA from withholding the Bon Nakai records from Minnesota Won't Forget; (2) order the CIA and DIA to produce the Bon Nakai records to Minnesota Won't Forget; and (3) award Minnesota

Won't Forget its reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E). See First Amended Complaint.

On March 9, 2000, after filing this lawsuit, Minnesota Won't Forget finally received a response from DIA, which appeared to be responding on behalf of both DIA and CIA. See Exhibit L to Daly Affidavit. The response attached six documents located by CIA that were responsive to Minnesota Won't Forget's request for the Bon Nakai records. The response further indicated that DIA had not located the 1969 aerial photograph the Bon Nakai area.

**C. Freedom of Information Act Requests to NSA**

In November 1997, Daly, on behalf of Minnesota Won't Forget, filed a Freedom of Information Act request with the NSA seeking NSA intercepts and Technical Report 002-92, which analyzes the NSA intercepts. See Exhibit M to Daly Affidavit. Most POW/MIA families and their supporters consider the NSA intercepts and Technical Report 002-92 as very important documents for revealing information about POWs/MIAs. The NSA intercepts are Vietnamese radio transmissions that were intercepted and translated by the NSA. Most POW/MIA families and their supporters think the NSA intercepts can reveal when and where American prisoners were captured during the Vietnam War.

Before making the Freedom of Information Act request with NSA seeking the NSA intercepts and the Technical Report, Daly searched the Library of Congress records for these documents. While searching the Library of Congress, Daly did not located Technical Report 002-92 or its addendum in the Library of Congress records. Daly did locate a few intercepts in the Library of Congress, but those intercepts did not indicate the originating agency, and there were very few intercepts available in the Library of Congress.



On March 4, 1999, the NSA responded to Minnesota Won't Forget's 1997 Freedom of Information Act request. See Exhibit N to Daly Affidavit. The NSA agreed to immediately release Technical Report 002-92 and its addendum, and estimated that it would take approximately three months to do so. NSA further indicated that there were 2,500 pages of NSA intercepts and other materials supporting the Technical Report. NSA indicated that, after Minnesota Won't Forget received the Technical Report, it could decide from three options how it wanted to obtain the identified 2,500 pages of NSA intercepts and supporting materials. The three options are set forth in Exhibit N to the Daly Affidavit.

Minnesota Won't Forget never agreed to narrow its Freedom of Information Act request for the NSA intercepts and Technical Report 002-92. Instead, as set forth in the NSA's March 4, 1999 letter attached to the Daly Affidavit as Exhibit N, Minnesota Won't Forget agreed to accept the Technical Report and its addendum first, then decide based on its review of the Technical Report which option it wanted to follow for the release of the NSA intercepts and other supporting materials.

Having not received a substantive response to its NSA Freedom of Information Act request—including the Technical Report that had been promised within approximately three months after March 1999—Minnesota Won't Forget commenced this action against NSA, requesting that the Court: (1) enjoin the NSA from withholding the NSA intercepts and related documents from Minnesota Won't Forget; (2) order the NSA to produce the NSA intercepts and related documents to Minnesota Won't Forget; and (3) award Minnesota Won't Forget its reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E).

**LEGAL ARGUMENT**

**I. CIA'S AND DIA'S MOTIONS FOR SUMMARY JUDGMENT SHOULD BE DENIED.**

**A. Standard For Summary Judgment.**

Summary judgment is appropriate only if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact” and that the moving party is “entitled to judgment as a matter of law.” Fed. R. Civ. P. 56. In opposing CIA’s and DIA’s motions, Minnesota Won’t Forget is not required to prove that an issue of material fact can now be resolved in its favor. Unigroup v. O’Rourke Storage & Transfer, 980 F.2d 1217, 1220 (8<sup>th</sup> Cir. 1992). Instead, it must only show that sufficient evidence supports “a material factual dispute that would require resolution by a trier of fact.” Id.

**A. CIA And DIA Have Not Performed Reasonable Searches For Documents Responsive To Minnesota Won’t Forget’s FOIA Request.**

The Freedom of Information Act (“FOIA”), requires government agencies to make information and documents “promptly” available to the public upon request. 5 U.S.C. § 552(a)(3). FOIA was intended to increase public access to government records. State of North Dakota ex rel. Olson v. Andrus, 581 F.2d 177, 179 (8<sup>th</sup> Cir. 1978). Congress intended FOIA to provide broad public access and a “vehicle through which the public could gain access to official information.” Id.; see also Cox v. United States Department of Justice, 576 F.2d 1302, 1304 (8<sup>th</sup> Cir. 1978) (noting that FOIA protects “the public’s right to know the operations of its Government”) (internal quotation omitted). Thus, FOIA reflects “a general

philosophy of full agency disclosure.” United States Department of Defense v. Federal Labor Relations Authority, 510 U.S. 487, 494 (1994) (internal quotation omitted). “[D]isclosure, not secrecy, is the dominant objective” of FOIA. Id. (internal quotation omitted).

In evaluating an agency’s motion for summary judgment in a Freedom of Information Act case, a court “must review the facts in a light most favorable to the requester of information.” Katzman v. Freeh, 926 F.2d 316, 320 (E.D.N.Y. 1996). The agency bears the burden of establishing that its search was adequate. Id.; Ethyl Corporation v. United States Environmental Protection Agency, 25 F.3d 1241, 1248 (4<sup>th</sup> Cir. 1994). CIA and DIA cannot do so here.

On September 26, 1994, Minnesota Won’t Forget filed a FOIA request with the CIA, seeking the Bon Nakai records. In its 1994 request to CIA, Minnesota Won’t Forget specifically asked for “all photo negatives of overhead imagery . . . *and all related documents, analysis, and records.*” Exhibit D to Daly Affidavit (emphasis added). On May 1, 1995, Minnesota Won’t Forget filed a Freedom of Information Act request with the DIA also seeking the Bon Nakai records. As with its CIA request, Minnesota Won’t Forget specifically asked for “all photo negatives of overhead imagery . . . *and all related documents, analysis, and records.*” Exhibit E to Daly Affidavit.

By letter dated April 4, 1995, CIA notified Minnesota Won’t Forget that no responsive documents were located after CIA’s allegedly “thorough and diligent” search. Exhibit F to Daly Affidavit. Minnesota Won’t Forget pursued an administrative appeal and provided additional information to CIA and DIA that would help process its FOIA request.

On April 20, 1995, Minnesota Won't Forget provided CIA with a poor-quality photocopy of a photograph related to the 1969 aerial photograph. See Exhibit G to Daly Affidavit. By letter dated November 7, 1995, Minnesota Won't Forget provided additional information to CIA and specifically requested production of a CIA memorandum regarding the Bon Nakai photograph that was quoted in the final report of the 1991-1992 Senate Select POW/MIA Committee. See Exhibit H to Daly Affidavit. On February 7, 1997, Minnesota Won't Forget wrote another letter to CIA and included the specific quote of the CIA memorandum from the Senate Select POW/MIA Committee final report. See Exhibit I to Daly Affidavit. Subsequent Freedom of Information Act requests to DIA and CIA made it clear that Minnesota Won't Forget would be willing to accept an actual photograph instead of a negative of the 1969 aerial photograph. See Exhibits J and K to Daly Affidavit.

On March 9, 2000, after filing this lawsuit, Minnesota Won't Forget finally received a response to its FOIA requests to CIA and DIA. See Exhibit L to Daly Affidavit. The response attached six documents located by CIA and forwarded Minnesota Won't Forget by DIA that were responsive to Minnesota Won't Forget's request for the Bon Nakai records. CIA and DIA now claim that production of these six documents satisfies the agencies' duties under the Freedom of Information Act. However, the agencies' claims that they are entitled to summary judgment on Minnesota Won't Forget's claims cannot pass scrutiny for several reasons.<sup>2</sup>

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<sup>2</sup> Minnesota Won't Forget does not contest that the redactions in the six documents produced by CIA/DIA are valid.

First, although Minnesota Won't Forget repeatedly provided CIA with information—including a direct quote—from a CIA memorandum regarding the Bon Nakai photograph that was provided by CIA to the 1991-1992 Senate Select POW/MIA Committee (Exhibit H & I to Daly Affidavit), CIA failed to produce this memorandum in response to Minnesota Won't Forget's FOIA request. CIA's failure to produce this memorandum creates a genuine issue of material fact as to whether CIA has produced all existing documents responsive to Minnesota Won't Forget's FOIA request.

Second, the reasonableness of CIA's search becomes more suspect when considering the fact that CIA has failed to comply with President Clinton's Presidential Directive 8 ordering all POW/MIA documents to be declassified and released by Veterans Day 1993. See Exhibit B to Daly Affidavit. As of March 2000, CIA had not reviewed any of the 39,000 pages of CIA documents that should be declassified and released pursuant to Presidential Directive 8. These documents include documents provided by the CIA to the Senate Select POW/MIA Committee. See Exhibit C to Daly Affidavit. CIA has failed to provide Minnesota Won't Forget with at least some requested documents that are likely contained within the population of documents that have not yet been declassified. CIA's declarations supporting its motion for summary judgment do not indicate that any search has been made of these improperly classified documents. Accordingly, CIA's motion for summary judgment must fail.

Third, the six documents that CIA and DIA provided to Minnesota Won't Forget in March 2000 refer to several additional documents, none of which were produced to Minnesota Won't Forget. These referenced yet omitted documents include: (1) a Duplicate

Positive of the original 1969 aerial photograph (Exhibit L at page 3); (2) computer records pertaining to the possible destruction of the original 1969 aerial negative (Exhibit L at page 3); (3) photographs taken on a 1971 mission which flew over the same area (Exhibit L at page 4); (4) five photographs (Exhibit L at page 9); (5) 30 prints, 12 overlays, 1 annotated map, and 12 “vographs” (Exhibit L at page 10); (6) five photographs (Exhibit L at page 13); and (7) 5 – 10” x 12” prints, 5 enhanced prints, 1 overlay, 1 “mensuration” statement, 1 “IA” statement, 1 “IAM C-07-73399-79/DB5C”, 1 area map overlay (Exhibit L at page 14). CIA’s and DIA’s failure to produce these referenced documents defeats the agencies’ motions for summary judgment. See Katzman, 926 F.2d at 320 (denying summary judgment to agency where plaintiff showed that enclosures were mentioned in documents produced by the agency but were not themselves produced); see also Ethyl Corporation, 25 F.3d at 1248 (holding that a genuine issue of material fact existed on the validity of the agency’s search where 41 out of 100 employees that may possess relevant documents were never contacted by the agency conducting the search).

Fourth, the agencies’ failure to produce the CIA memorandum and the various documents mentioned above is even more suspect considering the fact that, by letter dated April 4, 1995, CIA notified Minnesota Won’t Forget that no documents responsive to his request were located after CIA conducted a search of its records. Exhibit F to Daly Affidavit. Yet in March 2000, CIA—through a letter from DIA—produced six documents it discovered after telling Minnesota Won’t Forget that no such documents existed in its records. See Exhibit L to Daly Affidavit. These events create a genuine issue of material fact sufficient to preclude summary judgment in favor of CIA. See Krikorian v. Department of State, 984

F.2d 461, 464 (D.C. Cir. 1993) (remanding the case for further inquiry into whether the agency's search was valid where the agency claimed it had produced all relevant records, then later produced additional records not previously produced); Ethyl Corporation, 25 F.3d at 1248 (holding that a genuine issue of material fact existed on the validity of the agency's search where several documents that were responsive to a FOIA request were not produced by the agency until the plaintiff filed a second FOIA request).

Fifth, CIA's and DIA's motions also fail because the photocopies of photographs that CIA and DIA produced to Minnesota Won't Forget (see Exhibit L at pages 24-26) are entirely unacceptable and unresponsive to Minnesota Won't Forget's request. Minnesota Won't Forget specifically requested either negatives or actual photographs—not illegible photocopies of photographs. Exhibits E, J, K to Daly Affidavit. Indeed, the photocopies produced by CIA and DIA are no better than the photocopy that Minnesota Won't Forget already had—and provided to CIA—almost five years ago. See Exhibit G to Daly Affidavit. Presumably, the photocopies produced by CIA were made from some actual photographs or a Duplicate Positive such as is identified in the six documents produced. If CIA and DIA decline to produce the actual photographs or negatives or Duplicate Positives, they must prove that such items no longer exist. *Goldgar v. Office of Admin.*, 26 F.3d 32, 34 (5<sup>th</sup> Cir. 1994). Moreover, under the circumstances of this case, including (1) an initial denial of the existence of *any* responsive documents; (2) the failure to produce any responsive records until plaintiff filed suit nearly six years after initiating its FOIA request; and (3) a post-suit production of poor quality photocopies apparently made from some form of original, Minnesota Won't Forget is entitled to test, by way of discovery, any bald claim by CIA and

DIA that neither the actual photographs nor negatives nor Duplicate Positives remain in existence.

Sixth, DIA's motion fails for the additional reason that DIA has failed to even assert via declaration that it has conducted its own independent search of DIA records to locate documents responsive to Minnesota Won't Forget's FOIA request. See Declaration of Robert P. Richardson. Although the letter sent to Minnesota Won't Forget in March 2000 indicates that DIA searched for the 1969 aerial photograph (Exhibit L to Daly Affidavit), DIA apparently never searched its own records for any documents related to the 1969 photograph, all of which were repeatedly requested by Minnesota Won't Forget. In order to obtain summary judgment in its favor, an agency "must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." Oglesby v. United States Department of Army, 920 F.2d 57, 68 (D.C. Cir. 1990). "A reasonably detailed affidavit, setting forth the search terms and the type of search performed, and averring that all files likely to contain responsive materials . . . were searched, is necessary . . . to allow the district court to determine if the search was adequate in order to grant summary judgment" in favor of the agency. Id. DIA's failure to conduct its own search—and failure to provide any evidence that it conducted its own search—precludes summary judgment in its favor. See id.

**II. NSA'S MOTION FOR AN INDEFINITE STAY SHOULD BE DENIED AND NSA SHOULD BE ORDERED TO PRODUCE ALL RESPONSIVE DOCUMENTS WITHIN SIXTY DAYS.**

Through its motion, NSA essentially seeks an indefinite stay of these proceedings. NSA has failed to identify any good reason why it should be entitled to such a stay. On



March 4, 1999, the NSA initially responded to Minnesota Won't Forget's 1997 Freedom of Information Act request. See Exhibit N to Daly Affidavit. Even in March 1999—fifteen months ago—the NSA agreed to immediately release Technical Report 002-92 and its addendum, and estimated that it would take approximately three months from March 1999 to do so. NSA further indicated that there were 2,500 pages of NSA intercepts and other materials supporting the Technical Report that were still in a redacted state. NSA indicated that, after Minnesota Won't Forget received the Technical Report, it could decide from three options how it wanted to obtain the identified 2,500 pages of NSA intercepts and supporting materials. Specifically, if Minnesota Won't Forget determined that it needed only specific unredacted support documents, NSA could likely process such a request relatively quickly. Similarly, if Minnesota Won't Forget determined that it needed all of the support documents, but was willing to accept the documents in their present redacted form, NSA could likely process such a request quickly. Finally, if Minnesota Won't Forget determined that it needed all of the support documents and wanted all to be unredacted, such a request would take longer and would be more difficult to process. Exhibit N to Daly Affidavit.

Contrary to NSA's assertion in its motion papers, Minnesota Won't Forget never agreed to narrow its Freedom of Information Act request for the NSA intercepts and Technical Report 002-92. Instead, Minnesota Won't Forget agreed—as suggested by NSA in the March 1999 letter—to bifurcate its FOIA request by accepting the Technical Report and its addendum first, then deciding based on its review of the Technical Report which option it wanted to follow for the release of the NSA intercepts and other supporting materials. (Daly Affidavit at ¶ 17.)

Although NSA implies in its memorandum that all of the documents Minnesota Won't Forget seeks are readily available in the Library of Congress, Daly searched the Library of Congress records for these documents before making the FOIA request with NSA. While searching the Library of Congress, Daly did not locate Technical Report 002-92 or its addendum in the Library of Congress records. Nor did the Library of Congress indexes of POW/MIA material list this Technical Report or its addendum of intercepts. (Daly Affidavit at ¶ 15.) Thus, Daly's own searching indicates that NSA's contention is erroneous. In any event, even if—as NSA suggests—it had released Technical Report 002-92 and its supporting NSA intercepts to the Library of Congress, this would not excuse its obligation to respond to Minnesota Won't Forget's FOIA request. *Stokes v. Hodgson*, 347 F. Supp. 1371, 1376 (N.D.Ga. 1972)(disclosure under FOIA required despite agency's claim that the documents are available in other public sources). Indeed, if this were the case there is no reason why NSA cannot also expeditiously release the information to Minnesota Won't Forget.

In sum, it is ludicrous for NSA to seek what essentially amounts to an indefinite stay of these proceedings to provide Minnesota Won't Forget with the Technical Report when NSA itself promised, in March 1999, that Minnesota Won't Forget would receive the Technical Report within approximately three months from that date. Moreover, having identified the 2,500 pages of supporting material, it is obvious that the population of documents responsive to the remainder of Minnesota Won't Forget's FOIA request is readily identifiable. NSA has identified no reason why it cannot immediately produce both the Technical Report 002 – 92 and the identified 2,500 pages of supporting materials in their

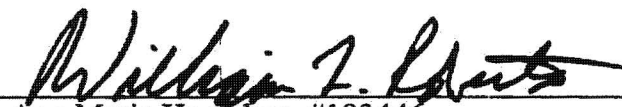
present redacted form. Accordingly, Minnesota Won't Forget respectfully requests that the Court order NSA to produce the Technical Report and the 2,500 pages of supporting NSA intercepts and related documents within sixty days. Due to the inexcusable delay, NSA should further be ordered to waive all duplicating costs in providing these documents. In addition, Minnesota Won't Forget's original NSA FOIA request should remain in place so that, upon review of the documents produced by NSA pursuant to the Court's Order, Minnesota Won't Forget can, if necessary, seek production of any or all of the documents in unredacted form.

### CONCLUSION

For the foregoing reasons, Minnesota Won't Forget respectfully requests that the Court deny CIA's and DIA's motions for summary judgment. Minnesota Won't Forget further requests that the Court deny NSA's motion for a stay of proceedings and instead order NSA to produce Technical Report 002-92 and the 2,500 pages of NSA intercepts and other related documentation in their current redacted form within sixty (60) days.

Dated: June 7, 2000

FAEGRE & BENSON LLP



Ann Marie Hanrahan, #193446

William L. Roberts, #212763

Caryn A. Kauffman, #277344

2200 Norwest Center

90 South Seventh Street

Minneapolis, Minnesota 55402-3901

(612) 336-3000

**ATTORNEYS FOR PLAINTIFF**

M2.20317040.03

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

MINNESOTA WON'T FORGET POW/MIA,	)	Civil File No. 99-1822 MJD/JGL
	)	
Plaintiff,	)	
v.	)	
	)	<b>NOTICE OF MOTION AND MOTION FOR</b>
CENTRAL INTELLIGENCE AGENCY,	)	<b>PARTIAL SUMMARY JUDGMENT AND</b>
DEFENSE INTELLIGENCE AGENCY, and	)	<b>ORDER REQUIRING NATIONAL</b>
NATIONAL SECURITY AGENCY,	)	<b>SECURITY AGENCY TO RELEASE</b>
	)	<b>DOCUMENTS</b>
Defendants.	)	
	)	<b>ORAL ARGUMENT IS REQUESTED</b>

**TO: DEFENDANT NATIONAL SECURITY AGENCY AND ITS ATTORNEY, PATRICIA R. CANGEMI, ASSISTANT UNITED STATES ATTORNEY, 600 UNITED STATES COURTHOUSE, 300 SOUTH FOURTH STREET, MINNEAPOLIS, MINNESOTA 55415.**

PLEASE TAKE NOTICE that, pursuant to F.R.C.P. 56, Minnesota Won't Forget POW/MIA hereby moves this Court for partial summary judgment and an order requiring National Security Agency to release, in their current form, within sixty (60) days, all documents responsive to Minnesota Won't Forget's Freedom of Information Act request. This motion will be heard at a time and date to be determined. This motion is based on the Memorandum filed herewith, all the files, records, and proceedings herein, and the argument of counsel.

Nov 26, 2024

000035

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

MINNESOTA WON'T FORGET  
POW/MIA,

Civil File No. 99-1822 MJD/JGL

Plaintiff,

v.

**ORDER**

CENTRAL INTELLIGENCE AGENCY,  
DEFENSE INTELLIGENCE AGENCY,  
and NATIONAL SECURITY AGENCY,

Defendants.

This matter came before the Court upon plaintiff's motion for an Order requiring National Security Agency to release within sixty (60) days all documents responsive to plaintiff's Freedom of Information Act (FOIA) request. Plaintiff's motion is granted. National Security Agency shall release in their current redacted form Technical Report 002-92 and the 2,500 pages of supporting NSA intercepts (including the addendum) and any other responsive documents NSA has already identified within sixty (60) days of the date of this Order. National Security Agency shall pay all duplicating costs incurred in complying with this Order. Plaintiff shall be entitled to pursue the balance of its FOIA request after receipt of the documents identified herein.

Dated: \_\_\_\_\_, 2000.

BY THE COURT:

\_\_\_\_\_  
Judge of United States District Court

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

MINNESOTA WON'T FORGET	)	Civil File No. 99-1822 MJD/JGL
POW/MIA,	)	
	)	
Plaintiff,	)	
v.	)	<b>AFFIDAVIT OF RICHARD A. DALY</b>
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
DEFENSE INTELLIGENCE AGENCY,	)	
and NATIONAL SECURITY AGENCY,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	

STATE OF MINNESOTA )  
  )ss.  
COUNTY OF HENNEPIN )

I, Richard A. Daly, being first duly sworn on oath, state as follows:

**Background Information About Minnesota Won't Forget And POWs/MIAs**

1. Minnesota Won't Forget POW/MIA ("Minnesota Won't Forget") is a Minnesota non-profit corporation founded in 1986 that works to locate, acquire, and disseminate information about prisoners of war and individuals missing-in-action (collectively "POWs/MIAs") who are still unaccounted-for and/or missing. The purpose of Minnesota Won't Forget is to gather POW/MIA information and disseminate that information to the public. All of the members of Minnesota Won't Forget are unpaid volunteers. Many of the members of Minnesota Won't Forget are families of POWs/MIAs. These families and other supporters have put in countless hours since the 1960s to find out the truth about POWs/MIAs.

2. Having a father who was a former prisoner of war, from a young age I took a natural interest into finding out as much information as I could about prisoners and the men who never came home. I got involved with Minnesota Won't Forget to help make a contribution to the effort to find out the truth about POWs/MIAs.

3. My initial involvement with Minnesota Won't Forget was to assist with the monthly newsletter. In December 1993, I was elected Communications Director of the organization. Later my duties were expanded to also being Researcher for the organization. I am also on the Board of Directors and have recently been elected to the position of Executive Director. I work to gather POW/MIA information and disseminate that information to the public.

4. Because of the decades of work by families in our sister organization, the Minnesota League of POW/MIA Families (founded during the Vietnam War) and the superb work done by the families and supporters since the creation of Minnesota Won't Forget, I have been able to gain access to many former POWs and POW/MIA officials while doing research to gather information about POWs/MIAs. I have conducted lengthy interviews with these individuals and received many leads for documentation this way. I leave my name, address, and phone number with researchers, personnel at government agencies, and with anyone I can think of who might have knowledge of the location of key documents. Likewise, I ask that people let me know if they hear of the shipment of records of POW/MIA material from one place to another, even if that material is unidentified. And there is an unofficial networking of POW/MIA organizations who readily share the material they discover. The family organizations have set up vast searchable databases of records, as have many agencies within the federal government, and I search these databases for records I seek.

I also search the Library of Congress.

5. When I cannot find key records through these methods, I go through the process of filing a Freedom of Information Act request. This is hardly my preferred method, because it is time consuming and often does not produce any records. Often, the agencies claim they are unable to find the documents without more detailed information, even though the records should be quite well known to anyone familiar with the POW/MIA issue.

6. In recent years, due in part to the efforts of groups such as Minnesota Won't Forget, an effort has been made to seek declassification and release of POW/MIA records. In 1992, President Bush signed Executive Order 12812. A copy of Executive Order 12812 obtained from the internet is attached as Exhibit A. Executive Order 12812 ordered all executive branch agencies to "expeditiously" review all records pertaining to POWs and MIAs lost in Southeast Asia for declassification purposes. All agencies were to make such records publicly available with exceptions for privacy or the release of information which would impair the deliberative processes of the executive branch.

7. In 1993, President Clinton signed Presidential Directive 8. A copy of Presidential Directive 8 obtained from the internet is attached as Exhibit B. Presidential Directive 8 ordered all executive branch agencies and departments, including the Central Intelligence Agency ("CIA"), Defense Intelligence Agency ("DIA"), and National Security Agency ("NSA"), to review, declassify, and release records pertaining to American POWs and MIAs missing in Southeast Asia. Presidential Directive 8 further ordered that the review, declassification, and release of records must be completed by Veterans Day 1993. The most important aspect of Presidential Directive 8 is that, for the first time, instead of using words like "promptly" or "expeditiously", a specific date was used for the



declassification deadline. The deadline was not subject to agency interpretation.

8. I have recently obtained information indicating that the CIA and NSA have failed to comply with President Clinton's Presidential Directive 8 ordering all POW/MIA documents to be declassified and released by Veterans Day 1993. Attached as Exhibit C are letters from Gary Sisco, Secretary of the United States Senate and Michael L. Gillette, Director of the Center for Legislative Archives. The letters state that, as of March 2000, NSA had reviewed only 558 of 9,800 pages of documents that NSA was charged with reviewing for declassification and release pursuant to Presidential Directive 8 and other laws. Even worse, CIA has not reviewed any of the 39,000 pages of documents that the Senate sent to CIA for declassification and release. These classified documents include documents provided by the CIA to the 1991-1992 Senate Select POW/MIA Committee.

**My Freedom of Information Act Requests to CIA, DIA, and NSA**

9. On September 26, 1994, I, on behalf of Minnesota Won't Forget, filed a Freedom of Information Act request with the CIA, seeking photo negatives and all records relating to a 1969 aerial photograph of an area near Bon Nakai, Laos (the "Bon Nakai records"). The Bon Nakai records are significant because it is believed that the 1969 aerial photograph shows non-Asian prisoners playing volleyball. Thus, in my request to CIA, I specifically asked for "all photo negatives of overhead imagery . . . and all related documents, analysis, and records." A copy of my 1994 CIA request is attached as Exhibit D.

10. On May 1, 1995, I, on behalf of Minnesota Won't Forget, filed a Freedom of Information Act request with the DIA also seeking the Bon Nakai records. As with my CIA request, I specifically asked for "all photo negatives of overhead imagery . . . and all related documents, analysis, and records." I noted in the request that I preferred negatives of the

1969 aerial photograph, but that would accept a photograph instead of a negative if that was all that was available. A copy of my 1995 DIA request is attached as Exhibit E.

11. On April 4, 1995, CIA sent me a letter informing me that they found no documents responsive to my request. A copy of CIA's letter is attached as Exhibit F. After receiving this letter, I made repeated additional Freedom of Information Act requests with DIA and CIA seeking the Bon Nakai records. I also made significant follow up efforts and pursued administrative appeals with both DIA and CIA. I tried to provide additional information that would help process my requests. For example, on April 20, 1995, I provided CIA with a poor-quality photocopy of a photograph related to the 1969 aerial photograph. See Exhibit G. By letter dated November 7, 1995, I provided additional information and specifically requested a CIA memorandum regarding the Bon Nakai photograph that was quoted in the final report of the 1991-1992 Senate Select POW/MIA Committee. See Exhibit H. On February 7, 1997, I wrote another letter to CIA and included the specific quote of the CIA memorandum from the Senate Select POW/MIA Committee final report. See Exhibit I. My later Freedom of Information Act requests with DIA and CIA made it clear that I would be willing to accept a photograph instead of a negative of the 1969 aerial photograph. See Exhibits J and K.

12. On March 9, 2000, after filing this lawsuit, I finally received a response from DIA, which appeared to be responding on behalf of both DIA and CIA. The response indicated that CIA had found six documents responsive to my request for the Bon Nakai records. The response further indicated that DIA had not located the 1969 aerial photograph the Bon Nakai area. The response attached the six documents located by CIA. The response and the documents are attached as Exhibit L.

13. In November 1997, I, on behalf of Minnesota Won't Forget, filed a Freedom of Information Act request with the NSA seeking NSA intercepts and Technical Report 002-92 (and its addendum), which analyzes the NSA intercepts. My request to NSA is attached as Exhibit M.

14. Most POW/MIA families and their supporters whom I have contact with consider the NSA intercepts and Technical Report 002-92 as a critical set of documents to reveal the truth. The NSA intercepts are Vietnamese radio transmissions that were intercepted and translated by the NSA. These NSA intercepts should reveal when and where American prisoners were captured.

15. Before making my Freedom of Information Act request with NSA seeking the NSA intercepts and the Technical Report, I searched the Library of Congress indexes and records for these documents. I did not locate Technical Report 002-92 or its addendum in the Library of Congress records. I did locate a few intercepts in the Library of Congress, but those intercepts did not indicate the originating agency. My search of the available indexes to Library of Congress POW/MIA material showed very few NSA records and certainly did not show Technical Report 002-92 or its addendum of NSA intercepts.

16. On March 4, 1999, the NSA responded to my 1997 request. See Exhibit N. The NSA agreed to immediately release Technical Report 002-92 and its addendum, and estimated that it would take approximately three months to do so. NSA further indicated that there were 2,500 pages of NSA intercepts and other materials supporting the Technical Report. NSA indicated that, after I received the Technical Report, I could decide from three options how I wanted to obtain the identified 2,500 pages of NSA intercepts and supporting materials. The three options are set forth in Exhibit N.

17. I never agreed to narrow my Freedom of Information Act request for the NSA intercepts and Technical Report 002-92. Instead, as set forth in the NSA's March 4, 1999 letter attached as Exhibit N, I agreed to accept the Technical Report and its addendum first, then decide based on my review of the Technical Report which option I wanted to follow for the release of the NSA intercepts and other supporting materials.

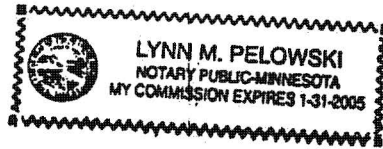
**FURTHER YOUR AFFIANT SAYETH NAUGHT.**

Dated: June 7, 2000

Richard A. Daly  
Richard A. Daly

Subscribed and sworn to before me  
this 7<sup>th</sup> day of June, 2000.

Lynn M. Pelowski  
Notary Public



M2:20216924.04

Nov 26, 2024

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A

THE WHITE HOUSE  
Office of the Press Secretary

For Immediate Release

July 22, 1992

**EXECUTIVE ORDER  
12812**

**DECLASSIFICATION AND RELEASE OF MATERIALS PERTAINING TO  
PRISONERS OF WAR AND MISSING IN ACTION**

WHEREAS, the Senate, by S. Res. 324 of July 2, 1992, has asked that I "expeditiously issue an Executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs;" and

WHEREAS, indiscriminate release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs; and

WHEREAS, I have concluded that the public interest would be served by the declassification and public release of materials pertaining to Vietnam-era POWs and MIAs as provided below;

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356.

Sec. 2. All executive departments and agencies shall make publicly available documents, files, and other materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.

Sec. 3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

George Bush

Nov 26, 2024

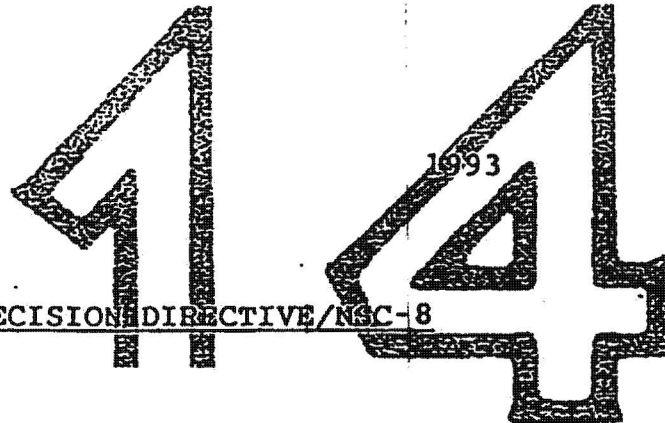
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FOR OFFICIAL USE ONLY

20626  
20 June 93

THE WHITE HOUSE

WASHINGTON



MEMORANDUM FOR THE VICE PRESIDENT  
 THE SECRETARY OF STATE  
 THE SECRETARY OF TREASURY  
 THE SECRETARY OF DEFENSE  
 THE ATTORNEY GENERAL  
 THE SECRETARY OF VETERANS AFFAIRS  
 THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET  
 THE CHIEF OF STAFF TO THE PRESIDENT  
 THE DIRECTOR OF CENTRAL INTELLIGENCE  
 THE REPRESENTATIVE OF THE UNITED STATES TO THE UNITED NATIONS  
 THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
 THE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY  
 THE DIRECTOR OF THE NATIONAL SECURITY AGENCY  
 THE DIRECTOR OF THE DEFENSE INTELLIGENCE AGENCY

SUBJECT: Declassification of POW/MIA Records

In accordance with my Memorial Day Announcement of May 31, 1993, all executive agencies and departments are directed to complete by Veterans Day, November 11, 1993, their review, declassification and release of all relevant documents, files pertaining to American POW's and MIA's missing in Southeast Asia in accordance with Executive Order 12812.



*Blue Clinton*

14

FOR \_\_\_\_\_ USE ONLY

DPMO Home page

Nov 26, 2024

000049

GARY SISCO  
SECRETARY

SUITE S-220  
THE CAPITOL  
WASHINGTON, DC 20510-7100  
(202) 224-3822

**United States Senate**  
OFFICE OF THE SECRETARY

March 24, 2000

The Honorable Bob Smith  
United States Senate  
Washington, D.C. 20510

Dear Senator Smith:

Enclosed is a copy of a report on the status of declassification of Senate Select Committee on POW/MIA Affairs records. I bring it to your attention because the review process appears to have become bogged down.

A year ago, I asked the Center for Legislative Archives, within the National Archives, to establish a timetable with the relevant agencies for completing the work. Although certain progress was made, as the report shows, neither the Air Force nor the Central Intelligence Agency have begun to address this task. The National Security Agency has reviewed only 558 of 9,800 pages.

It is the opinion of the National Archives that unless additional influence is brought to bear, no more significant progress will be made. You may wish to bring this matter to the attention of appropriate individuals at the respective agencies.

With best wishes, I am

Sincerely yours,



Gary Sisco

GS:rab/kdp

Enclosure

05/12/00 FRI 14:09 [TX/RX NO 9694]

Nov 26, 2024

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# National Archives



700 Pennsylvania Ave., N.W., Washington, DC 20408-0001

March 14, 2000

The Honorable Gary Sisco  
Secretary of the Senate  
United States Senate  
Washington, DC 20510

Dear Gary:

I want to update you on our project to declassify the records of the Senate Select Committee on POW/MIA Affairs. In response to your initiative, we asked the seven agencies reviewing the Senate records to provide us a timetable for their declassification projects, and I sent you the responses on March 4, 1999.

Four of the agencies, the FBI, the National Security Council, the Department of State, and the Drug Enforcement Agency, completed their work in 1999 and returned the records to us. After reviewing the records for the Senate equities and finding none, my staff made these materials available to the public.

Three other agencies have not completed their review for declassification. The Air Force received more than 2,000 pages for review but has not returned any of them to NARA. Nor has the Central Intelligence Agency returned any of the 39,000 pages that it received for review. Of the 9,800 pages that the National Security Agency (NSA) received for review, and the agency has returned 558 pages. Neither the Air Force nor NSA has been able to give us a revised target date for the completion of their reviews.

Our greatest concern, however, is the Central Intelligence Agency. As the enclosed communications indicate, CIA officials now even question whether they have the authority to declassify Senate records. I am enclosing copies of letters Steven Tilley and I sent to the CIA to continue the declassification of Senate records. To date we have not received a reply to either letter. Unless some additional influence is brought to bear, it seems unlikely that any more

*National Archives and Records Administration*

05/12/00 FRI 14:09 [TX/RX NO 9694]

Nov 26, 2024

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significant progress will be made. While I dislike having to send you such a pessimistic report, I believe that it is important for you to have an accurate status report.

Sincerely,



MICHAEL L. GILLETTE  
Director  
Center for Legislative Archives  
(202) 501-5350

Enclosures

03/12/00 FRI 14:09 [TX/RX NO 9694]

Nov 26, 2024

000052

JOHN F. KERRY, U.S. SENATOR  
Chairman  
POW/MIA Affairs, SOUTH CAROLINA  
RICHARD M. ROBERTS, U.S. SENATOR  
Chairman, POW/MIA Affairs  
A. ADRIAN S. BERRY, U.S. SENATOR  
Chairman, POW/MIA Affairs

BOB SMITH, U.S. SENATOR  
Vice Chairman  
JOHN F. KERRY, U.S. SENATOR  
Chairman, POW/MIA Affairs  
A. ADRIAN S. BERRY, U.S. SENATOR  
Chairman, POW/MIA Affairs

POW/MIA AFFAIRS, SENATE STAFF OFFICE  
1 WASHINGTON BUILDING, SENATE COMPLEX

# United States Senate

SELECT COMMITTEE ON POW/MIA AFFAIRS  
WASHINGTON, DC 20510-8505

January 27, 1993

Dr. Don Wilson  
Archivist of the United States  
National Archives and Records Administration  
Washington, DC 20408

Dear Dr. Wilson:

On behalf of the Senate Select Committee on POW/MIA Affairs, we are hereby transmitting to the National Archives, for preservation and safekeeping, approximately 275 boxes of Select Committee classified records, pursuant to 44 U.S.C. Section 2118 (Supp. III 1985); Senate Rule XI (2); and S. Res. 474, 96th Cong., 2nd Sess. (1980).

It is our wish that one copy of each classified record be maintained in classified form at the Archives, until the classified copy can be declassified according to established Archives' declassification procedures. At the same time, it was the Committee's intent, consistent with President Bush's Executive Order of July, 1992, to ensure that declassified copies are made of all classified records in the Committee's possession.

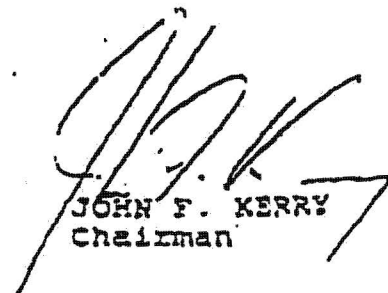
Therefore, we request that any classified records which do not already exist in declassified form be immediately processed for declassification.

According to standard Senate procedures, requests for access to the classified materials shall be directed to the Secretary of the Senate.

Thank you for your assistance.

Sincerely,

  
BOB SMITH  
Vice Chairman

  
JOHN F. KERRY  
Chairman

Nov 26, 2024

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4  
**Copy of text**

September 26, 1994

Central Intelligence Agency  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505

Subject: Initial FOIA Request

This is a Freedom of Information Act request.

I request all photo negatives of overhead imagery of the Bon Nakay area of Laos on or about October, 1969 and all related documents, analysis, and records. It is my understanding that all related negatives/photos were declassified in 1986 and are often referred to as the "volleyball photos" since some analysts at the time believed they might be pictures of Caucasian POWs playing volleyball. I do not want photos but instead request negatives - I will make my own prints.

I want all records in your office "identifiable with my request."

If any documents are denied in whole or in part, please specify which exemptions are claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Give the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied please include the following information; the classification (confidential, secret or top secret); identity of the classifier, date or event for automatic declassification, classification review, or down-grading; if applicable, identity of official authorizing extension of automatic declassification or review, and if applicable, the reason for extended classification. I am informing you that Executive Order No. 12812 issued by President Clinton required that all POW/MIA documents be made public as of Veteran's Day, 1993.

I request that excised material be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of documents will be released as provided under the Freedom of Information Act.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. I am advising you that it is illegal to destroy any documents I have requested, and if you have any doubt of this I require you to contact the Justice Department for a legal ruling. Please advise of any destruction of records and include the date of and authority of such destruction.

I believe that because of the age of the material you should be able to release all records to me. However, should any information be technically withholdable, I ask that you release this material since President Clinton has ordered that information be made public unless it would cause foreseeable harm.

As I expect to appeal any denials, please specify the office and address to which an appeal should be directed.

Nov 26, 2024

000055



I believe my request qualifies for a waiver of fees since the release of the requested information would primarily benefit the general public and be in the public interest.

As a member of the press and as editor of the newsletter for Minnesota Won't Forget POW/MIA and the Minnesota League of POW/MIA Families, I am in a position to widely distribute information contained in the material I request. I have qualified for such a fee waiver in the past, and will re-submit additional information if you deem it necessary.

I am willing to pay reasonable fees should my request for a waiver of fees be denied, however, if total fees will be \$100 or more I ask that I be informed of such and that, if so, you not further proceed until you have received my permission.

I make every effort to first determine whether documents I request have previously been made public through the Library of Congress, however, some documents received by the Library of Congress have not yet been made public, while others have not been "indexed." I am seeking documents which have not previously been available to the public.

(b)(6)

Please call me at  rather than write if you have any questions or need additional information or clarification from me.

I expect a response to this request within ten (10) working days, as provided for in the Freedom of Information Act.

Sincerely,  
signature  
Richard A. Daly

(b)(6)

Nov 26, 2024

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Nov 26, 2024

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May 1, 1995

Mr. Robert P. Richardson,  
Chief Freedom of Information Staff  
Attn: PSP/FOIA  
Defense Intelligence Agency  
Washington, D.C. 20340-5100

Dear Sirs:

This is a Freedom of Information Act request. I am advised by Mr. John Wright of the CIA's FOIA office that you can assist me.

I request all photo negatives of overhead imagery of the Bon Nakay area of Laos on or about October, 1969 and all related documents, analysis, and records. It is my understanding that all related negatives/photos were declassified in 1986 and are often referred to as the "volleyball photos" since some analysts at the time believed they might be pictures of Caucasian POWs playing volleyball. I would prefer negatives but would accept a high-quality photo if that is all that is available.

I want all records in your office "identifiable with my request."

I request that you waive all fees. I believe my request qualifies for a waiver of fees since the release of the requested information would primarily benefit the general public and be in the public interest. As editor of the newsletter for Minnesota Won't Forget POW/MIA and the Minnesota League of POW/MIA Families and as elected director of research for MN Won't Forget POW/MIA, I am in a position to widely distribute information contained in the material I request. I also write a monthly POW/MIA column for our Minnesota American Legion magazine. I receive no compensation whatsoever for my duties - our organizations have no paid employees. I have qualified for such a fee waiver in the past from DoD in the past, and will re-submit additional detailed information if you deem it necessary. However, I have supplied copies of our publication and the monthly POW/MIA column I write for the Minnesota American Legion magazine which are on file at DPMO.

I am willing to pay reasonable fees should my request for a waiver of fees be denied, however, if total fees will be \$50 or more I ask that I be informed of such and that, if so, you not further proceed until you have received my permission.

Please call me at [redacted] rather than write if you have any questions or need additional information or clarification from me. Thank you.

*Richard A. Daly*

(b)(6)

Richard A. Daly

[redacted]

(b)(6)

Nov 26, 2024

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0 4 APR 1995

Mr. Richard A. Daly



(b)(6)

Reference: F94-1862

Dear Mr. Daly:

This is a final response to your 26 September 1994 Freedom of Information Act (FOIA) request. Specifically, you requested "photo negatives of overhead imagery of the Bon Nakay area of Laos on or about October, 1969 and all related documents, analysis, and records." You specified that you were requesting the negatives and not the photos that were declassified in 1986 and that are often referred to as the "volleyball photos" since they might be pictures of Caucasian POWs playing volleyball.

Your request was processed in accordance with the FOIA, 5 U.S.C. §552, and the CIA Information Act, 50 U.S.C. §431. Our processing included a search for records in existence as of and through the date of our acceptance letter dated 22 November 1994.

No records responsive to your request were located.

Although our searches were thorough and diligent, and it is highly unlikely that repeating those searches would change the result, you nevertheless have the legal right to appeal the finding of no records responsive to your request. Should you choose to do so, you may address your appeal to the CIA Information Review Committee, in my care, and you should explain the basis of your appeal.

Notwithstanding the above, however, we have been advised that the Defense Intelligence Agency may be able to assist you with your request. You may, therefore, wish to redirect your request to that Agency at the address provided below:

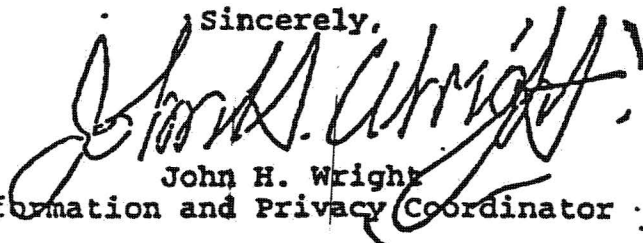
Mr. Robert P. Richardson, Chief  
Freedom of Information Staff  
Attn: PSP/FOIA  
Defense Intelligence Agency  
Washington, D.C. 20340-5100

Nov 26, 2024

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Meanwhile, we appreciate your patience and consideration while we were processing your request.

Sincerely,



John H. Wright  
Information and Privacy Coordinator

OIT/IMG/IP&CRD/YRB/blo/4APR95

Distribution:

Orig - Adse

1 - Chrono

4 - IP&CRD/F94-1862-NRA - No fees charged

1 - YRB (SAMPLE OF NRA FINAL & REF.)

ID#04430

Nov 26, 2024

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Nov\_26, 2024

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April 20 1995

COPY OF TEXT

CIA Information Review Committee  
Attn: John H. Wright  
Central Intelligence Agency  
Washington, D.C. 20505

Subject: FOIA appeal of denial of request Reference F94-1862

Dear Sirs:

This is an appeal under the Freedom of Information Act.

Senator Robert Smith's office advises that the CIA is the agency responsible for the photo and that the CIA provided a copy of said photo to the Senate Select POW/MIA committee.

In order to aid your search I have provided a rather poor-quality photostat of the photo (attached).

Although a thorough search has been made of the Senate Select POW/MIA documents available to the public, the said photo has not been located at the National Archives. Smith's office advises that said photo was taken under "Buffalo Hunter" program through the Air Force, however, is now under control of the CIA. Since the CIA provided a copy of the photo to the Senate Select POW/MIA, I request that you provide me with a negative of the photo. (An actual photo would also be acceptable, but I would prefer a negative.)

I trust that the additional information I have provided will help you to locate the photo. Thank you.

Sincerely,

Richard A. Daly



(b)(6)

Nov 26, 2024

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Nov 26, 2024

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Nov 26, 2024

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November 7, 1995

CIA Information Review Committee  
Attn: John H. Wright  
Central Intelligence Agency  
Washington, D.C. 20505

Subject: Additional information regarding my April 20, 1995 appeal of denial of request Reference F94-1862

Dear Sirs:

I have located additional information which verifies that CIA records that you could not initially locate do indeed exist. The final report of the Senate Select POW/MIA committee quotes CIA memorandum regarding the photos. The report states there are more than one photo and quotes the CIA document as saying that the photographs were taken by "a reconnaissance aircraft in October 1969" and as to the location "near caves at Ban Nakai Tua, 20 kilometers east of the Sam Neua markings."

Note the slightly different spelling of Ban Nakai.

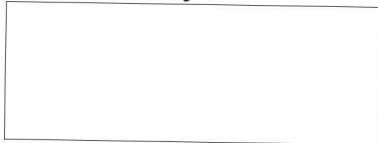
Obviously, analysis of the photo exists, and the CIA, as the originating agency, has the responsibility to release these records.

I hope this will help you locate the records.

Thank you.

Sincerely,

Richard A. Daly



(b)(6)

Nov 26, 2024

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Nov 26, 2024

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**COPY OF TEXT**

February 7, 1997

CIA Information Review Committee  
Attn: John H. Wright  
Central Intelligence Agency  
Washington, D.C. 20505

Reference F94-1862

Dear Sir:

I last wrote on November 7, 1995 providing additional information regarding my April 20, 1995 appeal of your denial of my request F94-1862. In my last letter to you, I quoted the following (in italics) from the final report of the Senate Select POW/MIA Committee:

*Laos*

*Smith 09/24/92*

*CIA has said in this memorandum, "We studied other information to access activity in Houa Phan Province in general, and the Sam Neua area in particular, and we reached the following conclusions. An historical precedent exists for suggesting the presence of American POWs in the Sam Neua area. Photographs taken by a reconnaissance aircraft in October 1969 show what may be as many as 20 non-Asians, accompanied by Pathet Lao guards, near caves at Ban Nakai Tua, 20 kilometers east of the Sam Neua markings.*

As a member of the news media, I must stress the importance of a timely release of information by the U.S. government. This benefits us all.

Please provide me with the above mentioned memorandum, all photo negatives, and all records relating to the above memorandum. If there will be more delays, please provide an explanation for those delays and an estimated date of completion.

Thank you.

Sincerely,

Richard A. Daly



(b)(6)

Nov 26, 2024

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Nov 26, 2024

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April 6, 1999

Central Intelligence Agency  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505

Subject: Initial FOIA Request

This is a Freedom of Information Act request.

I request all photo negatives of overhead imagery of the Bon Nakay area of Laos on or about October-December, 1969 and all related documents, analysis, and records. It is my understanding that all related negatives/photos were declassified in 1986 and are often referred to as the "volleyball photos" since some analysts at the time believed they might be pictures of Caucasian POWs playing volleyball. I do not want photos but instead request negatives - I will make my own prints. Additionally, I request all records relating to the past disposition/location of the requested records, all records relating to the current location of these records, and all records relating to previous requests for the Bon Nakay records.

I want all records in your office "identifiable with my request."

If any documents are denied in whole or in part, please specify which exemptions are claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Give the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied please include the following information; the classification (confidential, secret or top secret); identity of the classifier, date or event for automatic declassification, classification review, or down-grading; if applicable, identity of official authorizing extension of automatic declassification or review, and if applicable, the reason for extended classification. I am informing you that Executive Order No. 12812 issued by President Clinton required that all POW/MIA documents be made public as of Veteran's Day, 1993.

I request that excised material be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of documents will be released as provided under the Freedom of Information Act.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. I am advising you that it is illegal to destroy any documents I have requested, and if you have any doubt of this I require you to contact the Justice Department for a legal ruling. Please advise of any destruction of records and include the date of and authority of such destruction.

I believe that because of the age of the material you should be able to release all records to me. However, should any information be technically withholdable, I ask that you release this material since President Clinton has ordered that information be made public unless it would cause foreseeable harm.

As I expect to appeal any denials, please specify the office and address to which an appeal should be directed.

I believe my request qualifies for a waiver of fees since the release of the requested information would primarily benefit the general public and be in the public interest.

Nov 26, 2024

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As a member of the press and as editor of the newsletter for Minnesota Won't Forget POW/MIA and the Minnesota League of POW/MIA Families, I am in a position to widely distribute information contained in the material I request. I have qualified for such a fee waiver in the past, and will re-submit additional information if you deem it necessary. This FOIA request is being made on the behalf of Minnesota Won't Forget POW/MIA.

I am willing to pay reasonable fees should my request for a waiver of fees be denied, however, if total fees will be \$100 or more I ask that I be informed of such and that, if so, you not further proceed until you have received my permission.

I make every effort to first determine whether documents I request have previously been made public through the Library of Congress, however, some documents received by the Library of Congress have not yet been made public, while others have not been "indexed." I am seeking documents which have not previously been available to the public.

Please call me at [redacted] rather than write if you have any questions or need additional information or clarification from me. (b)(6)

I expect a response to this request within twenty (20) working days, as provided for in the Freedom of Information Act.

Sincerely,

Richard A. Daly for Minnesota Won't Forget POW/MIA

[redacted]

(b)(6)

Nov 26, 2024

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Nov 26, 2024

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August 9, 1999

Defense Intelligence Agency  
Robert Richardson Chief, FOIA Staff, Code PSP/FOIA  
Washington, D.C. 20340-5100

Subject: Initial FOIA Request

This is a Freedom of Information Act request.

I request all photo negatives of overhead imagery of the Bon Nakay area of Laos on or about October-December, 1969 and all related documents, analysis, and records. It is my understanding that all related negatives/photos were declassified in 1986 and are often referred to as the "volleyball photos" since some analysts at the time believed they might be pictures of Caucasian POWs playing volleyball. I do not want photos but instead request negatives - I will make my own prints. Additionally, I request all records relating to the past disposition/location of the requested records, all records relating to the current location of these records, and all records relating to previous requests for the Bon Nakay records.

I want all records in your office "identifiable with my request."

If any documents are denied in whole or in part, please specify which exemptions are claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Give the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied please include the following information; the classification (confidential, secret or top secret); identity of the classifier, date or event for automatic declassification, classification review, or down-grading; if applicable, identity of official authorizing extension of automatic declassification or review, and if applicable, the reason for extended classification. I am informing you that Executive Order No. 12812 issued by President Clinton required that all POW/MIA documents be made public as of Veteran's Day, 1993.

I request that excised material be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of documents will be released as provided under the Freedom of Information Act.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. I am advising you that it is illegal to destroy any documents I have requested, and if you have any doubt of this I require you to contact the Justice Department for a legal ruling. Please advise of any destruction of records and include the date of and authority of such destruction.

I believe that because of the age of the material you should be able to release all records to me. However, should any information be technically withholdable, I ask that you release this material since President Clinton has ordered that information be made public unless it would cause foreseeable harm.

As I expect to appeal any denials, please specify the office and address to which an appeal should be directed.

I believe my request qualifies for a waiver of fees since the release of the requested information would primarily benefit the general public and be in the public interest.

Nov 26, 2024

000073

As a member of the press and as editor of the newsletter for Minnesota Won't Forget POW/MIA and the Minnesota League of POW/MIA Families, I am in a position to widely distribute information contained in the material I request. I have qualified for such a fee waiver in the past, and will re-submit additional information if you deem it necessary. This FOIA request is being made on the behalf of Minnesota Won't Forget POW/MIA.

I am willing to pay reasonable fees should my request for a waiver of fees be denied, however, if total fees will be \$100 or more I ask that I be informed of such and that, if so, you not further proceed until you have received my permission.

I make every effort to first determine whether documents I request have previously been made public through the Library of Congress, however, some documents received by the Library of Congress have not yet been made public, while others have not been "indexed." I am seeking documents which have not previously been available to the public.

Please call me at  rather than write if you have any questions or need additional information or clarification from me. (b)(6)

I expect a response to this request within twenty (20) working days, as provided for in the Freedom of Information Act.

Sincerely,

Richard A. Daly for Minnesota Won't Forget POW/MIA

(b)(6)

Nov 26, 2024

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Nov 26, 2024

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## DEFENSE INTELLIGENCE AGENCY

WASHINGTON, D.C. 20340



U-3,622/SVI-1(FOIA)

9 March 2000

Mr. Richard A. Daly



(b)(6)

Dear Mr. Daly:

This responds to your request under the Freedom of Information Act dated 26 September 1994. Therein you requested from the Central Intelligence Agency (CIA) records concerning the Bon Nokay area of Laos and the "volleyball photo." In processing your request, CIA located six documents that originated with the Defense Intelligence Agency (DIA). These documents were referred to DIA on 4 August 1997 for review and direct response to you.

This also is in response to your requests under the Freedom of Information Act dated 23 December 1997 and 6 April 1999. Therein you requested negatives of overhead imagery of Bon Nokay on or about October 1969. A search of DIA's systems of records determined that this Agency maintains no records of the requested imagery.

Upon review by this Agency, the Central Intelligence Agency, the National Imagery and Mapping Agency (NIMA), and the Department of Defense, Directorate for Freedom of Information and Security Review of the six documents, it has been determined that some portions of three documents are not releasable. The portions withheld are exempt from release pursuant to 5 U.S.C. 552 (b)(1), (b)(2), (b)(3), and (b)(6), Freedom of Information Act. Subsection (b)(1) applies to information properly classified under the criteria provided by Executive Order 12958. Subsection (b)(2) applies to information that pertains solely to the internal rules and practices of the Agency. Subsection (b)(3) is asserted by DIA, CIA, and NIMA and applies to information specifically exempted by a statute establishing particular criteria for withholding. The applicable statutes are 10 U.S.C. Section 424 and 50 U.S.C. 403 (d)(3). All reasonably segregable portions of the documents are attached hereto.

Nov 26, 2024

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The remaining three documents are enclosed for your use without redaction. These are the best available copies.

You are advised that a requester may appeal, within 60 days, an initial decision to withhold a record or part thereof. Should you wish to exercise this right, you may do so by referring to case number 0920-97 and addressing your appeal to:

Defense Intelligence Agency  
ATTN: SVI-1(FOIA)  
Washington, D.C. 20340-5100

Sincerely,

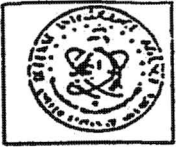


ROBERT P. RICHARDSON  
Chief, Freedom of Information Act Staff

6 Enclosures a/s

Nov 26, 2024

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DEFENSE INTELLIGENCE AGENCY  
 REGIONAL ANALYSIS AND OPERATIONAL  
 SUPPORT DIVISION

OPERATIONAL SUPPORT PRODUCTION BRANCH

# IMAGERY ANALYSIS MEMORANDUM

DATE: 21 April 1995

U-111045-95/PGX-4A

REPLY TO: PGX-4A [REDACTED]

SUBJECT: FOIA Request Ban Nakay Teu, Laos (# RA-CO 95-07)

TO: DPMO [REDACTED]

1. REQUIREMENT: Provide prints from 11 October 1969 imagery that depicted personnel engaged in some sort of outdoors activity.

2. ANALYST COMMENTS:

a. Requested prints were produced by the DIA Photo Lab on 19/20 April 1995. Prints were produced from a Duplicate Positive (DupPos) that had been produced from the original mission negative (approximately 1986). The current location of the original mission negative is unknown. A retired analyst who worked this issue in 1969, 1979 and 1986 claims the negative was returned to the film archives, however, a computer search for the imagery based on the film can reference number indicated the referenced can number was listed as destroyed. The DupPos is in the possession of the PGX-4A POW/MIA Team. Three prints each from both the panoramic camera and the framing camera systems have been provided.

b. Also provided for DPMO files is a copy of an MFR, with enclosures (less imagery), putting together a history of this issue from the 1979 and 1986 time frames.

3. The following information is provided:

GS 14 step 4 - fours hours locating film, requesting prints and annotating prints.

US Army CWO 2 (over 18 years) - two hours locating film.

3. Questions concerning this analysis should be addressed to [REDACTED] PGX-4A, Open [REDACTED] or Secure [REDACTED].

[REDACTED]  
 POW/MIA Team  
 Operational Support  
 Production Branch

Nov 26, 2024

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100078

UNITED STATES GOVERNMENT

## m e m o r a n d u m

DATE: 21 April 1986

REPLY TO

ATTN OF: PGX-4A [REDACTED]

SUBJECT: Memorandum for the Record FOIA request "Volleyball Game"

TO: File

1. PGX has been tasked to provide a print of what has historically become known as the "POW Volleyball Game" in Laos.

2. History:

a. The supposed "Volleyball Game" image dates back to 1969 when an RF-4C mission flown over the Ban Nakay Teu/Sam Neua area of Laos resulted in an image that showed a number of individuals in a cleared area clad in light colored clothing possibly engaged in some sort of physical activity. While no copy of the original mission reports have been located, a former PGX analyst, [REDACTED], had been stationed in Thailand when the original mission was flown and participated in the original readout. His 1986 statement (Enclosure 1) is included as a point of reference that in 1969 it was felt that the pictured individuals were of "oriental/indigenous personnel extraction".

b. In 1971 a second mission (possibly a U-2 or SR-71) was flown over the target area, from that mission it appears that in a reference to the previously noted clearing a "probable volleyball net" was read-out. While no record of the original mission readout has been located in the PGX files, annex 4 of the 1986 Tighe Report, labeled "PHOTO EVIDENCE" dated 6 May 1986 references this 1971 film (Enclosure 2).

c. In 1979 the 1969 imagery of Ban Nakay Teu/Sam Neua area was again reviewed, [REDACTED] again participated in the review. Enclosure 3 is a copy of the resulting Imagery Analysis Memorandum (IAM), less enclosures. [REDACTED] references this review in his 1986 statement saying that when POWs were referenced the analyst inferred that they were "Asian/possibly Thai POW's" (Enclosure 1).

d. In 1986 while testifying before Congress on his review of the DIA POW MIA analytical effort, former DIA Director LtGen Eugene Tighe USAF Retired, recalled having seen low level reconnaissance photography possibly showing POWs at their POW

Nov 26, 2024

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camp in the vicinity of SAM NEUA caves complex about 18 months before the Operation Homecoming release of US POWs in early 1973. This resulted in still another review of the 1969 imagery. However the following problems were encountered:

(1.) The original mission negative could not be located in the National Archives Film Library.

(2.) The original mission negative was found to be in the possession of the former DIA Director, LtGen Eugene Tighe.

Enclosure 4 is a transcription of a hand written log kept during the 1986 review, it includes a list of the names referenced in the log and their current status to the best of my knowledge.

e. The resulting briefing notes have been transcribed and are provided as Enclosure 5. Prints found in the file packet are included. While the existence of POWs in the cave complex could not be ruled out, it was concluded in this review that all imaged personnel were most likely indigenous local and military/paramilitary personnel known from various other sources to be located in the area. Enclosure 6 is a copy of the IAM that resulted from this 1986 review, less enclosures.

### 3. Current Requirement:

a. As previously noted the POW/MIA Team of PGX has been tasked to provide imagery of the "POW Volleyball Game". This requirement leads to a potential problem, as yet we have been unable to locate the original mission negative. In a telephone conversation with [REDACTED] on the evening of 19 April 1995, [REDACTED] stated that he remembered the original mission negative being returned to the Archives. If it was returned to the Archives, it was not catalogued and no record can be found (a copy of a Photo Service Request, dated 16 July '99, indicates a Can number of 69C8302 for the mission, a computer check of that number shows the can as having been destroyed). Another possibility is that the film was returned to LtGen Tighe, if so, no record was kept on the action. While there is some possibility that the film is "on the shelves" in PGX we haven't located it -- what we have located is a DupPos of the mission.

b. Upon determination of exactly what is being requested in the FOIA, we will initially look at a special handling request to the photo lab either DIA or NPIC. In the event the resulting third generation print (made from a negative made from the DupPos) loses too much quality, we will have the necessary frames digitized from the existing DupPos and produce prints via the Intergraph system.

4. While it is recognized that we are required to answer this FOIA request, the potential for mishandling by the requestor is high. I feel that we will see this print published as "proof positive that American POWs were (or are) being held in LAOS". A

Nov 26, 2024

000080

request for access to the original mission negative may be even more embarrassing to DIA, DPMO and the National Archives Film Library.

6 Enclosures as



POW/MIA Team  
Operational Support  
Production Branch

Statement of [REDACTED], Imagery Analyst DX-6 28 July 1986

Looked at film in 1969 - Felt people were indigenous, Asian, (black clothing were possible military cadre/light clothing probable civilian Asian personnel) (done at 7/13 AF, Udorn, Thailand other personnel present USAF/CIA/US Embassy) who looked at same photography on 11 - 13 OCT 69 were of the consensus opinion that the personnel shown in the Ban Nakay Teu/Vieng Say Area on 11 OCT 69 were of oriental/indigenous personnel extraction.

July 79 Did Analysis of 11 OCT 69 Film - Same conclusions were drawn. Under direction from DIA/DB4H (POW/MIA section) we were asked if the personnel in question were POW - we said possibly (inferred Asian/possibly Thai POW's).

To The Best of my Memory: Personal conversations with CIA/4802 JLD Personnel in Laos over the next 2 years as stated that teams of (Muong/Meo Make-up) under US/CIA case officer direction went into Vieng Say/Ban Nakay Teu Area and Found No Evidence of US POW's. I personally talked with Lao personnel who were there observing and they said "No personnel of US extraction were seen".

NOTE: I speak Thai and Lao (DLINC Grad and 4 yrs in country experience).

Date 28 July 86

[REDACTED]  
Imagery Analyst, GS-13  
DX-6

ENCLOSURE TO C-08-59140-86/DX-502

Nov 26, 2024

000082

LV

3 MAY 1986

APPENDIX  
PHOTO EVIDENCE

OBLIQUE PHOTOGRAPHY OF A CAMP IN LAOS AT BAN NAKAY TEU [REDACTED]  
[REDACTED] TAKEN ON 11 OCTOBER 1969 AND IN 1971 FOLLOWED HUMAN REPORT OF  
U.S. POW'S HELD THERE, IN LAOS, AND GENERALLY PHOTO CONFIRM THE LOCATION  
OF 20 OR MORE INDIVIDUALS IN WHITE "T" SHIRTS, TALLER THAN A GROUP OF  
SOME 10 PROBABLE PATHET LAO ARMED GUARDS, DRESSED IN BLACK, AND A POSSIBLE  
NVA OR PL OFFICER CLAD IN KHAKI. THEY APPEAR IN THE 1969 PHOTO, TO BE  
REACTING TO THE RECONNAISSANCE AIRCRAFT. THE SMALL SCALE OF THE 1971  
PHOTOGRAPH PRECLUDES IDENTIFICATION OF HUMAN BEINGS AT THIS CAMP; SHOWS  
THAT IT IS STILL ACTIVE, AND ALSO INDICATES THAT A NEARBY VILLAGE HAS  
SUSTAINED RECENT AERIAL BOMBARDMENT (750 LB BOMB CRATERS AND OLD 250 LB  
CRATERS) AND SHOWS THE ADDITION OF A RECREATION AREA AT THE POW CAMP.  
THIS CLEANED AREA HAS A PROBABLE VOLLEYBALL NET. SOUTHEAST ASIAN MILITARY  
FORCES ARE NOT KNOWN TO HAVE BEEN INTERESTED IN THE GAME OF VOLLEYBALL.

Nov 26, 2024

000083

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REQUIREMENTS FOR INTELLIGENCE  
IMAGERY ANALYSIS DIVISION

~~WORKING PAPER~~

IMAGERY ANALYSIS MEMORANDUM

C-07-73399-79/DB-5C

TO : DB-49 [REDACTED]

DATE: 17 Jul 79

FROM : DB-5C

SUBJECT : PW Camp Photography--San Nioy Teu Area, Laos (U) COUNTRY: Laos

1. REFERENCE REQUIREMENT: (U)  
PAR 9(72-79), 3 Jul 79, Same Subject

2. TARGET INFORMATION: ~~CONFIDENTIAL~~

Geo Coords:  
[REDACTED]

Map Chart Ref: TOI Cat:  
JOC 14F 48-14 Series 150' 75200  
1:50,000; 584 PIV Series L701E

3. IMAGERY DATA: ~~CONFIDENTIAL~~

Project	Mission	Date	Camera	Frame	X	Y
YT	797N	11 Oct 69	ROB	0271		Photo #1
YT	797N	11 Oct 69	ROB	0276		Photo #2
YT	797N	11 Oct 69	ROB	0275		Photo #3
YT	797N	11 Oct 69	ROB	0267		Photo #4
YT	797N	11 Oct 69	ROB	0247		Photo #5

4. COLLATERAL REFERENCES: (U)

N/A

5. IMAGERY ANALYSIS COMMENTS: ~~CONFIDENTIAL~~

NOTE: Information contained in this report is derived primarily from interpretation of imagery sources and is not intended to constitute evidence for legal proceedings.

a. This report is an initial input to satisfy the referenced PAR.

b. A detailed search of low level TACTICAL photography of the San Nioy Teu PW Camp and Cave Complex [REDACTED] revealed probable PW activity depicting personnel in the open and around the cave complex on 11 Oct 69. The following photos are provided:

(1) Photo #1 (VH 197561), shows numerous possible PW personnel in an open area adjacent to and 400 meters to the northeast of the main cave complex.

(2) Photo #2 (VH 196558), shows the San Nioy Teu Cave Complex and two (2) possible PW's.

(3) Photo #2A shows an enlargement of the area containing the 2 possible PW's.

(4) Photo #3 (VH 193567), shows a probable NVA/PL cadre on a spur road off Route 63. Adjacent to a series of fenced buildings.

(5) Photo #4 (VH 185580), shows a man either running into a building or possibly waving.

(6) Photo #5 (VH 158597), shows a uniformed man (possible Pathet Lao soldier) crossing a log bridge in a row crop area and two (2) probable men under a thatched or camouflaged house entrance.

Analyst's ID: \_\_\_\_\_  
Director's ID: \_\_\_\_\_  
Reviewer's ID: \_\_\_\_\_

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~~WORKING PAPER~~

DIA FORM 897 (1-78)

CLASSIFICATION AND CONTROL INSTRUCTIONS

~~CONFIDENTIAL~~ PAPER

6. BACKGROUND: The San Nokay Teu PW Camp and Cave Complex was first identified in defector reports in the mid to late 1950's to house Pathet Lao (PL) captured American PW's. Additionally Thai military PW's were held at this location. The facility is located 1,600 meters south of Route 65 and 19.2 km ESE of the PL capital at Sam Nheua.

7. IMAGERY ANALYST: [REDACTED]  
SECTION CHIEF: [REDACTED]

- 55 Enclosures
- 30 Prints
- 12 Overlays
- 1 Annotated Map
- 12 Photographs

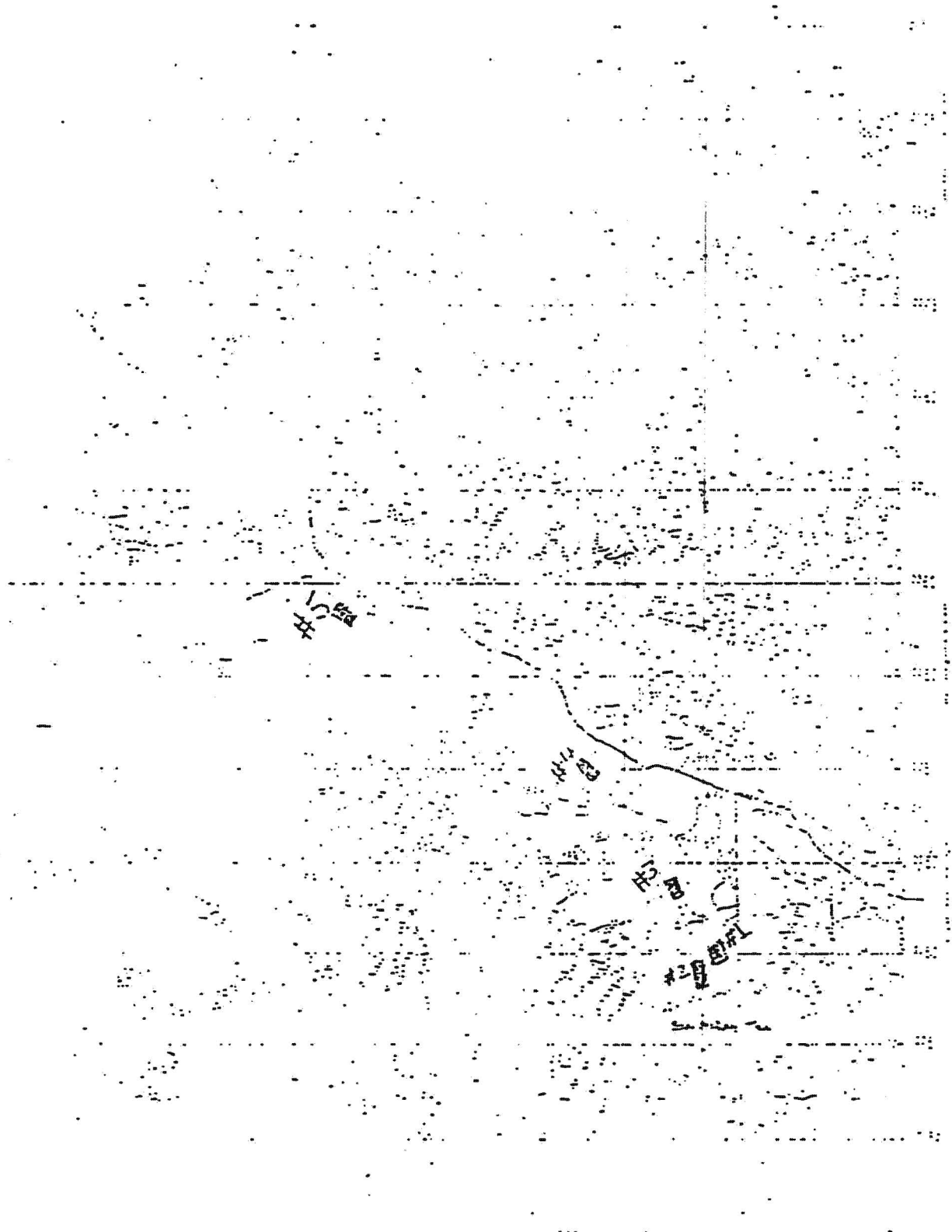
[REDACTED]  
Chief, Eastern Branch  
Imagery Analysis Division

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Nov 26, 2024

000085

47



~~CONFIDENTIAL~~

DEFENSE INTELLIGENCE AGENCY

DIRECTORATE FOR  
IMAGERY EXPLOITATION

DX

IMAGERY ANALYSIS MEMORANDUM

C-08-59140-86/DX-502

DATE: 7 AUG 86

REPLY TO  
ATTN OF: DX-502, [REDACTED]

SUBJECT: Ban Nakay Teu Camp and Cave Complex (U)

TO: VO-PW [REDACTED]

## 1. REQUIREMENT: (U)

PAI 1002098609

## 2. IMAGERY ANALYSIS: (U)

a. As requested in referenced PAI, analysis of the Ban Nakay Teu Camp and Cave Complex [REDACTED] previously identified in IAM C-07-73399-79/085C, has been accomplished. The results are as follows.

A review of mission YT 797M, 11 OCT 69, was conducted using the Right Oblique (ROB), Vertical (VT) and Low Pan (LP) photography. The previous report IAM C-07-73399-79, referenced the ROB photography frames 246-276, current analysis also used the LP photography frames 450-482. The enclosed area map is provided for map-photography correlation. The area of interest is situated at [REDACTED] approximately 1.5 km south of route 65, 17 km east of Sam Neua Airfield and 17 km west of the SRV border.

The requirement indicated an interest in five areas mentioned in the previous IAM. All frames from mission YT 797N, 11 OCT 69 were reviewed.

b. Print IA (ROB 271) depicts approximately 39 persons, probably involved in some type of sport activity. Print has been annotated, so all discernible personnel are key by number to the following list.

- |   |  |
|---|--|
| 1. No Shirt, White Shorts, Crouched PSN | 20. Black PJ                             |
| 2. White Jacket, Poss Tan Trousers      | 21. Black PJ                             |
| 3. White Jacket, Poss Tan Trousers      | 22. Dark Dress                           |
| 4. White Jacket, Tan Trousers           | 23. Tan Jacket, Dark Trouser             |
| 5. White Jacket, Dark Trousers          | 24. White Jacket, Poss White Trousers    |
| 6. White Jacket, Dark Trousers          | 25. Dark Jacket, Trousers                |
| 7. White Jacket, Dark Trousers          | 26. Black PJ                             |
| 8. White Jacket, Tan Trousers           | 27. White Jacket, Poss White Trousers    |
| 9. Black PJ                             | 28. Black PJ                             |
| 10. White Jacket, Tan Trousers          | 29. Dark Attire                          |
| 11. Black PJ                            | 30. Dark Attire                          |
| 12. White Jacket, Dark Trousers         | 31. White Jacket, Black Trouser          |
| 13. Black PJ                            | 32. Prob Tan Jacket, Dark Trousers       |
| 14. White Jacket, Tan Trousers          | 33. Prob Dark Jacket, Poss Dark Trousers |
| 15. White Jacket, Tan Shorts            | 34. Dark Jacket, Poss Black Trousers     |
| 16. Dark Jacket, Poss Dark Trousers     | 35. Tan Jacket                           |
| 17. White Jacket, Tan Trousers          | 36. Dark Attire                          |
| 18. Black Top, Prob Dark Trousers       | 37. Black PJ                             |
| 19. Black PJ                            | 38. Dark Attire                          |
|   | 39. White Jacket, Possible Dark Trouser  |

WARNING  
ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 08-10-2010 BY 60321/UC/STP

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Nov 26, 2024

Page \_\_\_ of \_\_\_ pages

000087



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1. Central group of people appear to be watching the sport activity.
2. Subjects 21 - 23 are possibly female or young people, based on body density, height and general demeanor.
3. Subject 7 appears to be in the act of relieving himself.
4. There are probably white jackets hanging on the fence in the NE quadrant of the photo. There are possibly clothing on the ground near the central group.
5. A possible series of boundary lines may be present on the photo.
6. There are no discernible weapons in the image.
7. People in the NE quadrant are moving off to the southeast.

d. Print 1E (LP477), depicts the 39 personnel. This different viewing angle when combined with the Right Oblique "look" shows the same sport activity in progress. There are no discernible indications of security, i.e, personnel in shackles, security fencing or weapons anywhere in the frame. There are no discernible signatures evident within the area of interest that would suggest the possibility of American POW activity. The clothing worn by the personnel appears to be the same as that worn by indigenous and Pathet Lao cadre. All personnel appear to have dark hair except subject 7, 30, 32, who may be wearing some type of head covering. The photo also shows a view of the caves in the background with approximately 13 persons discernible (3 Black PJ, 3 Poss Tan Uniforms, and 7 Prob White Jackets w/Dark Trousers) and in a relaxed posture. There are no discernible signatures of "detention type" security measures. There are large number of garden plots throughout the area, that are probably tended by the cave residents.

e. Print 2A (ROB 275) depicts a cave of interest to VC-PW. Print 2B and 2C are photo enhanced views of the cave area. No personnel are discernible.

f. Print 3 (ROB 275) depicts an indigenous person walking along the road. There are no visible signs of POW activity. Subject measures approximately 5'2" and is dressed in Black PJ, transportation was made using 55 Gal drums as local control.

g. Print 4 (ROB 257) depicts a person in the doorway of a building, subject appears to be rotund, wearing tan trousers, white jacket, and probable cap. The clutter around the building include vegetation, sheds, framing for sheds and a probable truck tire. There is no discernible evidence of POW activity.

h. Print 5 (ROB 247) had previously been reported as having two probable men under the thatched roof and possible Pathet Lao soldier. Analysis of LP photos in stereo and enhancement revealed that the "two probable men" under the thatched roof are light reflections from vegetation on the ground. The "Pathet Lao Soldier" is an anomaly resulting from the shadows and halation from poles and vegetation. There are no visible signs of POW activity.

i. One of the original Imagery Analysts (IA) who had exploited the YT 797N photography in 1959 and who also provided the analysis for the reference IAM in 1979 was consulted. The IA, [REDACTED], provided clarification and concurred with the current analysis done by [REDACTED] and [REDACTED] has provided a statement, supporting the analysis of the latter IA's, and is attached as an enclosure.

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Nov 26, 2024

000088

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3. CONCLUSION: ~~K1~~

The best available equipment in [REDACTED] was used to analyse to original photography. Additional IA's in DX with Southeast Asia experience were consulted for their opinions. The unanimous IA consensus that nowhere on the referenced YT 797K 1 OCT 69 photography is there any evidence that would suggest the possibility of U.S. POW activity.

IMAGERY ANALYSTS: [REDACTED] and [REDACTED]

[REDACTED]

IMAGERY ANALYST

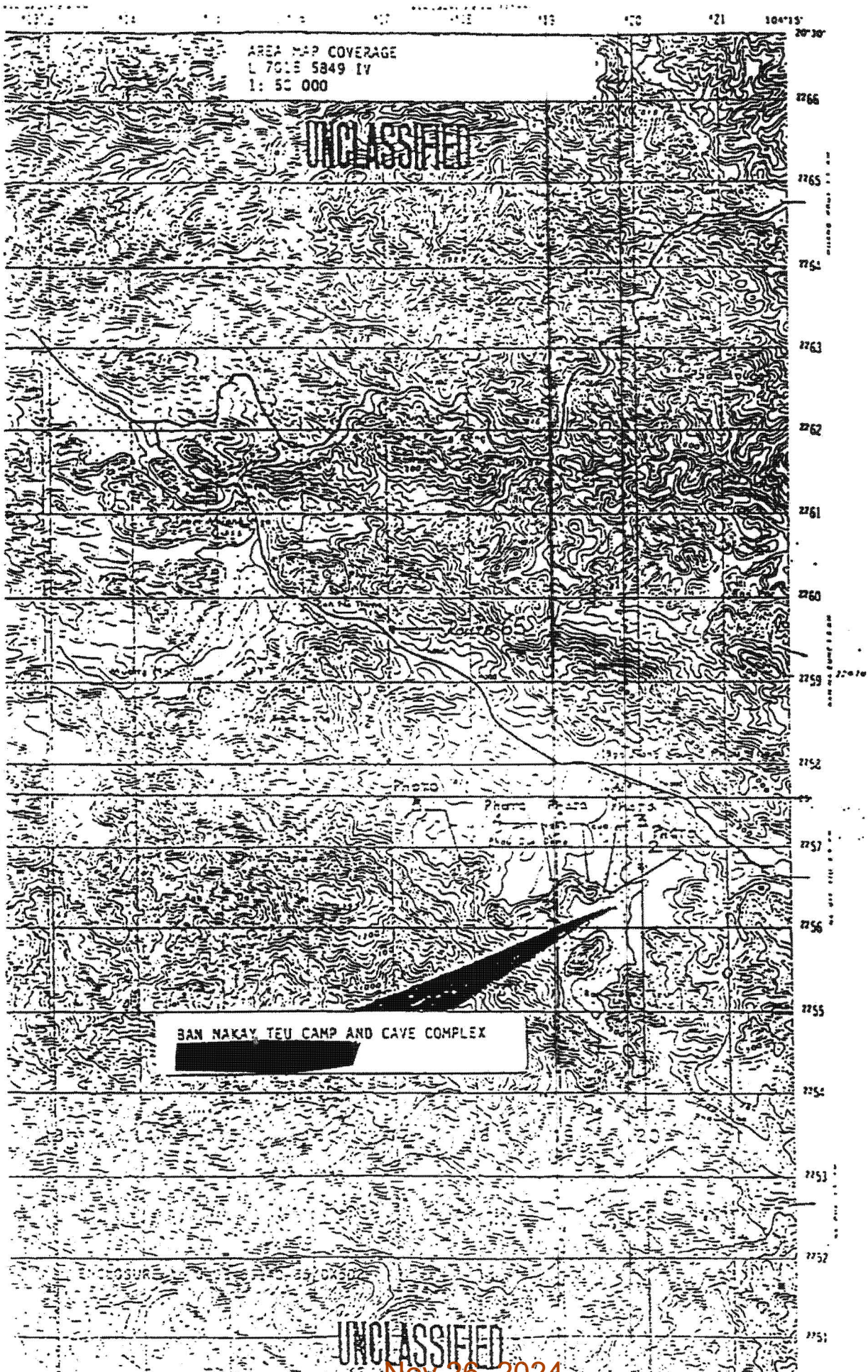
[REDACTED]

BRANCH CHIEF

- 15 Enclosures
- 5- 10 X 12" Prints (FOUO)
- 5- Enhanced Prints (FOUO)
- 1- Overlay (C)
- 1- Mensuration Statement (C)
- 1- IA Statement
- 1- IAH C-07-73399-79/DBSC (C)
- 1- Area Map Overlay (U)

~~CONFIDENTIAL~~  
Nov 26, 2024

000089



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## From handwritten notes - 1986 "log" of Sam Neua project:

1986

- May 13 [REDACTED] Briefed [REDACTED], Director DX [REDACTED].  
[REDACTED] DX5D subject Gen Tighe (Ret'd) had mentioned the existence of photos taken from a "helicopter" that depicted "US prisoners being herded" by armed guards, POW's in caves on the side of a bluff and under concealed structure - Determination that these were US because of white T shirts, [REDACTED] wasn't sure of the exact area except that it was in San Neua, Laos, he also stated that photo would be coming.
- 14 May Ordered [REDACTED] of poss target within several poss areas.
- 19 May Briefed [REDACTED] on status of project
- 22 May VO PW analyst checked there to determine if they had coverage. [REDACTED] stated that this project had been done in 1979. He showed [REDACTED] the file.
- 2 June Briefed [REDACTED] on project.
- 10-13 June Rec'd package of imagery from [REDACTED] VO-PW Analyst, if it was determined that there had been an imagery report produced on this subject Search of files located report and other pertinent data including correct mission data. Call RTS 3B to see if they could obtain the mission, they later found out that the mission was supposed to be in the Record Center but could not be found.
- 16-20 June Checked with [REDACTED] to see if he had any information on the Subject. Requested that DX3 enhance the duppots to see if we could clarify some items..
- 23-28 Checked enhancement, and searched for coverage met with VO PW analyst to determine what would be needed to input PAI
- July 1 - 3 Briefed [REDACTED] RTS3B as to the need for obtaining the original mission.  
Briefed [REDACTED] as to status of and some of the preliminary finding of the imagery personnel.
- 7 July Met with RTS 3B personnel to checkout the mission that had recovered for Records Center and some missions that had been flown over the same area and date -no Luck.  
Briefed [REDACTED] DX3 on requirement and support that may be required to complete reqm't.
- 8 July Checked with Carlisle Barracks to determine if an IPIR was in their files, they suggested we check with AF Archives, Bolling AFB. [REDACTED] rec'd a call from [REDACTED] VO-PW that the former Director apparently had the original mission negative.

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Nov 26, 2024

000091

- 14 July Enhancement of original negatives. Review of product.
- 18 July The following determination were mad of Photo 1. Number of personnel appear to be engaged in playing a game, poss volleyball, unable to ascertain the nationality of the personnel.
- 18 July Met with analyst from CIA [REDACTED] and [REDACTED] office to discuss the photos of the "Volleyball Game". Gave each of these personnel copies of photography to analysis.
- July 28 Rec'd copy of Dup Pos from RTS 3 liaison with mensuration section CIA, [REDACTED], who agreed to try and mensurate the photos. Further analysis of msn revealed coverage of target area. Imagery revealed some information that was not available in the ROB coverage.
- July 30 Rec'd mensuration from CIA. Presented package to [REDACTED] VOPW they were - [REDACTED] expressed appreciation for what was presented
- 19 Aug [REDACTED] - briefed Gen Perroots
- 4 Sept [REDACTED] - briefed Mr. Berbrich

## NAMES IDENTIFIED IN 1986 Notes

██████████ --- ██████████ often called the "Unofficial Historian of NPIC", at the time was a member of a committee relating to American service personnel missing in action in Southeast Asia.

██████████, then Director DX. Retired 1995.

██████████, US Army, Branch Chief DX-5D2. PCSed in 1987/88 (currently attached P-EM)

██████████, Primary Imagery Analyst for PW/MIA efforts in DX. Retired in 1992.

Gen Tighe --- LtGen Eugene Tighe, past director of DIA, tasked to look at the PW/MIA analytical effort. Died 1994.

██████████ --- Division Chief DX-5. Now in CL-2 Collection Policy and Evaluation Division

██████████ --- PW/MIA office.

██████████, US Army military imagery Analyst for PW/MIA efforts in DX. PCSed in 1987/88.

██████████, analyst in PW/MIA office, now in DIA J-2.

██████████, analyst in NPIC, ██████████ Now Branch Chief PGX-4D.

██████████ --- RTS-3B Office of DIA responsible for producing NACDF and other coverage files.

██████████ --- Division Chief of DX-3. Retired from CIO in 1994.

██████████, PW/MIA office

██████████ --- NPIC/██████████ analyst.

██████████ --- NPIC Mensuration

██████████, Imagery Analyst, left DIA in 1987/88.

Gen. Perroots --- LtGen Leonard Perroots, USAF, Director DIA.

██████████, Senior Analyst, currently assigned PGX-2.

Mr. Berbrich --- Mr. John Berbrich, currently DIA Chief of Staff.

Transcribed from handwritten briefing notes (probably summer 1986): Notes in BOLD Type are comments/notes added by [REDACTED] during transcription.

Throughout the mid to late 1960's, HUMINT sources reported numerous instances of sightings of American POWs held in the Ban Nakay Teu area, Sam Neua Province, Laos. On 11 Oct 69, mission YT 797 was flown over this area by an RF-4C (Bullwhip 14). The resulting photography showed several scenes, that in light of 1969 intelligence, provided spectacular evidence of PW's being held in the Ban Nakay Teu area and cave complex. To this day, reports of American PW's in this area persist but no photographic evidence other than YT 797 in 1969, has substantiated this fact.

This mission has been referenced on many occasions as providing the photographic evidence of American PW in Laos, some 18 months before Operation Home Coming. The subject mission was again mentioned earlier this year and VO-PW and DX-5 were asked to review the mission. We (DX-5) did, however we used techniques unavailable in 1969. This briefing will (Unknown word possibly, recant) the original mission in light of our findings.

YT 797 employed the RF-4C aircraft, using two camera systems - the KA-56 panoramic camera and the KS-72 framing camera.

The Panoramic system provides horizon-to-horizon or 180° coverage. Imagery at nadir (beneath the aircraft) is very good but progressively deteriorates in the direction of the horizon as obliquity and distance increase. Its advantages however, are more complete area coverage and overlaps, which will provide stereoscopic viewing (3-D).

The framing camera, although using a limited 5" format and little or no overlap, did provide higher quality images.

- \* Using mission YT 797, the entire Ban Nakay Teu area was exploited using stereoscopic viewing whenever possible.
- \* We have two imagery enhancement systems available and both were employed. CIA has the IDIMS (Interactive Digital Imagery Manipulation System) and DIA has a prototype system the AIAWS (Advanced Imagery Analyst Work Station). Both systems have the capability to digitize an imagery product and then to enhance the image by using a wide range of black/white values or false color.
- \* Sophisticated mensuration programs available through the NPIC Mensuration Branch were used to measure the subjects.

and

- \* Through the course of analysis, the imagery analysts research collateral files, and draw on the expertise of analysts in VO-PW, NPIC, and CIA.

Nov 26, 2024

000094

## MAP

The area of interest is located in NE Laos adjacent to the Vietnam border. Historically the Sam Neua region has been the location of the Pathet Lao government during the French Indochina and Vietnam Wars and has served as a major staging area for North Vietnamese and Pathet Lao forces for movements of troops and supplies into Southern Laos and Vietnam.

Ban Nakay Teu is situated on Route 65, a major service road for Route 6, itself a significant logistical route between North Vietnam and Southern Laos.

## AREA PHOTO

The terrain is mountainous, characterizes by dissected limestone Karst formations with a large number of caves.

ROUTE 65---->(RT 6 -7km)

## AC Flight Path

This is the immediate area, the cave complex, addressed in the initial report. The five scenes we will talk about are shown in relation to the RF-4C's flight path. The aircraft passed approximately 500 meters to the north and at 400 feet altitude.

## SCENE 1

The mission was initially exploited in 1969 at the 432d TRW and again in 1979 here at DIA. In both instances the same analysts was involved, so what is portrayed in the 1979 report shown here, reflects the 1969 report.

In relation to Scene 1, the following was reported:

- PW's in an open area.
- Armed personnel dressed in black.
- Possible personnel climbing the fence.
- Fencing.
- A person waving at AC.
- People running from the area.

This is an enhancement of part of the open area.

- \* The personnel reported as climbing the fence are revealed to actually be garments thrown over the fence.
- \* The men with probable weapons when enhanced are shown to be:
  - a woodpile with garments.
  - a person with no weapon.
  - a person standing adjacent to what appears to be a pole.



- \* The men running are actually walking. By reviewing overlapping frames from the panoramic camera, the individuals are moving slowly as if walking.
- \* The man waving is indeed facing in the direction of the aircraft, but his hands are down in front of trousers.

The second half of this scene was enhanced to better define the men in the open and to address two key points raised by the original report.

- \* Men described as clad in white T-shirts. The entire population was reviewed and identified by garment color. Sixteen were found to have white colored garment tops, seven - or almost one half - of those in white had 3/4 or long sleeve tops, four had what appeared to be short sleeves; and the remainder could not be determined. The "white" population were involved in various activities at several locations. Many were unattended.
- \* The men in white were described as taller than those individuals clad in tan or black.

- Detailed mensuration was attempted but the ephemeral date listed on the frame data block could not be trusted. The block listed the wrong date (23 June 69); wrong time (1100 PM local sun time); pitch and roll values were wrong.

- No object, upon which a known scale could be based, could be found. Consequently, an anthropometric based scale was constructed using the more erect individual in the foreground. That is, the average height of the American male, was 5'9". The body was measured in three segments: lower leg, upper leg, and torso. No compensations, however, could be taken to adjust body orientation and line sharpness (photo quality), foreshortening, and halation.

For example, in the latter instance, for a 5'9" (69") man a .8mm pointing error could result in a 2" height difference, a 1.2mm error in 3.8".

This method resulted in the following:

White	6'9" to 5' range (5'9" average)
Black	5'11" to 4'3" range (5'0" average)
Tan	6'2" to 4'10" range (5'4" average)
	With an overall average of 5'5".

## SCENE 2

Set against the cave complex showed a number of huts and two possible PWs.

We had the scene enhanced and were able, using stereo, and the enhancement to determine that the two PWs were rock outcroppings (basked) in shadow.

## SCENE 3

Scene 3 depicted a PLA/NVA soldier on the road adjacent to a series of fenced buildings.

Taken in the context of the surrounding area, numerous fences can be observed delineating homesites or gardens.

## SCENE 4

Depicted a man running into a building or possibly waving, as if reacting to the aircraft.

Again, taken in context the person lives in one of the many dwellings at the base of the limestone cliffs and near the security of the caves. The dwelling is unsecured and near garden plots - more a pastoral setting.

Further, stereoscopic viewing of the area reveals the person to be turning into the dwelling's doorway.

## SCENE 5

Reported a uniformed (possibly Pathet Lao soldier) crossing a bridge and two men under a thatched or camouflaged entrance to a building.

Fences are again prominent, but the log rails are meant for nothing more than to keep larger animals out or to delineate one's plots, not to secure a person.

A view from different perspectives reveals that what appears to be a soldier, reveals the soldier to be nothing more than the sun halating a tree [REDACTED] note: This call is perplexing in one view sun halation is a possibility, but in another view looks more like a person walking on a path. I have been told that someone played with local control mensuration on this object and got a probable height of 12' probably a little tall for a person).

The men in viewing enhanced imagery prove to be nothing more than---- [REDACTED] note: No call is given here but to me it appears to be nothing more than "lightspots" - sunlight on the ground through the under the "thatching").

In summary, in reevaluating the imagery of 11 Oct 69, we find no evidence to substantiate the presence of American PWs in the photo as was initially reported in 1969.

No security measures, such as high fences or guard towers, or anything else that would define a confinement facility are present. The people depicted in the scenes are, we believe, local inhabitants and a mix of military or paramilitary support units.

From NSA derived order of battle estimates of the Sam Neua area in 1969, we know of the presence of the 912th NVA/PL Infantry Battalion and the 105th Field Artillery Bn of the PL Army to be stationed at Ban Nakay Tue. The activity depicted in scene may be members of these units.

Although it is our consensus that no American PW were photographed on YT797, we in no way are denying the potential incarceration of PW in this area.

24



11 OCT 1969

SECRET

BAN NAKAY TEU, LAOS

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Nov 26, 2024

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11 OCT 1969

BAN NAKAY TEU, LAOS



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Photo # 3

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Nov 26, 2024

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Nov 26, 2024

000102

November 19, 1997

National Security Agency  
Attn: Initial FOIA Request  
Ft. George G. Meade,  
MD 20755-6000

Dear Sirs:

This is a Freedom of Information Act request.

I request Technical Report 002-92 and all related records, including all source material used in preparation of this document. I want all records in your office "identifiable with my request."

I urge you to respond to my request within the ten working days the Freedom of Information Act allows. Should you not be able to respond in this time limit, I request you notify me, as required by the Act, of your intent to seek the extension, and only the extension, provided for in the Act.

If the requested documents are not in possession of your agency, I ask that you inform me of other agencies that might have these records.

If any documents are denied in whole or in part, please specify which exemptions are claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Give the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied please include the following information; the classification (confidential, secret or top secret); identity of the classifier, date or event for automatic declassification, classification review, or down-grading ; if applicable, identity of official authorizing extension of automatic declassification or review, and if applicable, the reason for extended classification. I am informing you that Executive Directive Number 8 issued by President Clinton required that the documents I am seeking were to be declassified and be made public by Veteran's Day, 1993.

I request that excised material be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of documents will be released as provided under the Freedom of Information Act.

Since documents I have requested in the past through the FOIA have been destroyed, I request you send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. It is my understanding that it is illegal to destroy any documents I have requested, and if you have any doubt of this I require you to contact the Justice Department for a legal ruling. Please advise of any destruction of records and include the date of and authority of such destruction.

Nov 26, 2024

000103



As I expect to appeal any denials, please specify the office and address to which an appeal should be directed.

I request that excised material be "blacked out" rather than "whited out" or cut out and that the remaining non-exempt portions of documents will be released as provided under the Freedom of Information Act.

In order to help to determine my status to assess fees, you should know that I am a representative of the news media. I am the editor of the newsletter "Tell the World About Us," a publication of Minnesota Won't Forget POW/MIA, a non-profit 501c 3 organization. This request is made as part of news gathering.

I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government. I request that you waive all fees. I believe my request qualifies for a waiver of fees since the release of the requested information would primarily benefit the general public and be in the public interest. As editor of the newsletter for Minnesota Won't Forget POW/MIA (the support group for the Minnesota League of POW/MIA Families) and as elected director of research and communications for MN Won't Forget POW/MIA, I am in a position to widely distribute information contained in the material I request. I also write a monthly POW/MIA column for our Minnesota American Legion magazine, have done a book review for the National "Stars and Stripes," and occasionally have columns printed in the St. Paul Pioneer Press and Minneapolis Star Tribune. I receive no compensation whatsoever for my duties at Minnesota Won't Forget POW/MIA - our organizations have no paid employees. I have qualified for such a fee waiver in the past from the Department of Defense in the past, and will re-submit additional detailed information if you deem it necessary.

As I expect to appeal any denials, please specify the office and address to which an appeal should be directed.

I am willing to pay reasonable fees should my request for a waiver of fees be denied, however, if total fees will be \$50 or more I ask that I be informed of such and that, if so, you not further proceed until you have received my permission.

Please call me at  rather than write if you have any questions or need additional information or clarification from me. (b)(6)

I expect a response to this request within ten (10) working days, as provided for in the Freedom of Information Act.

Richard A. Daly

(b)(6)

Nov 26, 2024

000104



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**NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE**

FORT GEORGE G MEADE MARYLAND 20755-6000

**Serial: J9137E-98  
4 March 1999**

**Mr. Richard A. Daly**



(b)(6)

**Dear Mr. Daly:**

**This replies to your 12 February 1999 letter to the National Security Agency (NSA) and follows-up a telephone conversation you had with a member of my staff on 3 March 1999 regarding the processing of your Freedom of Information Act (FOIA) request for Technical Report 002-92 and all related records used in preparation of the document.**

**As agreed upon in that conversation, the Office of Policy will process the portion of your request for the Technical Report (and its update) at this time. The case officer assigned to process your request estimates that it will take approximately three months to complete the review of the document. You have also agreed to pay duplication fees of \$44.55. Please be advised that once processing is complete, the Office of Policy will request payment prior to releasing the document to you. The Office of Policy will hold the remainder of your request open following release of the Technical Report to allow you time to further clarify your request and determine how you want the remaining records processed.**

**As we informed you previously, there are some 2500 pages of supporting material. That material was released to the Library of Congress by the Department of Defense. You may find that the reference numbers and date time groups contained in the Technical Report will provide you with enough information to locate the related support material at the Library of Congress. If not, you can clarify your FOIA request, and your request will be placed in the appropriate queue based on the volume of documents requested in your clarification and the type of review required. Your request will be processed in turn based on the date of your initial request (November 1997).**

**After you review the Technical Report, there are several options for clarifying your request and obtaining the supporting material.**

- 1) If you determine that you need only specific support documents, you may request them individually, and depending upon the number of documents, your clarified request would likely be processed in the "easy" queue.**

**Nov 26, 2024**

**000106**

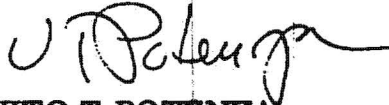
Serial: J9137E-98

2) You may agree to accept all of the support documents as they were redacted and previously released to the Library of Congress. Since that type of release would not require a new review, this clarification would also likely be processed in the "easy" queue.

3) Finally, you may request a review of all of the support material under current declassification guidelines and Executive Order 12958. As we explained to you previously, the volume of documents to be reviewed would require placement in the "hard" queue and would take approximately four years to complete.

I fully appreciate the concerns raised in your letter and assure you that our FOIA processing is intended to provide the public with access to non-exempt information. Your request has been returned to the Office of Policy in order to process your request for the Technical Report (and its update). Again, we estimate approximately three months to complete processing of that portion of your request. If you have any questions, please contact the FOIA Office (N5P5) at 301-688-6527 between 0700 and 1530 EST. You should refer to case number J9137-98.

Sincerely,



VITO T. POTENZA  
Deputy General Counsel