

HALL, ET AL. V. CIA, 04-00814-HHK

NELSON DECLARATION

EXHIBIT J



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-8000

NSA Referral

FOIA Case: 53697
11 March 2008

Mr. James H. Lesar, Esq.
1003 K Street, N.W., Suite 640
Washington, DC 20001

Dear Mr. Lesar:

This responds to your Freedom of Information Act (FOIA) request of 7 February 2003 to the Central Intelligence Agency (CIA) for "all records and information on or pertaining to:

- 1) Southeast Asia POW/MIAs (civilian or military) and detainees who have not returned, or whose remains have not been returned, to the US regardless of whether they are currently held in prisoner status or whether they were sent out of Southeast Asia;
- 2) POW/MIAs sent out of Southeast Asia;
- 3) records prepared by/assembled by CIA between 1 Jan 60 and 31 Dec 02, relating to the status of any US POWs or MIAs in Laos, including but not limited to any reports etc prepared by Mr. Horgan and any other officer, agent or employee of the CIA for the JCS, the President or any federal agency;
- 4) records of the Senate Select Committee on POW/MIA Affairs which were withdrawn from the collection at the Nat'l Archives and returned to CIA for processing;
- 5) records relating to 47 individuals who allegedly are Vietnam-era POW/MIAs, and whose next-of-kin have provided privacy waivers to Roger Hall;
- 6) records on or pertaining to any search conducted for documents responsive to Roger Hall's requests dated 5 Jan 94, 7 Feb 94 and 23 Apr 98;
- 7) records on or pertaining to any search conducted regarding any other requests for records pertaining to Vietnam War POW/MIAs, including any search for such records conducted in response to any request by any Congressional Committee or executive branch agency."

A copy of your request is enclosed. The CIA referred one NSA-originated document (2 pages) to the National Security Agency/Central Security Service (NSA/CSS) on 1 October 2007 (CIA #F2003-00449) for our review and direct response to you. This referral has been assigned case number 53697.

Although not prepared by or assembled by the CIA, the CIA found the document to be responsive to Item 3 of your request as it pertains to the status of US POWs or MIAs in Laos. The document has been reviewed by this Agency as required by the FOIA and is enclosed. Certain information, however, has been deleted from the enclosure. Some of the withheld information has been found to be currently and properly classified in accordance with Executive Order 12958, as amended. This information meets the criteria for classification as set forth in (c), (d), and (g) of

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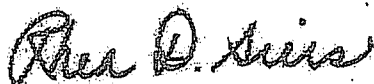
Section 1.4 and remains classified TOP SECRET as provided in Section 1.2 of Executive Order 12958, as amended. The information is classified because its disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Because the information is currently and properly classified, it is exempt from disclosure pursuant to the first exemption of the FOIA (5 U.S.C. Section 552(b)(1)).

In addition, this Agency is authorized by various statutes to protect certain information concerning its activities. We have determined that such information exists in this document. Accordingly, those portions are exempt from disclosure pursuant to the third exemption of the FOIA which provides for the withholding of information specifically protected from disclosure by statute. The specific statutes applicable in this case are Title 18 U.S. Code 798; Title 50 U.S. Code 403-1(i); and Section 6, Public Law 86-36 (50 U.S. Code 402 note). No portion of the information is reasonably segregable.

The name of an NSA/CSS employee has also been deleted from the enclosure. This information is exempt from disclosure pursuant to the third exemption of the FOIA which provides for the withholding of information specifically protected from disclosure by statute. The specific statute applicable in this case is Section 6, Public Law 86-36 (50 U.S. Code 402 note).

Since these deletions may be construed as a partial denial of your request, you are hereby advised of this Agency's appeal procedures. Any person denied access to information may file an appeal to the NSA/CSS Freedom of Information Act Appeal Authority. The appeal must be postmarked no later than 60 calendar days after the date of the initial denial letter. The appeal shall be in writing addressed to the NSA/CSS FOIA Appeal Authority (DJP4), National Security Agency, 9800 Savage Road STE 6248, Fort George G. Meade, MD 20755-6248. The appeal shall reference the initial denial of access and shall contain, in sufficient detail and particularity, the grounds upon which the requester believes release of the information is required. The NSA/CSS Appeal Authority will endeavor to respond to the appeal within 20 working days after receipt, absent unusual circumstances.

Sincerely,



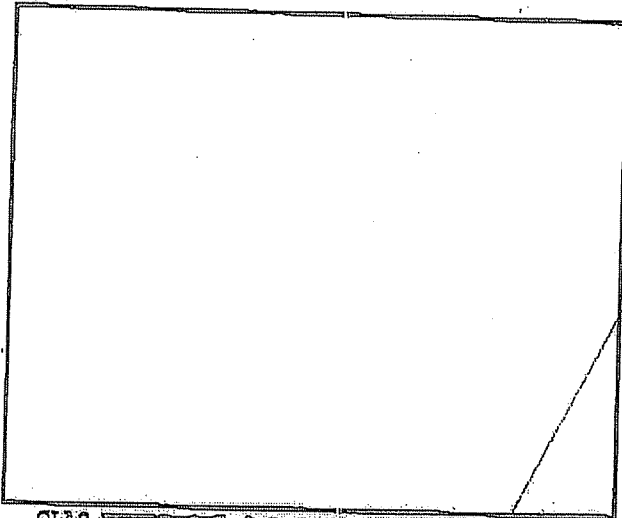
RHEA D. SIERS
Deputy Associate Director for Policy

Encls:
a/s

DOCID: 3298354

MORI DocID: 1479556

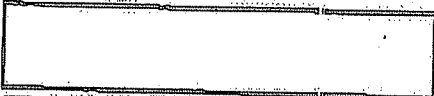
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(b) (3)-P.L. 86-36

(b) (1)
(b) (3)-50 USC 403
(b) (3)-18 USC 798
(b) (3)-P.L. 86-36

~~CLASS TOP SECRET - UNCLASSIFIED~~
QQQQ



SUBJ SUBJ: ~~POW-MIA Affairs:~~
~~U.S. to Excavate a High Profile POW/MIA Case~~



~~(S)~~



TEXT TEXT: ~~((NOT RELEASABLE TO FOREIGN NATIONALS))~~

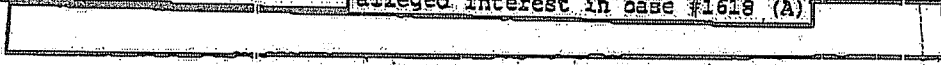
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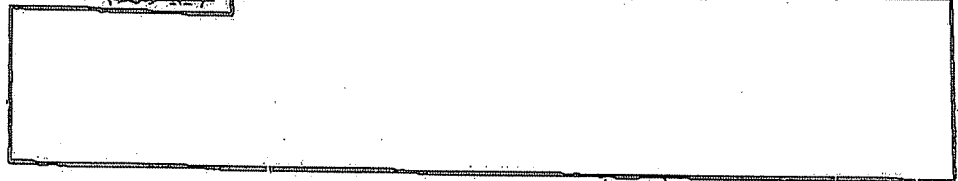
that the excavation of a high-profile case be permitted.



alleged interest in case #1618 (A)



~~(S)~~



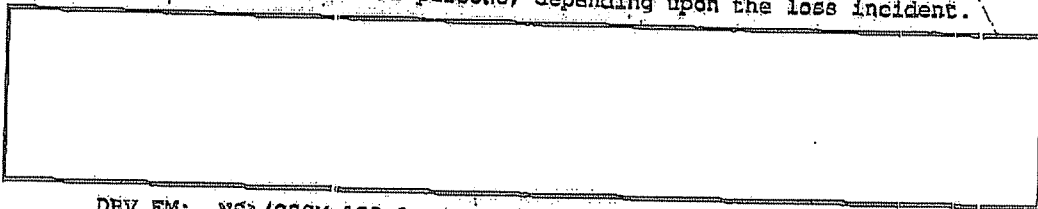
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(b) (3) - P.L. 86-36

(A) ~~4~~ Unresolved cases involving U.S. Servicemen lost or killed during the Vietnam War are assigned a case number which could include one or several persons, depending upon the loss incident.



DRV FM: NSA/CSSM 123-2, Dated 3 Sep 91
DECL ON: Source Marked "OADR", Dated 3 Sep 91
XXHH XXHH
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==EQD==