

**NOT YET SCHEDULED FOR ORAL ARGUMENT**

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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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D.C. CIRCUIT NO. 22-5235  
(C.A. No. 04-814)

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ACCURACY IN MEDIA, INC., *Plaintiff-Appellant*, )  
 )  
 v. )  
 )  
CENTRAL INTELLIGENCE AGENCY, *Defendant-Appellee*. )  
 )  
 )

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**DEFERRED JOINT APPENDIX**

**VOLUME 1 OF 3**

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On Appeal from the United States District Court for the  
District of Columbia, Hon. Royce C. Lambert, District Judge

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**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:04-cv-00814-RCL**

HALL et al v. CENTRAL INTELLIGENCE AGENCY

Assigned to: Chief Judge Royce C. Lamberth

Case: 1:20-cv-01027-RCL

Case in other court: 22-05235

Cause: 05:552 Freedom of Information Act

Date Filed: 05/19/2004

Date Terminated: 11/30/2020

Jury Demand: None

Nature of Suit: 895 Freedom of Information Act

Jurisdiction: U.S. Government Defendant

**Plaintiff**

**ROGER HALL**

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**Plaintiff**

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INC.**

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**Plaintiff**

**ACCURACY IN MEDIA**

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V.

**Defendant**

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**Movant****CAROL HRDLICKA**

Date Filed	#	Docket Text
09/13/2022		USCA Case Number 22-5235 for <u>387</u> Notice of Appeal to DC Circuit Court, filed by ACCURACY IN MEDIA. (zjf) (Entered: 09/13/2022)
09/07/2022	<u>388</u>	Transmission of the Notice of Appeal, Order Appealed (Memorandum Opinion), and Docket Sheet to US Court of Appeals. The Court of Appeals fee was paid re <u>387</u> Notice of Appeal to DC Circuit Court. (ztth) (Entered: 09/07/2022)
09/06/2022	<u>387</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>386</u> Order on Motion for Summary Judgment,,, Order on Motion for Extension of Time to File Response/Reply,,, by ACCURACY IN MEDIA. Filing fee \$ 505, receipt number ADCDC-9492522. Fee Status: Fee Paid. Parties have been notified. (Clarke, John) (Entered: 09/06/2022)
07/07/2022	<u>386</u>	ORDER: It is hereby ORDERED that defendant's <u>376</u> motion for summary judgment is GRANTED and plaintiffs' <u>377</u> motion for summary judgment is DENIED. The Court furthermore GRANTS <u>381</u> Motion for Extension of Time and <u>382</u> Consent Motion for Extension of Time nunc pro tunc. It is so ORDERED. Signed by Judge Royce C. Lamberth on 07/07/2022. (lcrcl2) (Entered: 07/07/2022)
07/07/2022	<u>385</u>	MEMORANDUM OPINION GRANTING defendant's <u>376</u> motion for summary judgment and DENYING plaintiffs' <u>377</u> motion for summary judgment. Separate order to follow. Signed by Judge Royce C. Lamberth on 07/07/2022. (lcrcl2) (Entered: 07/07/2022)
05/11/2022	384	REPLY to opposition to motion re <u>376</u> MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (See Docket Entry <u>383</u> to view document). (znmw) (Entered: 05/12/2022)
05/11/2022	<u>383</u>	Memorandum in opposition to re <u>377</u> MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Statement of Facts Reply to, # <u>2</u> Declaration Blaine Supplemental)(Duffey, Thomas) (Entered: 05/11/2022)
04/11/2022	<u>382</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>377</u> MOTION for Summary Judgment <i>with proposed order</i> by CENTRAL INTELLIGENCE AGENCY. (Duffey, Thomas) (Entered: 04/11/2022)
03/09/2022	<u>381</u>	MOTION for Extension of Time to File Response/Reply as to <u>377</u> MOTION for Summary Judgment <i>with proposed order</i> by CENTRAL INTELLIGENCE AGENCY. (Duffey, Thomas) (Entered: 03/09/2022)
02/15/2022	<u>380</u>	ORDER granting <u>379</u> Motion for Extension of Time; Set/Reset Deadlines: Plaintiffs' combined Response and Cross Motion due by 2/17/2022. Defendant's Response to Cross Motion and reply in support of its summary judgment motion due by 3/10/2022. Plaintiffs' Reply in support of Cross Motion due by 3/24/2022. Signed by Judge Royce C. Lamberth on 2/15/2022. (lcrcl2) (Entered: 02/15/2022)
02/08/2022		NOTICE OF ERROR re <u>379</u> Motion for Extension of Time to; emailed to johnhclarke@earthlink.net, cc'd 5 associated attorneys --- The PDF file you docketed contained errors: 1. Invalid attorney signature, 2. DO NOT REFILE - Counsel is reminded signature must match login/password (zjf, ) (Entered: 02/08/2022)
02/04/2022	<u>379</u>	Consent MOTION for Extension of Time to <i>File combined Response and Cross Motion for Summary Judgment</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 02/04/2022)

01/25/2022	<u>378</u>	Memorandum in opposition to re <u>376</u> MOTION for Summary Judgment filed by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Response to CIA Statement of Facts)(Clarke, John) (Entered: 01/25/2022)
01/25/2022	<u>377</u>	MOTION for Summary Judgment by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Exhibit Response to CIA Statement of Facts)(Clarke, John) (Entered: 01/25/2022)
12/21/2021	<u>376</u>	MOTION for Summary Judgment by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration Vanna Blaine, # <u>4</u> Text of Proposed Order)(Duffey, Thomas) (Entered: 12/21/2021)
11/23/2021	<u>375</u>	MEMORANDUM & ORDER granting <u>363</u> Motion for Extension of Time <i>nunc pro tunc</i> ; granting <u>364</u> & <u>365</u> Motions for Reconsideration; granting <u>370</u> Consent MOTION for Extension of Time to File Reply <i>nunc pro tunc</i> , denying <u>373</u> Motion for Extension of Time as moot. It is hereby ordered that defendant shall file any declaration(s) and dispositive motions by 12/21/2021. Plaintiffs' combined response and cross-motion due by 1/25/2022. Defendant's combined reply in support of its motion and opposition to plaintiffs' cross motion due by 2/8/2022. Plaintiffs' reply in support of their cross-motion due 2/22/2022. Signed by Judge Royce C. Lamberth on 11/23/2021. (lcrcl2) (Entered: 11/23/2021)
11/12/2021	<u>374</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Thomas Duffey on behalf of CENTRAL INTELLIGENCE AGENCY Substituting for attorney Kathleen Molen (Duffey, Thomas) (Entered: 11/12/2021)
06/21/2021	<u>373</u>	MOTION for Extension of Time to by ROGER HALL. (Lesar, James) (Entered: 06/22/2021)
06/21/2021	<u>372</u>	REPLY to opposition to motion re <u>365</u> MOTION for Reconsideration <i>Court's November 30, 2020 Order and Judgment</i> filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 06/21/2021)
05/28/2021	<u>371</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order Defendant, # <u>2</u> Text of Proposed Order Plaintiff)(Molen, Kathleene) (Entered: 05/28/2021)
05/27/2021	<u>370</u>	Consent MOTION for Extension of Time to File Response/Reply to <i>Opposition to Motion to Reconsider</i> by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 05/27/2021)
05/18/2021	<u>369</u>	Memorandum in opposition to re <u>364</u> MOTION for Reconsideration <i>of the Court's November 30, 2000 Order and Judgment</i> , <u>365</u> MOTION for Reconsideration <i>Court's November 30, 2020 Order and Judgment</i> filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 05/18/2021)
05/04/2021	<u>368</u>	ORDER granting <u>367</u> Motion for Extension of Time; Set/Reset Deadlines: Response due by 5/18/2021. Signed by Judge Royce C. Lamberth on 5/3/2021. (lcrcl2) (Entered: 05/04/2021)
04/30/2021	<u>367</u>	Consent MOTION for Extension of Time to <i>Respond to Plaintiffs' Motions for Reconsideration</i> by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 04/30/2021)
04/30/2021	<u>366</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 04/30/2021)
04/20/2021	<u>365</u>	MOTION for Reconsideration <i>Court's November 30, 2020 Order and Judgment</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Clarke, John) (Entered: 04/21/2021)
04/20/2021	<u>364</u>	MOTION for Reconsideration <i>of the Court's November 30, 2000 Order and Judgment</i> by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Affidavit Bethany Hendershot)(Clarke, John) (Entered: 04/20/2021)
03/30/2021	<u>363</u>	Consent MOTION for Extension of Time to <i>FILE MOTION TO RECONSIDER COURT'S NOVEMBER 30 ORDER</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Text of



		Proposed Order)(Clarke, John) (Entered: 03/30/2021)
03/29/2021	<u>362</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Attachment A – Separate Report by Plaintiff Hall, # <u>2</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 03/29/2021)
03/03/2021	<u>361</u>	ORDER Status Report due by 3/29/2021. Signed by Judge Royce C. Lamberth on 03/03/2021. (lcrl2) (Entered: 03/03/2021)
03/03/2021	<u>360</u>	ORDER granting <u>359</u> Motion for Extension of Time; Set/Reset Deadlines: Motion to Reconsider due by 3/30/2021. Signed by Judge Royce C. Lamberth on 03/03/2021. (lcrl2) (Entered: 03/03/2021)
03/01/2021	<u>359</u>	Consent MOTION for Extension of Time to <i>TO FILE MOTION TO RECONSIDER</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 03/01/2021)
03/01/2021	<u>358</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 03/01/2021)
01/29/2021	<u>357</u>	ORDER granting <u>356</u> Motion for Extension of Time; Set/Reset Deadlines: Status Report due by 3/1/2021. Signed by Judge Royce C. Lamberth on 01/29/2021. (lcrl2) (Entered: 01/29/2021)
01/28/2021	<u>356</u>	Joint MOTION for Extension of Time to <i>File a Status Report Regarding Attorneys' Fees</i> by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 01/28/2021)
12/18/2020	<u>355</u>	ORDER granting <u>354</u> Motion for Extension of Time. Set/Reset Deadlines: motion to reconsider due by 2/27/2021. Signed by Judge Royce C. Lamberth on 12/18/2020. (lcrl2) (Entered: 12/18/2020)
12/17/2020	<u>354</u>	Consent MOTION for Extension of Time to <i>FILE MOTION FOR PARTIAL RECONSIDERATION OF COURTS NOVEMBER 30, 2020 ORDER</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 12/17/2020)
11/30/2020	<u>353</u>	ORDER and JUDGMENT in favor of defendant and against plaintiff. Status Report on fees due by 1/29/2021. Signed by Judge Royce C. Lamberth on 11/30/2020. (lcrl2) (Entered: 11/30/2020)
10/30/2020	<u>352</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Molen, Kathleene) (Entered: 10/30/2020)
09/17/2020	<u>351</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Molen, Kathleene) (Entered: 09/17/2020)
08/03/2020	<u>350</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Molen, Kathleene) (Entered: 08/03/2020)
07/29/2020	<u>349</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Kathleene A. Molen on behalf of All Defendants Substituting for attorney Christopher C. Hair (Molen, Kathleene) (Entered: 07/29/2020)
06/18/2020	<u>348</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Hair, Christopher) (Entered: 06/18/2020)
05/04/2020	<u>347</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Hair, Christopher) (Entered: 05/04/2020)
04/24/2020	<u>346</u>	ORDER: Status Report due by 5/4/2020. Signed by Judge Royce C. Lamberth on 04/24/2020. (lcrl2) (Entered: 04/24/2020)
03/31/2020	<u>345</u>	ORDER denying <u>342</u> Motion for Reconsideration. Signed by Judge Royce C. Lamberth on 03/31/2020. (lcrl2) (Entered: 03/31/2020)
09/20/2019	<u>344</u>	REPLY to opposition to motion re <u>342</u> MOTION for Reconsideration re <u>340</u> Order on Motion for Summary Judgment,,,,,, filed by CENTRAL INTELLIGENCE AGENCY. (Hair, Christopher) (Entered: 09/20/2019)

09/13/2019	<u>343</u>	RESPONSE re <u>342</u> MOTION for Reconsideration re <u>340</u> Order on Motion for Summary Judgment,,,,,,, filed by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Clarke, John) (Entered: 09/13/2019)
08/30/2019	<u>342</u>	MOTION for Reconsideration re <u>340</u> Order on Motion for Summary Judgment,,,,,,, by CENTRAL INTELLIGENCE AGENCY (Hair, Christopher) (Entered: 08/30/2019)
08/15/2019	<u>341</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Hair, Christopher) (Entered: 08/15/2019)
08/02/2019	<u>340</u>	MEMORANDUM & ORDER discharging <u>333</u> Order to Show Cause; granting in part and denying in part <u>295</u> Motion for Summary Judgment; granting in part and denying in part <u>312</u> Motion for Summary Judgment; granting in part and denying in part <u>319</u> Motion for Summary Judgment. The Court further orders the parties to meet and confer within ten days—and to update the Court within ten days thereafter—on a plan for further searches and briefing. SEE ORDER FOR FULL DETAILS. Signed by Judge Royce C. Lamberth on 08/02/2019. (lcrcl3) (Entered: 08/02/2019)
07/30/2019	<u>339</u>	NOTICE of Submission of Documents for Ex Parte, In Camera Review by CENTRAL INTELLIGENCE AGENCY (Hair, Christopher) (Entered: 07/30/2019)
07/29/2019	<u>338</u>	ORDER granting <u>334</u> Motion for Leave to File. Signed by Judge Royce C. Lamberth on 07/29/2019. (lcrcl3) (Entered: 07/29/2019)
06/24/2019	<u>337</u>	RESPONSE re <u>335</u> SUPPLEMENTAL MEMORANDUM filed by ACCURACY IN MEDIA. (Clarke, John) Modified link on 6/26/2019 (znmw). (Entered: 06/24/2019)
06/24/2019	<u>336</u>	RESPONSE re <u>334</u> MOTION for Leave to File <i>Document (CIA Record Control Schedules) for Ex Parte, In Camera Review</i> , <u>335</u> SUPPLEMENTAL MEMORANDUM filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Affidavit Hrdlicka)(Clarke, John) Modified to add link on 6/26/2019 (znmw). (Entered: 06/24/2019)
06/12/2019	<u>335</u>	SUPPLEMENTAL MEMORANDUM re <u>248</u> MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Declaration of Antoinette B. Shiner)(Hair, Christopher) Modified on 6/14/2019 to correct docket link (jf). (Entered: 06/12/2019)
06/07/2019	<u>334</u>	MOTION for Leave to File <i>Document (CIA Record Control Schedules) for Ex Parte, In Camera Review</i> by CENTRAL INTELLIGENCE AGENCY (Hair, Christopher) (Entered: 06/07/2019)
05/23/2019		Set/Reset Deadlines: Government's Response to Show Cause due by 6/12/2019. (lsj) (Entered: 05/23/2019)
05/23/2019	<u>333</u>	MEMORANDUM & ORDER TO SHOW CAUSE. Signed by Judge Royce C. Lamberth on 05/23/2019. (lcrcl3) (Entered: 05/23/2019)
03/18/2019	<u>332</u>	REPLY to opposition to motion re <u>319</u> MOTION for Summary Judgment <i>and Other Relief</i> filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Affidavit Roger Hall 2019 Declaration)(Lesar, James) (Entered: 03/19/2019)
03/18/2019	<u>331</u>	REPLY to opposition to motion re <u>312</u> Cross MOTION for Summary Judgment filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 03/18/2019)
03/11/2019	<u>330</u>	Memorandum in opposition to re <u>312</u> Cross MOTION for Summary Judgment, <u>319</u> MOTION for Summary Judgment <i>and Other Relief</i> filed by CENTRAL INTELLIGENCE AGENCY. (Hair, Christopher) (Entered: 03/11/2019)
03/11/2019	<u>329</u>	REPLY to opposition to motion re <u>295</u> Supplemental MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (Hair, Christopher) (Entered: 03/11/2019)
02/26/2019		Set/Reset Deadlines: Reply to Motion for Summary Judgment due by 3/11/2019. (lsj) (Entered: 02/26/2019)
02/25/2019	<u>328</u>	ORDER granting <u>322</u> Motion for Extension of Time to File Response/Reply. This time will not be further extended. Signed by Judge Royce C. Lamberth on 02/25/2019. (lcrcl3) (Entered: 02/25/2019)

02/25/2019	<u>327</u>	ORDER granting <u>318</u> Motion for Briefing Schedule, nunc pro tunc. Signed by Judge Royce C. Lamberth on 02/25/2019. (lcrcl3) Modified on 2/26/2019 (zlsj). (Entered: 02/25/2019)
02/25/2019	<u>326</u>	ORDER granting <u>316</u> Motion to Modify; granting <u>317</u> Motion to Modify, nunc pro tunc. Signed by Judge Royce C. Lamberth on 02/25/2019. (lcrcl3) Modified on 2/26/2019 (zlsj). (Entered: 02/25/2019)
02/25/2019	<u>325</u>	ORDER granting <u>314</u> Motion for Briefing Schedule, nunc pro tunc. Signed by Judge Royce C. Lamberth on 02/25/2019. (lcrcl3) Modified on 2/26/2019 (zlsj). (Entered: 02/25/2019)
02/25/2019	<u>324</u>	ORDER granting <u>311</u> Motion for Briefing Schedule, nunc pro tunc. Signed by Judge Royce C. Lamberth on 02/25/2019. (lcrcl3) Modified on 2/26/2019 (zlsj). (Entered: 02/25/2019)
02/15/2019	<u>323</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Christopher Charles Hair on behalf of All Defendants (Hair, Christopher) (Entered: 02/15/2019)
02/06/2019		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>321</u> Consent MOTION for Extension of Time to File Response/Reply was entered in error as a duplicate entry to <u>322</u> (jf) (Entered: 02/06/2019)
02/06/2019	<u>322</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>295</u> Supplemental MOTION for Summary Judgment , <u>319</u> MOTION for Summary Judgment <i>and Other Relief (Corrected)</i> by CENTRAL INTELLIGENCE AGENCY (Taaffe, Damon) (Entered: 02/06/2019)
02/05/2019	<u>321</u>	ENTERED IN ERROR.....Consent MOTION for Extension of Time to File Response/Reply as to <u>295</u> Supplemental MOTION for Summary Judgment , <u>312</u> Cross MOTION for Summary Judgment, <u>319</u> MOTION for Summary Judgment <i>and Other Relief</i> by CENTRAL INTELLIGENCE AGENCY (Taaffe, Damon) Modified on 2/6/2019 (jf). (Entered: 02/05/2019)
01/17/2019	<u>320</u>	Memorandum in opposition to re <u>295</u> Supplemental MOTION for Summary Judgment filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Memorandum in Support MP&A in Opposition, # <u>2</u> Text of Proposed Order)(Lesar, James) (Entered: 01/17/2019)
01/09/2019		NOTICE OF ERROR re <u>319</u> Motion for Summary Judgment; emailed to jhlesar@gmail.com, cc'd 4 associated attorneys — The PDF file you docketed contained errors: 1. Two-part docket entry, 2. Please refile document, 3. Memorandum of Points using the "Opposition" event (Entered: 01/09/2019)
01/08/2019	<u>319</u>	MOTION for Summary Judgment <i>and Other Relief</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Memorandum in Support of Hall's 2d Renew CMSJ etc, # <u>2</u> Text of Proposed Order)(Lesar, James) (Entered: 01/08/2019)
01/07/2019	<u>318</u>	Consent MOTION for Briefing Schedule by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Lesar, James) (Entered: 01/07/2019)
01/02/2019	<u>317</u>	MOTION to Modify Briefing Schedule by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Lesar, James) Modified on 1/2/2019 to correct docket event (jf). (Entered: 01/02/2019)
12/26/2018	<u>316</u>	MOTION to Modify re <u>146</u> Briefing Schedule by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Lesar, James) Modified on 1/2/2019 to correct docket event (jf). (Entered: 12/26/2018)
12/22/2018	<u>315</u>	ORDER granting nunc pro tunc <u>308</u> Motion for Extension of Time to File Responses due on or before 12/10/2018. Signed by Judge Royce C. Lamberth on 12/22/2018. (lcrcl1) (Entered: 12/22/2018)
12/20/2018	<u>314</u>	MOTION for Briefing Schedule by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Lesar, James) (Entered: 12/20/2018)

12/17/2018		NOTICE OF ERROR re <u>312</u> Motion for Summary Judgment; emailed to johnhclarke@earthlink.net, cc'd 4 associated attorneys --- The PDF file you docketed contained errors: 1. Two-part docket entry, 2. DO NOT REFILE - Counsel is reminded to docket all parts of their filing(s) (zjf, ) (Entered: 12/17/2018)
12/14/2018	<u>313</u>	Memorandum in opposition to re <u>295</u> Supplemental MOTION for Summary Judgment filed by ACCURACY IN MEDIA. (See Docket Entry <u>312</u> to view document) (jf) (Entered: 12/17/2018)
12/14/2018	<u>312</u>	Cross MOTION for Summary Judgment by ACCURACY IN MEDIA (Attachments: # <u>1</u> Exhibit 1995 CIA letter re review of operational files, # <u>2</u> Statement of Facts, # <u>3</u> Response to CIA Statement of Facts)(Clarke, John) (Entered: 12/14/2018)
12/14/2018	<u>311</u>	MOTION for Briefing Schedule by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Lesar, James) (Entered: 12/14/2018)
12/13/2018	<u>310</u>	ORDER granting <u>309</u> Motion for Extension of Time to File Response to Motion for Summary Judgment. Response due by 12/14/2018. Reply to Motion for Summary Judgment due by 1/19/2019. Signed by Judge Royce C. Lamberth on 12/12/2018. (lrc12) (Entered: 12/13/2018)
12/10/2018	<u>309</u>	Consent MOTION for Extension of Time to File Response/Reply to <i>Defendant's Renewed Motion for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 12/10/2018)
11/26/2018	<u>308</u>	Consent MOTION for Extension of Time to File Response/Reply to <i>Defendant's Renewed Motion for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 11/26/2018)
10/18/2018		Set/Reset Deadlines: Response to Renewed Motion for Summary Judgment due by 11/30/2018. (lsj) (Entered: 10/18/2018)
10/17/2018	<u>307</u>	ORDER granting <u>306</u> Motion for Extension of Time. Plaintiffs have until 11/30/18 to respond to defendant's renewed summary judgment motion. Signed by Judge Royce C. Lamberth on 10/17/18. (lrc13) (Entered: 10/17/2018)
10/11/2018	<u>306</u>	MOTION for Extension of Time to , MOTION for Extension of Time to File Response/Reply to <i>Defendant's Renewed Motion for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit William Simpich, Esquire, # <u>2</u> Text of Proposed Order)(Clarke, John) (Entered: 10/11/2018)
09/18/2018	<u>305</u>	ORDER granting, nunc pro tunc, <u>294</u> Motion for Extension of Time to File; granting, nunc pro tunc, <u>296</u> Motion for Extension of Time; denying <u>297</u> Motion to Stay; denying <u>298</u> Motion to Stay; Deadlines: Plaintiff's Response to <u>295</u> Motion for Summary Judgment due by 10/18/2018. Signed by Judge Royce C. Lamberth on 09/18/18. (lrc12) (Entered: 09/18/2018)
07/23/2018	<u>304</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to CENTRAL INTELLIGENCE AGENCY. Attorney Jeremy S. Simon terminated. (Simon, Jeremy) (Entered: 07/23/2018)
02/22/2018	<u>303</u>	NOTICE of Appearance by Jeremy S. Simon on behalf of CENTRAL INTELLIGENCE AGENCY (Simon, Jeremy) (Entered: 02/22/2018)
02/20/2018	<u>302</u>	REPLY to opposition to motion re <u>298</u> MOTION to Stay filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 02/20/2018)
02/20/2018	<u>301</u>	REPLY to opposition to motion re <u>297</u> MOTION to Stay filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 02/20/2018)
02/12/2018	<u>300</u>	Memorandum in opposition to re <u>297</u> MOTION to Stay , <u>298</u> MOTION to Stay filed by CENTRAL INTELLIGENCE AGENCY. (Taaffe, Damon) (Entered: 02/12/2018)
02/02/2018	<u>299</u>	NOTICE of filing by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. re <u>298</u> MOTION to Stay (Attachments: # <u>1</u> Certificate of Service Certificate of Service, #

		<u>2</u> Exhibit attachment 1. Petition for Rehearing En Banc D.C. Cir 16-5067, # <u>3</u> Exhibit Attachment 1. Addendum)(Lesar, James) (Entered: 02/02/2018)
02/01/2018		NOTICE OF ERROR re <u>298</u> Motion to Stay; emailed to johnhclarke@earthlink.net, cc'd 4 associated attorneys -- The PDF file you docketed contained errors: 1. Invalid attorney signature, 2. In future, ECF login must match attorney signature on document; Do not refile. (znmw, ) (Entered: 02/01/2018)
01/31/2018	<u>298</u>	MOTION to Stay by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Clarke, John) (Entered: 01/31/2018)
01/31/2018	<u>297</u>	MOTION to Stay by ACCURACY IN MEDIA (Attachments: # <u>1</u> Exhibit Interrogatories, # <u>2</u> Exhibit Request for Admissions, # <u>3</u> Exhibit Request for Production of Documents, # <u>4</u> Text of Proposed Order)(Clarke, John) (Entered: 01/31/2018)
01/15/2018	<u>296</u>	Unopposed MOTION for Extension of Time to <i>file Cross-Motions for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order)(Clarke, John) (Entered: 01/15/2018)
11/29/2017	<u>295</u>	Renewed MOTION for Summary Judgment by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration)(Taaffe, Damon) Modified event title on 11/30/2017 (znmw). (Entered: 11/29/2017)
11/09/2017	<u>294</u>	MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> by CENTRAL INTELLIGENCE AGENCY (Taaffe, Damon) (Entered: 11/09/2017)
10/25/2017	<u>293</u>	TRANSCRIPT OF STATUS CONFERENCE before Judge Royce C. Lamberth held on September 26, 2017; Page Numbers: 1 – 15. Date of Issuance:October 25, 2017. Court Reporter/Transcriber Richard D. Ehrlich, Telephone number 202-354-3269, Tape Number: NA. Transcripts may be ordered by submitting the <u>Transcript Order Form</u>  For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.  <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.  Redaction Request due 11/15/2017. Redacted Transcript Deadline set for 11/25/2017. Release of Transcript Restriction set for 1/23/2018.(Ehrlich, Richard) (Entered: 10/25/2017)
09/26/2017		Minute Entry for proceedings held before Judge Royce C. Lamberth: Status Conference held on 9/26/2017. Government's Motion due by 11/15/2017. Opposition due by 1/15/2018. Reply due by 2/15/2018. (Court Reporter Richard Erlich) (nbn) (Entered: 09/27/2017)
09/05/2017	<u>292</u>	TRANSCRIPT OF STATUS CONFERENCE before Judge Royce C. Lamberth held on August 21, 2017; Page Numbers: 1 – 17. Date of Issuance:September 5, 2017. Court Reporter/Transcriber Richard D. Ehrlich, Telephone number 202-354-3269, Transcripts may be ordered by submitting the <u>Transcript Order Form</u>  For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.  <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty-one days to file with the court and the court reporter any request to redact personal

		<p>identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://www.dcd.uscourts.gov">www.dcd.uscourts.gov</a>.</p> <p>Redaction Request due 9/26/2017. Redacted Transcript Deadline set for 10/6/2017. Release of Transcript Restriction set for 12/4/2017.(Ehrlich, Richard) Modified date of hearing on 9/6/2017 (znmw). (Entered: 09/05/2017)</p>
08/22/2017		Set/Reset Hearings: Further Status Conference set for 9/26/2017 at 11:00 AM in Courtroom 15 before Judge Royce C. Lamberth. (zlsj) (Entered: 08/22/2017)
08/22/2017		Minute Entry for Status Conference held before Judge Royce C. Lamberth on 8/22/2017. Parties advised the Court of the status of the production of documents. Further Status Conference set for 9/26/2017 at 11:00 AM in Courtroom 15 before Judge Royce C. Lamberth. Court Reporter Richard Ehrlich. (lsj) (Entered: 08/22/2017)
08/04/2017		MINUTE ORDER: The parties are to appear for a Status Conference set for 8/22/2017 at 02:00 PM in Courtroom 15 before Judge Royce C. Lamberth. So ordered by Judge Royce C. Lamberth on 8/4/17. (lsj) (Entered: 08/04/2017)
08/03/2017	<u>291</u>	MEMORANDUM AND OPINION re Order <u>290</u> granting in part and denying and part Motion <u>248</u> for Summary Judgment, Motion <u>258</u> for Summary Judgment and Motion <u>259</u> for Summary Judgment. Signed by Judge Royce C. Lamberth on 8/2/17. (lsj) (Entered: 08/03/2017)
08/03/2017	<u>290</u>	ORDER granting in part and denying and part Motion <u>248</u> for Summary Judgment, Motion <u>258</u> for Summary Judgment and Motion <u>259</u> for Summary Judgment. The parties are further ORDERED to provide the Court with dates of availability during the week of August 21, 2017 for a Status Conference by August 14, 2017. SEE ORDER FOR FULL DETAILS. Signed by Judge Royce C. Lamberth on 8/2/17. (lsj) (Entered: 08/03/2017)
05/01/2017	<u>289</u>	REPLY to opposition to motion re <u>258</u> MOTION for Summary Judgment filed by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(znmw) (Entered: 05/02/2017)
05/01/2017	<u>288</u>	ORDER granting <u>285</u> Motion for Leave to File Excess Pages. Signed by Judge Royce C. Lamberth on 4/28/17. (lsj) (Entered: 05/01/2017)
05/01/2017	<u>287</u>	ORDER granting <u>283</u> Motion for Extension of Time to File Replies and Attachment 1 in <u>284</u> Errata Regarding Motion for Extensions of Time. Signed by Judge Royce C. Lamberth on 4/28/17. (lsj) (Entered: 05/01/2017)
04/10/2017	<u>286</u>	REPLY to opposition to motion re <u>259</u> MOTION for Summary Judgment MOTION for In Camera Inspection MOTION for Discovery MOTION to Appoint Special Master filed by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Exh. 1--Der Spiegel, # <u>2</u> Exhibit Exh. 2--Scelso Deposition)(Lesar, James) (Entered: 04/10/2017)
04/10/2017	<u>285</u>	MOTION for Leave to File Excess Pages in <i>Memorandum in Reply to Opposition to Cross-Motion for Summary Judgment</i> by ACCURACY IN MEDIA (Attachments: # <u>1</u> Exhibit Reply Memorandum, # <u>2</u> Exhibit FOIA Request, # <u>3</u> Exhibit POW/MIA Select Committee Report Table of Contents, # <u>4</u> Text of Proposed Order)(Clarke, John) (Entered: 04/10/2017)
04/08/2017	<u>284</u>	ERRATA regarding <i>Motion for Extensions of Time</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Appendix Motion for One-Day Extension of Time)(Lesar, James) (Entered: 04/08/2017)
04/07/2017	<u>283</u>	MOTION for Extension of Time to <i>File replies</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 04/07/2017)
04/07/2017	<u>282</u>	ORDER granting <u>280</u> Motion for Extension of Time to File Replies; Replies due by 4/7/2017. Signed by Judge Royce C. Lamberth on 4/6/17. (zlsj) (Entered: 04/07/2017)

04/07/2017	<u>281</u>	ORDER granting, nunc pro tunc <u>279</u> Motion for Extension of Time to File Response/Reply to Opposition to Cross-motions for Summary Judgment. Replies due by 4/4/2017. Signed by Judge Royce C. Lamberth on 4/6/17. (zlsj) Modified on 4/10/2017 (zlsj). (Entered: 04/07/2017)
04/04/2017	<u>280</u>	Consent MOTION for Extension of Time to <i>File replies</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 04/04/2017)
03/27/2017	<u>279</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Opposition to Cross-motions for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 03/27/2017)
03/13/2017	<u>278</u>	ORDER granting <u>275</u> Motion for Extension of Time to File Response/Reply; Plaintiffs shall have until March 14, 2017, to submit their Reply Memoranda to Defendant's Opposition to Plaintiffs' Cross-motions for Summary Judgment. Signed by Judge Royce C. Lamberth on 3/9/17. (zlsj) (Entered: 03/13/2017)
03/10/2017	<u>277</u>	ORDER granting <u>276</u> Motion for Extension of Time to File Response/Reply; Plaintiffs shall have until March 28, 2017 to submit their reply memoranda to defendant's opposition to plaintiff's cross-motions for summary judgment. Signed by Judge Royce C. Lamberth on 3/13/17. (lcrcl1) (Main Document 277 replaced and Modified on 3/13/2017) (zlsj) (Entered: 03/10/2017)
03/10/2017	<u>276</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Opposition to Cross-motions for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 03/10/2017)
02/27/2017	<u>275</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>259</u> MOTION for Summary Judgment MOTION for In Camera Inspection MOTION for Discovery MOTION to Appoint Special Master by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 02/27/2017)
02/17/2017		Set/Reset Deadlines: Replies due by 2/27/2017. (zlsj) (Entered: 02/17/2017)
02/16/2017	<u>274</u>	ORDER granting <u>273</u> Motion for Extension of Time to File Response/Reply. Signed by Judge Royce C. Lamberth on 2/16/2017. (lcrcl2) (Entered: 02/16/2017)
02/08/2017	<u>273</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Opposition to Cross-motions for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 02/08/2017)
01/30/2017	<u>272</u>	Memorandum in opposition to re <u>258</u> MOTION for Summary Judgment , <u>259</u> MOTION for Summary Judgment MOTION for In Camera Inspection MOTION for Discovery MOTION to Appoint Special Master filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Declaration Supplemental Shiner Decl, # <u>2</u> Statement of Facts Response to Plaintiffs' SOF)(Taaffe, Damon) (Entered: 01/30/2017)
01/30/2017	<u>271</u>	REPLY to opposition to motion re <u>248</u> MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Declaration Supplemental Shiner Declaration)(Taaffe, Damon) (Entered: 01/30/2017)
11/18/2016	<u>270</u>	ORDER granting <u>269</u> Consent MOTION for Extension of Time to File Response/Reply as to <u>248</u> MOTION for Summary Judgment, <u>258</u> MOTION for Summary Judgment, <u>259</u> MOTION for Summary Judgment MOTION for In Camera Inspection MOTION for Discovery MOTION to Appoint Special Master: It is hereby ORDERED, that the Defendant shall file its replies, as well as its oppositions to plaintiffs cross-motions, by January 30, 2017. Signed by Judge Royce C. Lamberth on 11/17/2016. (ad) (Entered: 11/21/2016)
11/01/2016	<u>269</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>248</u> MOTION for Summary Judgment , <u>258</u> MOTION for Summary Judgment , <u>259</u> MOTION for Summary Judgment MOTION for In Camera Inspection MOTION for Discovery MOTION to Appoint Special Master by CENTRAL INTELLIGENCE AGENCY

		(Taaffe, Damon) (Entered: 11/01/2016)
10/25/2016	<u>268</u>	ORDER granting <u>257</u> Motion for Extension of Time to Respon to Def's RMSJ (161020). It is hereby ORDERED, that Plaintiff's Motion for an extension of time to October 21, 2016, to respond to defendant's motion for summary judgment BE, and hereby IS, GRANTED. Signed by Judge Royce C. Lamberth on 10/21/2016. (ad) (Entered: 10/25/2016)
10/25/2016	<u>267</u>	ORDER granting <u>256</u> Motion for Extension of Time: It is hereby ORDERED, that Plaintiff's Motion for an extension of time to October 20, 2016, to respond to defendant's motion for summary judgment BE, and hereby IS, GRANTED, nunc pro tunc. Signed by Judge Royce C. Lamberth on 10/21/2016. (ad) (Entered: 10/25/2016)
10/25/2016	<u>266</u>	ORDER granting <u>253</u> Consent Motion for Extension of Time to File Response/Reply to Renewed Motion for Summary Judgment. It is hereby ORDERED, that Plaintiff's Motion for an extension of time to October 18, 2016, to respond to defendant's motion for summary judgment BE, and hereby IS, GRANTED, nunc pro tunc. Signed by Judge Royce C. Lamberth on 10/21/2016. (ad) (Entered: 10/25/2016)
10/24/2016	<u>263</u>	ERRATA <i>re ECF # 262</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Att. A--29 Sept. 92 DDI--Bob Taylor, # <u>2</u> Exhibit Att. B--7 Aug. 92 MFR Boykin--DDI, # <u>3</u> Exhibit Att. C--NSA Inventory & Tabs A & B, # <u>4</u> Text of Proposed Order Proposed Order)(Lesar, James) (Entered: 10/24/2016)
10/22/2016	<u>262</u>	ERRATA by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit 23 Se[t/ 92, # <u>2</u> Exhibit 23 Sept. 92, # <u>3</u> Exhibit 7 Aug. 92, # <u>4</u> Exhibit Att. C NSA Inventory)(Lesar, James) (Entered: 10/22/2016)
10/22/2016	<u>261</u>	AFFIDAVIT by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit Carol Hrdlicka, # <u>2</u> Exhibit 1-10, # <u>3</u> Exhibit 11-20, # <u>4</u> Exhibit 21-29, # <u>5</u> Exhibit 30-40, # <u>6</u> Exhibit 41-53)(Clarke, John) Modified event title on 10/24/2016 (znmw). (Entered: 10/22/2016)
10/22/2016	<u>260</u>	NOTICE of Filing of 2016 Roger Hall Dec. by ROGER HALL (Attachments: # <u>1</u> Exhibit Exhs. 1-37, # <u>2</u> Exhibit Exhs. 1-38-76 to Hall Decl., # <u>3</u> Exhibit Exhs. 77-114 to Hall Decl., # <u>4</u> Exhibit Exhs. 115-148 to Hall Decl.)(Lesar, James) (Entered: 10/22/2016)
10/21/2016	265	Memorandum in opposition to re <u>248</u> MOTION for Summary Judgment filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (See Docket Entry <u>259</u> to view document). (znmw) (Entered: 10/25/2016)
10/21/2016	264	Memorandum in opposition to re <u>248</u> MOTION for Summary Judgment filed by ACCURACY IN MEDIA. (See Docket Entry <u>258</u> to view document). (znmw) (Entered: 10/24/2016)
10/21/2016	<u>259</u>	MOTION for Summary Judgment by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James). Added MOTION for In Camera Inspection, MOTION for Discovery, MOTION to Appoint Special Master on 10/24/2016 (znmw). (Entered: 10/21/2016)
10/21/2016	<u>258</u>	MOTION for Summary Judgment by ACCURACY IN MEDIA (Attachments: # <u>1</u> Affidavit Affidavit of Captain Eugene McDaniel, # <u>2</u> Affidavit Affidavit of James Sanders, # <u>3</u> Affidavit Affidavit of Mark Sauter, # <u>4</u> Affidavit Affidavit of Bob Smith, # <u>5</u> Statement of Facts, # <u>6</u> Exhibit Plaintiffs' Response to the CIA's Local Rule Statement, # <u>7</u> Text of Proposed Order)(Clarke, John) (Entered: 10/21/2016)
10/20/2016	<u>257</u>	MOTION for Extension of Time to <i>Respon to Def's RMSJ (161020)</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 10/21/2016)
10/18/2016	<u>256</u>	MOTION for Extension of Time to by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 10/18/2016)
10/17/2016	<u>255</u>	ORDER granting <u>252</u> Motion for Extension of Time to. Signed by Judge Royce C. Lamberth on 10/14/2016. (lrc13, ) (Entered: 10/17/2016)



10/17/2016	<u>254</u>	ORDER granting <u>251</u> Motion for Extension of Time to. Signed by Judge Royce C. Lamberth on 10/14/2016. (lcrcl3, ) (Entered: 10/17/2016)
10/15/2016	<u>253</u>	Consent MOTION for Extension of Time to File Response/Reply to <i>Renewed Motion for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Clarke, John) (Entered: 10/15/2016)
10/08/2016	<u>252</u>	Consent MOTION for Extension of Time to <i>Respond to Defs' Mot. for Summary Judgment (161008)</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 10/08/2016)
09/23/2016	<u>251</u>	Consent MOTION for Extension of Time to <i>Respond to Def's motion for Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 09/23/2016)
08/15/2016	<u>250</u>	ORDER granting <u>249</u> Consent Motion for Extension of Time to Respond to Defendant's Motion for Summary Judgment: It is hereby ORDERED, that Plaintiffs' response to defendant's motion for summary judgment shall be due on or before September 28, 2016. Signed by Judge Royce C. Lamberth on 8/15/2016. (ad) Modified on 8/16/2016 to correct the file date (ad). (Entered: 08/16/2016)
08/09/2016	<u>249</u>	Consent MOTION for Extension of Time to <i>Respond to Def's Mot. for Summary Judgment (160809)</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 08/09/2016)
07/13/2016	<u>248</u>	MOTION for Summary Judgment by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration Shiner with Exhibits)(Taaffe, Damon) (Entered: 07/13/2016)
07/05/2016	<u>247</u>	ORDER granting <u>245</u> Motion for Extension of Time to File Motion for Summary Judgment. Upon consideration of the defendant's consent motion <u>245</u> for an extension of time to file its motion for summary judgment and the response <u>246</u> , it is hereby ORDERED that the motion is GRANTED. Defendant shall file its motion for summary judgment by July 13, 2016; plaintiffs shall file their opposition and cross-motion for summary judgment, if any, by August 18, 2016; defendant shall file its reply and opposition to plaintiffs' cross-motion by September 6, 2016; and plaintiffs shall file their reply in support of their cross-motion by September 20, 2016. Plaintiffs' prior scheduling motion <u>242</u> is moot in light of the Court's Order filed 4/29/16 <u>244</u> . Signed by Judge Royce C. Lamberth on 7/5/2016. (tg) (Entered: 07/05/2016)
06/20/2016	<u>246</u>	NOTICE Regarding Consent Motion for Extension of time to File Motion for Summary Judgment by CENTRAL INTELLIGENCE AGENCY re <u>245</u> Consent MOTION for Extension of Time to File Motion for Summary Judgment (Taaffe, Damon) (Entered: 06/20/2016)
06/16/2016	<u>245</u>	Consent MOTION for Extension of Time to File Motion for Summary Judgment by CENTRAL INTELLIGENCE AGENCY (Taaffe, Damon) (Entered: 06/16/2016)
05/02/2016	<u>244</u>	ORDER granting <u>243</u> Motion for Scheduling Order. It is ORDERED that the defendant will file its motion for summary judgment by June 23, 2016; ORDERED that plaintiffs will file their opposition and cross-motion for summary judgment (if any) by July 29, 2016; ORDERED that the defendant will file its reply and opposition to defendant's cross-motion (if any) by August 16, 2016; and ORDERED that plaintiffs will file their reply in support of their cross-motion (if any) by August 30, 2016; and it is ORDERED that plaintiffs will file their reply in support of their cross-motion (if any) by August 30, 2016.. Signed by Judge Royce C. Lamberth on 4/29/2016. (tg) (Entered: 05/02/2016)
04/28/2016	<u>243</u>	Joint MOTION for Scheduling Order by CENTRAL INTELLIGENCE AGENCY (Taaffe, Damon) (Entered: 04/28/2016)
03/22/2016	<u>242</u>	Consent MOTION for Extension of Time to <i>Submit Informal Response to CIA's Draft Vaughn Sample Index and Inventory and to File Joint Report</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/22/2016)

02/12/2016	<u>241</u>	RESPONSE TO ORDER TO SHOW CAUSE by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. . (Lesar, James) (Entered: 02/12/2016)
01/29/2016	<u>240</u>	ORDER TO SHOW CAUSE, Signed by Judge Royce C. Lamberth on January 29, 2016. (lcrcl2) Modified on 2/1/2016 (hs). (Entered: 01/29/2016)
10/21/2015	<u>239</u>	NOTICE OF WITHDRAWAL OF MOTION by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. re <u>238</u> MOTION for Order to Show Cause (Clarke, John) (Entered: 10/21/2015)
10/20/2015	<u>238</u>	WITHDRAWN PURSUANT TO NOTICE FILED 10/21/2015..... MOTION for Order to Show Cause by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) Modified on 10/22/2015 (znmw). (Entered: 10/20/2015)
07/15/2015	<u>237</u>	ORDER; granting <u>223</u> and <u>224</u> Motion for Attorney Fees, Signed by Judge Royce C. Lamberth on 7/15/2015. (hs) (Entered: 07/15/2015)
07/15/2015	<u>236</u>	MEMORANDUM AND OPINION, Signed by Judge Royce C. Lamberth on 7/14/2015. (hs) (Entered: 07/15/2015)
06/23/2015	<u>235</u>	ORDER; granting nunc pro tunc <u>229</u> and <u>230</u> Plaintiffs' Motions for Extension of Time to File replies to defendant's opposition to award attorneys' fees and costs, Signed by Judge Royce C. Lamberth on 6/22/2015. (hs) (Entered: 06/23/2015)
06/23/2015	<u>234</u>	ORDER; granting nunc pro tunc <u>228</u> Plaintiffs' Motion for Extension of Time to file a reply to defendant's opposition to plaintiffs' motion for interim award of attorneys' fee, Signed by Judge Royce C. Lamberth on 6/22/2015. (hs) (Entered: 06/23/2015)
06/23/2015	<u>233</u>	ORDER; granting nunc pro tunc <u>226</u> Motion for Extension of Time to File Response/Reply to Plaintiff's Motion for interim attorney's fees, Signed by Judge Royce C. Lamberth on 6/22/2015. (hs) (Entered: 06/23/2015)
03/30/2015	<u>232</u>	REPLY to opposition to motion re <u>223</u> MOTION for Attorney Fees <i>Interim</i> filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Att. A--NSA Stipulation and Settlement Agreement, # <u>2</u> Exhibit Att. B--Memorandum Opinion, NSA v. CIA (081104), # <u>3</u> Exhibit Att. C--Rosenfeld v. DOJ (121017), # <u>4</u> Exhibit Att. D--Holland and Knight PR, # <u>5</u> Exhibit Att. E--Davis v. DOJ, July 19, 1993 Transcript, # <u>6</u> Exhibit At. F--Davis v. DOJ, Aug. 24, 1993 transcript)(Lesar, James) (Entered: 03/30/2015)
03/30/2015	<u>231</u>	REPLY to opposition to motion re <u>230</u> Unopposed MOTION for Extension of Time to <i>Reply to CIA's Opposition to Mot. for Interim Award of Atty Fees</i> filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 03/30/2015)
03/23/2015	<u>230</u>	Unopposed MOTION for Extension of Time to <i>Reply to CIA's Opposition to Mot. for Interim Award of Atty Fees</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/23/2015)
03/17/2015	<u>229</u>	Unopposed MOTION for Extension of Time to <i>Reply to Defendant's Opposition to Motion for Interim Award of Attorneys' Fees</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/17/2015)
03/09/2015	<u>228</u>	Unopposed MOTION for Extension of Time to <i>REply to Defendant Central Intelligence Agency's Opposition to Motion for Interim Award of Attorney's Fees</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/09/2015)
02/27/2015	<u>227</u>	Memorandum in opposition to re <u>224</u> MOTION for Attorney Fees , <u>223</u> MOTION for Attorney Fees <i>Interim</i> filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit Laffey Matrix, # <u>2</u> Exhibit Salazar Matrix, # <u>3</u> Exhibit Summers Decl, # <u>4</u> Exhibit Davy Decl, # <u>5</u> Exhibit Malowane Decl, # <u>6</u> Exhibit DDC Spreadsheet, # <u>7</u> Exhibit SJ Ruling Summary, # <u>8</u> Exhibit Example Releases)(Taaffe, Damon) (Entered: 02/27/2015)
02/19/2015	<u>226</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>223</u> MOTION for Attorney Fees <i>Interim</i> , <u>224</u> MOTION for Attorney Fees by CENTRAL

		INTELLIGENCE AGENCY (Taaffe, Damon) (Entered: 02/19/2015)
02/13/2015	<u>225</u>	NOTICE <i>Notice of Filing of Opinon in CREW v. DOJ (CRC)</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 02/13/2015)
02/09/2015	<u>224</u>	MOTION for Attorney Fees by ACCURACY IN MEDIA (Attachments: # <u>1</u> Affidavit)(Clarke, John) (Entered: 02/09/2015)
02/09/2015	<u>223</u>	MOTION for Attorney Fees <i>Interim</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit Lesar Decl., # <u>2</u> Affidavit Hrdlicka Decl. (120615), # <u>3</u> Affidavit Hall Supplemental Rule 56(f) Decl. (120620))(Lesar, James) (Entered: 02/09/2015)
01/28/2015		Set/Reset Deadlines: Fee Petitions due by 2/9/2015, Response due by 2/23/2015, Replies due by 3/6/2015. (mpt) (Entered: 01/28/2015)
01/27/2015	<u>222</u>	ORDER granting nunc pro tunc <u>219</u> Motion to Stay until January 26, 2015; granting <u>221</u> Motion for Briefing Schedule. Plaintiffs' fee petitions shall be filed by February 9, 2015; defendant's response shall be filed by February 23, 2015; and plaintiffs' replies, if any, shall be filed by March 6, 2015. Signed by Judge Royce C. Lamberth on January 27, 2015. (lcrcl2) (Entered: 01/27/2015)
01/26/2015	<u>221</u>	Joint MOTION for Order <i>Setting Schedule</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 01/26/2015)
01/14/2015	<u>220</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Taaffe, Damon) (Entered: 01/14/2015)
11/20/2014	<u>219</u>	Joint MOTION to Stay re <u>217</u> Order, Set Deadlines,,,,,, by ACCURACY IN MEDIA (Clarke, John) (Entered: 11/20/2014)
11/06/2014	<u>218</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Damon William Taaffe on behalf of All Defendants Substituting for attorney Mercedeh Momeni (Taaffe, Damon) (Entered: 11/06/2014)
10/07/2014	<u>217</u>	ORDER Setting Deadlines : Plaintiffs' list of 100 documents selected for inclusion in the sample vaughn index is to be submitted by 10/15/14; if the parties' negotiations to resolve Plaintiffs' demand for an interim award of attorney's fees and costs are unsuccessful, Plaintiffs shall file a motion for an award of attorney's fees and costs by 12/3/14; Defendant's Dispositive Motion to be filed by 12/5/14; Plaintiffs' Response to Defendant's Dispositive Motion and Plaintiffs' Cross Dispositive Motion due by 2/2/15; Defendant's Reply in Support of its Dispositive Motion and Defendant's Response in Opposition to Plaintiffs' Cross Dispositive Motion due by 3/4/15; Plaintiffs' Reply in Support of Plaintiffs' Cross Dispositive Motion due by 3/24/15; Plaintiffs shall file a Motion to Stay Proceedings by 12/18/14 if the interim fees issue has not been resolved by that date; signed by Judge Royce C. Lamberth on 10/6/14. (kk) (Entered: 10/07/2014)
09/30/2014	<u>216</u>	NOTICE of Filing Proposed Briefing Schedule by CENTRAL INTELLIGENCE AGENCY re <u>215</u> Order on Motion for Extension of Time to, (Momeni, Mercedeh) (Entered: 09/30/2014)
09/25/2014		Set/Reset Deadlines: Submit Proposed Scheduling Order by 9/30/2014. (mpt, ) (Entered: 09/26/2014)
09/25/2014	<u>215</u>	ORDER Denying as Moot <u>206</u> <u>213</u> Motions for Extension of Time. The parties shall submit a proposed scheduling order on September 30, 2014. Signed by Judge Royce C. Lamberth on 9/25/14. (mpt, ) (Entered: 09/26/2014)
07/23/2014	<u>214</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 07/23/2014)
06/23/2014	<u>213</u>	Unopposed MOTION for Extension of Time to <i>File Vaughn Selections and Retard Briefing Schedule</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 06/23/2014)
05/23/2014	<u>212</u>	REPLY to Plaintiff's Response to CIA's Status Report and Proposed Revised Briefing Schedule filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh)

		(Entered: 05/23/2014)
05/15/2014	<u>211</u>	RESPONSE to CIA's Status Report filed by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 05/15/2014)
05/13/2014	<u>210</u>	STATUS REPORT and Proposed Revised Briefing Schedule by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 05/13/2014)
02/28/2014	<u>209</u>	STATUS REPORT and Proposed Briefing Schedule (Joint) by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 02/28/2014)
02/18/2014	<u>208</u>	RESPONSE to CIA's February 11, 2014 Status Report filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 02/18/2014)
02/11/2014	<u>207</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 02/11/2014)
11/20/2013	<u>206</u>	MOTION for Extension of Time to <i>Comply With the Court's Order</i> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 11/20/2013)
09/30/2013	<u>205</u>	ORDER denying <u>191</u> Motion for Scheduling Order; denying <u>192</u> Motion for Summary Judgment; denying <u>192</u> Motion to Strike ; granting in part and denying in part <u>197</u> Motion for Partial Summary Judgment; denying <u>201</u> Motion for Extension of Time to; denying <u>202</u> Motion for Extension of Time to; denying <u>203</u> Motion for Leave to File; denying <u>204</u> Motion for Leave to File. Signed by Judge Royce C. Lamberth on September 30, 2013. (lcrcl5) (Entered: 09/30/2013)
09/09/2013	<u>204</u>	Consent MOTION for Leave to File <i>Sur-reply</i> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 09/09/2013)
08/22/2013	<u>203</u>	MOTION for Leave to File Reply Brief to Motion for Partial Summary Judgment out of time filed by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Memorandum in Support Reply to Opposition to Motion for Partial Summary Judgment, # <u>2</u> Affidavit Declaration of Paul K. Dell, # <u>3</u> Exhibit Exhibit 1—CADRE POW documents, # <u>4</u> Exhibit Exhibit 2—Scudder Decl., # <u>5</u> Exhibit Exhibit 3—Pres. Obama Openness Directive)(Lesar, James) Modified on 8/22/2013 (jf, ). (Entered: 08/22/2013)
08/16/2013	<u>202</u>	MOTION for Extension of Time to <i>Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment as to Digitization Issue</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 08/16/2013)
08/07/2013	<u>201</u>	Unopposed MOTION for Extension of Time to <i>Reply to Defendant's Opposition to Plaintiffs' Motion for Partial Summary Judgment</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 08/07/2013)
07/29/2013	<u>200</u>	Memorandum in opposition to re <u>197</u> MOTION for Partial Summary Judgment <i>as Production of Records in pdf format</i> filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit Exh. A – Lutz Declaration)(Momeni, Mercedeh) (Entered: 07/29/2013)
07/22/2013	<u>199</u>	NOTICE of Change of Address by James H. Lesar (Lesar, James) (Entered: 07/22/2013)
07/17/2013	<u>198</u>	TRANSCRIPT OF STATUS CONFERENCE before Royce C. Lamberth held on July 2, 2013; Page Numbers: 1–18. Date of Issuance: July 3, 2013. Court Reporter Chantal M. Geneus, Telephone number (202) 354–3244, Court Reporter Email Address : chantal.geneus@dcd.uscourts.gov.  For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.  <b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty–one days to file with the court and the court reporter any request to redact personal

		<p>identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://ww.dcd.uscourts.gov">ww.dcd.uscourts.gov</a>.</p> <p>Redaction Request due 8/7/2013. Redacted Transcript Deadline set for 8/17/2013. Release of Transcript Restriction set for 10/15/2013.(Geneus, Chantal) (Entered: 07/17/2013)</p>
07/12/2013	<u>197</u>	MOTION for Partial Summary Judgment <i>as Production of Records in pdf format</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit 2013 Hall Decl.)(Lesar, James) (Entered: 07/12/2013)
07/02/2013		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Status Conference held on 7/2/2013. (Court Reporter Chantal Geneus) (tg, ) (Entered: 07/02/2013)
06/28/2013	<u>196</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 06/28/2013)
06/13/2013		Set/Reset Hearings: Status Conference originally set for 6/19/13 was reset for 7/2/2013 10:00 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (mpt, ) (Entered: 06/13/2013)
04/15/2013	<u>195</u>	<p>TRANSCRIPT of 3/19/13 STATUS HEARING before Chief Judge Royce C. Lamberth. Page Numbers: 1–13. Date of Issuance: 4/15/2013. Court Reporter: Bryan A. Wayne; telephone number, 202–354–3186. Court Reporter e–mail address: <a href="mailto:bryanawayne@yahoo.com">bryanawayne@yahoo.com</a>.&lt;P&gt;&lt;/P&gt;For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.&lt;P&gt;<b>NOTICE RE REDACTION OF TRANSCRIPTS:</b> The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at <a href="http://ww.dcd.uscourts.gov">ww.dcd.uscourts.gov</a>.&lt;P&gt;&lt;/P&gt;Redaction Request due 5/6/2013. Redacted Transcript Deadline set for 5/16/2013. Release of Transcript Restriction set for 7/14/2013.(Wayne, Bryan) (Entered: 04/15/2013)</p>
03/19/2013		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Status Conference held on 3/19/2013. Status Conference set for 6/19/2013 at 09:30 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (Court Reporter Bryan Wayne.) (rje, ) (Entered: 03/19/2013)
02/15/2013	<u>194</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 02/15/2013)
12/19/2012		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Status Conference held on 12/19/2012. Status Conference set for 3/19/2013 at 09:30 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (Court Reporter Theresa Sorensen.) (rje, ) (Entered: 12/19/2012)
12/13/2012	<u>193</u>	RESPONSE re <u>191</u> MOTION for Scheduling Order filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 12/13/2012)
12/13/2012	<u>192</u>	MOTION for Summary Judgment ( <i>Renewed</i> ), MOTION to Strike <u>191</u> MOTION for Scheduling Order by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 12/13/2012)
12/05/2012	<u>191</u>	MOTION for Scheduling Order by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Clarke, John) (Entered: 12/05/2012)
12/05/2012		NOTICE of Hearing:Status Conference set for 12/19/2012 at 10:30 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (rje) (Entered: 12/05/2012)

11/23/2012	<u>190</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 11/23/2012)
08/23/2012	<u>189</u>	RESPONSE re <u>188</u> <i>Response to CIA's Proposed Case Management Proposal</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) Modified event title and added link on 8/24/2012 (znmw, ). (Entered: 08/23/2012)
08/23/2012	<u>188</u>	RESPONSE TO ORDER OF THE COURT re <u>186</u> Order, filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Declaration CIA Meeks Declaration, # <u>2</u> Declaration DOD Supplemental Tisdale Declaration)(Momeni, Mercedeh) (Entered: 08/23/2012)
08/03/2012	<u>187</u>	MEMORANDUM OPINION. Signed by Chief Judge Royce C. Lamberth on August 3, 2012. (lcrcl3) (Entered: 08/03/2012)
08/03/2012	<u>186</u>	ORDER granting in part and denying in part CIA's Motion for summary judgment; granting in part and denying in part plaintiffs' Cross-Motion for summary judgment; denying plaintiffs' Motions for in camera review and discovery. Signed by Chief Judge Royce C. Lamberth on August 3, 2012. (lcrcl3) (Entered: 08/03/2012)
08/02/2012		MINUTE ORDER granting nunc pro tunc <u>183</u> Motion for Extension of Time to File Response. Signed by Chief Judge Royce C. Lamberth on August 2, 2012. (lcrcl3) (Entered: 08/02/2012)
07/10/2012	<u>185</u>	NOTICE of Re-Filing of NSA Declaration by CENTRAL INTELLIGENCE AGENCY re <u>177</u> Supplemental Memorandum,, (Attachments: # <u>1</u> Declaration Janosek Decl.)(Momeni, Mercedeh) (Entered: 07/10/2012)
07/10/2012	<u>184</u>	REPLY in Support of Defendant's May 15, 2012 Filing and in Opposition to Plaintiffs' Request for Discovery and In Camera Review filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 07/10/2012)
07/05/2012	<u>183</u>	Consent MOTION for Extension of Time to File Response/Reply to Plaintiff's June 20, 2012 Filings, Doc. Nos. 181 and 182 by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 07/05/2012)
06/20/2012	<u>182</u>	SUPPLEMENTAL MEMORANDUM to Regarding Dfendant's Response to Suppl Items 4 and 5 Response to Court's Nov. 12, 2009 Order filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Affidavit O'Shea Affidavit, # <u>7</u> Declaration Hrdlicka Decl., # <u>8</u> Declaration Suppl. Rule 56(f) Hall Decl.)(Lesar, James) (Entered: 06/20/2012)
06/20/2012	<u>181</u>	RESPONSE re <u>177</u> Supplemental Memorandum,, by Defendant to Court's November 12, 2009 Order filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 06/20/2012)
06/14/2012		Set/Reset Deadlines: Plaintiff's Response due by 6/20/2012 Defendant's Reply due by 7/6/2012. (rje) (Entered: 06/14/2012)
06/14/2012		MINUTE ORDER granting <u>180</u> Consent Motion for Extension of Time to file. Plaintiff shall file his response on or before June 20, 2012 and defendant shall file a reply on or before July 6, 2012. Signed by Chief Judge Royce C. Lamberth on June 14, 2012. (lcrcl3) (Entered: 06/14/2012)
06/14/2012		NOTICE OF CORRECTED DOCKET ENTRY: re <u>179</u> Unopposed MOTION for Extension of Time to File Opposition to Def's Mot. to Suppl. Its Items 4 and 5 Response, <u>178</u> Unopposed MOTION for Extension of Time to File Opposition to Def's Mot. to Suppl. Its Items 4 and 5 Response was entered in error and counsel refile said pleading as docket entry <u>180</u> Motion. (rdj) (Entered: 06/14/2012)
06/13/2012	<u>180</u>	Consent MOTION for Extension of Time to File Opposition to CIA's Supplemental Items 4 and 5 Response to Court's November 12, 2009 Order by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 06/13/2012)
06/13/2012	<u>179</u>	ENTERED IN ERROR.....Unopposed MOTION for Extension of Time to File Opposition to Def's Mot. to Suppl. Its Items 4 and 5 Response by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) Modified on 6/14/2012 (rdj).

		(Entered: 06/13/2012)
06/13/2012	<u>178</u>	ENTERED IN ERROR.....Unopposed MOTION for Extension of Time to <i>File Opposition to Def's Mot. to Suppl. Its Items 4 and 5 Response</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) Modified on 6/14/2012 (rdj). (Entered: 06/13/2012)
05/15/2012	<u>177</u>	SUPPLEMENTAL MEMORANDUM to re <u>137</u> Order, Memorandum & Opinion,,,, filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Declaration CIA Supplemental Decl., # <u>2</u> Exhibit CIA Exh. A, # <u>3</u> Exhibit CIA Exh. B-1 (Vaughn Index), # <u>4</u> Exhibit CIA Exh. B-2, # <u>5</u> Exhibit CIA Exh. B-3, # <u>6</u> Exhibit CIA Exh. B-4, # <u>7</u> Exhibit CIA Exh. B-5, # <u>8</u> Exhibit CIA Exh. B-6, # <u>9</u> Exhibit CIA Exh. B-7, # <u>10</u> Exhibit CIA Exhs. C - F, # <u>11</u> Declaration NSA Decl., # <u>12</u> Exhibit NSA Vaughn Inedx and Exhs., # <u>13</u> Declaration DOD Decl., # <u>14</u> Exhibit DOD Vaughn Index)(Momeni, Mercedeh) (Entered: 05/15/2012)
04/20/2012		Minute Entry for proceedings held before Chief Judge Royce C. Lamberth: Status Conference held on 4/20/2012. Defendant's Supplemental motion due by 5/15/2012. Plaintiffs' opposition due by 6/15/2012, Defendant's reply due by 7/1/2012. (Court Reporter Theresa Sorensen.) (rje) (Entered: 04/20/2012)
04/05/2012		Set/Reset Hearings: Status Conference set for 4/20/2012 at 10:00 AM in Courtroom 22A before Chief Judge Royce C. Lamberth. (rje) (Entered: 04/05/2012)
02/16/2012	<u>176</u>	STATUS REPORT by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 02/16/2012)
02/16/2012	<u>175</u>	NOTICE of Anticipated Filing of Item 4 and Item 5 Related Documents and Status Repoprt by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 02/16/2012)
01/12/2012	<u>174</u>	NOTICE by CENTRAL INTELLIGENCE AGENCY re <u>172</u> Notice (Other) (Momeni, Mercedeh) (Entered: 01/12/2012)
12/15/2011	<u>173</u>	Case reassigned to Chief Judge Royce C. Lamberth. Judge Henry H. Kennedy no longer assigned to the case. (ds) (Entered: 12/16/2011)
11/29/2011	<u>172</u>	NOTICE of Anticipated Filing of Item 4 and Item 5 Related Documents (Updated) by CENTRAL INTELLIGENCE AGENCY re <u>170</u> Notice (Other) (Momeni, Mercedeh) (Entered: 11/29/2011)
09/29/2011	<u>171</u>	NOTICE of Appearance by Mercedeh Momeni on behalf of CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 09/29/2011)
09/28/2011	<u>170</u>	NOTICE of Anticipated Filing of Supplemental Item 4 & Item 5 Documents by CENTRAL INTELLIGENCE AGENCY (Rybicki, David) (Entered: 09/28/2011)
07/18/2011	<u>169</u>	REPLY re <u>163</u> and <u>166</u> to Response to Order of Court (Dkt. 137) by Accuracy in Media & to Response (Dkt. 146) by Roger Hall filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Declaration Culver Decl. w/ Exhs. A-F)(Rybicki, David) Modified to add links on 7/19/2011 (znmw, ). (Entered: 07/18/2011)
05/13/2011		MINUTE ORDER granting <u>168</u> Defendant's Unopposed Motion for Extension of Time to Reply to Plaintiffs' Opposition to Defendant's Supplemental Memorandum. Accordingly, defendant's reply is due on July 17, 2011. Signed by Judge Henry H. Kennedy, Jr. on May 13, 2011. (NP) (Entered: 05/13/2011)
05/13/2011	<u>168</u>	Unopposed MOTION for Extension of Time to File Response/Reply to Plaintiffs' Opposition to Defendant's Supplemental Memorandum by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Rybicki, David) (Entered: 05/13/2011)
04/23/2011	<u>167</u>	NOTICE re <u>116</u> of Filing by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C)(Lesar, James) Modified to add link on 4/25/2011 (znmw, ). (Entered: 04/23/2011)
04/19/2011	<u>166</u>	RESPONSE re <u>148</u> Supplemental Memorandum filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Declaration of Robert Hall) (See Docket Entry <u>165</u> for Exhibits to this Response).(znmw, ) (Entered: 04/20/2011)

04/19/2011		MINUTE ORDER granting <u>164</u> Plaintiffs' Unopposed Motion for Leave to File to File Response to CIA's Supplemental Memorandum Out of Time. Signed by Judge Henry H. Kennedy, Jr. on April 19, 2011. (NP) (Entered: 04/19/2011)
04/19/2011	<u>165</u>	LARGE ADDITIONAL ATTACHMENT(S) to <i>Plaintiff's Response to CIA's Supplemental Response to Court's Order of November 12, 2009</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. <u>164</u> MOTION for Leave to File <i>Plaintiff's Response to CIA's Supplemental Response to Court's November 12, 2009 Order Out-of-Time</i> filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Att. 1, # <u>2</u> Exhibit Att. 2, # <u>3</u> Exhibit Att. 3, # <u>4</u> Exhibit Att. 4, # <u>5</u> Exhibit Att. 5, # <u>6</u> Exhibit Att. 6, # <u>7</u> Exhibit Att. 7, # <u>8</u> Exhibit Att. 9, # <u>9</u> Exhibit Att. 10, # <u>10</u> Exhibit Att. 11, # <u>11</u> Exhibit Att. 13, # <u>12</u> Exhibit Att. 14, # <u>13</u> Exhibit Att. 15, # <u>14</u> Exhibit Att.16, # <u>15</u> Exhibit Att. 17, # <u>16</u> Exhibit Att. 18, # <u>17</u> Exhibit Att. 19, # <u>18</u> Exhibit Att. 20, # <u>19</u> Exhibit Att. 21, # <u>20</u> Exhibit Att. 22, # <u>21</u> Exhibit Att. 23, # <u>22</u> Exhibit Att. 24, # <u>23</u> Exhibit Att. 25, # <u>24</u> Exhibit Att. 26, # <u>25</u> Exhibit Att. 27, # <u>26</u> Exhibit Att. 28, # <u>27</u> Exhibit Att. 30, # <u>28</u> Exhibit Att. 31, # <u>29</u> Exhibit Att. 32, # <u>30</u> Exhibit Att. 33, # <u>31</u> Exhibit Att. 34, # <u>32</u> Exhibit Att. 35, # <u>33</u> Exhibit Att. 36, # <u>34</u> Exhibit Att. 37, # <u>35</u> Exhibit Att. 38, # <u>36</u> Exhibit Att. 39, # <u>37</u> Exhibit Att. 40, # <u>38</u> Exhibit Att. 41, # <u>39</u> Exhibit Att. 42, # <u>40</u> Exhibit Att. 43, # <u>41</u> Exhibit Att. 44, # <u>42</u> Exhibit Att. 45, # <u>43</u> Exhibit Att. 46, # <u>44</u> Exhibit Att. 47, # <u>45</u> Exhibit Att. 48, # <u>46</u> Exhibit Att. 49, # <u>47</u> Exhibit Att. 50, # <u>48</u> Exhibit Att. 51, # <u>49</u> Exhibit Att. 52, # <u>50</u> Exhibit Att. 53, # <u>51</u> Exhibit Att. 54, # <u>52</u> Exhibit Att. 55, # <u>53</u> Exhibit Att. 56, # <u>54</u> Exhibit Att. 57, # <u>55</u> Exhibit Att. 58, # <u>56</u> Exhibit Att. 29, # <u>57</u> Exhibit Att. 59, # <u>58</u> Exhibit Att. 60, # <u>59</u> Exhibit Att. 61, # <u>60</u> Exhibit Att. 62, # <u>61</u> Exhibit Att. 63, # <u>62</u> Exhibit Att. 64, # <u>63</u> Exhibit Att. 65, # <u>64</u> Exhibit Att. 66, # <u>65</u> Exhibit Att. 67, # <u>66</u> Exhibit Att. 68, # <u>67</u> Exhibit Att. 69, # <u>68</u> Exhibit Att. 70, # <u>69</u> Exhibit Att. 71, # <u>70</u> Exhibit Exhibit B)(Lesar, James) (Entered: 04/19/2011)
04/19/2011	<u>164</u>	MOTION for Leave to File <i>Plaintiff's Response to CIA's Supplemental Response to Court's November 12, 2009 Order Out-of-Time</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Memorandum in Support Plaintts' Response to CIA's Supplemental Response to Court's Nov. 12, 2009 Order, # <u>2</u> Affidavit 2011 Hall Declaration)(Lesar, James) (Entered: 04/19/2011)
04/18/2011	<u>163</u>	RESPONSE TO ORDER OF THE COURT re <u>148</u> Supplemental MEMORANDUM <u>137</u> Order, Memorandum & Opinion filed by ACCURACY IN MEDIA. (Clarke, John) Modified to add link on 4/19/2011 (znmw, ). (Entered: 04/18/2011)
04/12/2011		MINUTE ORDER granting <u>162</u> Unopposed Motion for Extension of Time to Respond to CIA's Supplemental Memorandum; denying as moot <u>161</u> Unopposed Motion for Extension of Time to Respond to CIA's Supplemental Memorandum. Accordingly, plaintiffs' response is due on April 15, 2011. Signed by Judge Henry H. Kennedy, Jr. on April 12, 2011. (NP) (Entered: 04/12/2011)
04/11/2011	<u>162</u>	Unopposed MOTION for Extension of Time to by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 04/11/2011)
04/07/2011	<u>161</u>	Unopposed MOTION for Extension of Time to <i>Respond to CIA's Supplemental Memorandum</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 04/07/2011)
03/31/2011		MINUTE ORDER granting <u>160</u> Unopposed Motion for Further Extension of Time to File Response to CIA's Supplemental Memorandum. Accordingly, plaintiff's response is due on April 7, 2011. Signed by Judge Henry H. Kennedy, Jr. on March 31, 2011. (NP) (Entered: 03/31/2011)
03/31/2011	<u>160</u>	Unopposed MOTION for Extension of Time to <i>Respond to Defendant's Supplemental Response to Courts November 12, 2009 Order</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/31/2011)
03/24/2011		MINUTE ORDER granting <u>159</u> Unopposed Motion for Extension of Time to File Response to CIA's Supplemental Memorandum. Accordingly, plaintiff's response is due on April 1, 2011. Signed by Judge Henry H. Kennedy, Jr. on March 24, 2011. (NP) (Entered: 03/24/2011)



03/24/2011	<u>159</u>	Unopposed MOTION for Extension of Time to <i>Respond to CIA's Supplemental Memorandum</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/24/2011)
03/14/2011		MINUTE ORDER granting <u>158</u> Plaintiff's Unopposed Motion for Extension of Time to Respond to Defendant's Supplemental Memoranda. Accordingly, plaintiff's response is due on March 25, 2011. Signed by Judge Henry H. Kennedy, Jr. on March 14, 2011. (NP) (Entered: 03/14/2011)
03/11/2011	<u>158</u>	Consent MOTION for Extension of Time to File Response/Reply to <i>CIA's Supplemental Filing in Response to Court's Nov. 12, 2009 Order</i> by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) Modified filers on 3/14/2011 (znmw, ). (Entered: 03/11/2011)
02/01/2011	<u>157</u>	NOTICE of <i>Filing of Supplemental Declaration of Mary Ellen Cole</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Declaration Supplemental Declaration of Mary Ellen Cole w/ Exhs. A & B)(Rybicki, David) (Entered: 02/01/2011)
12/16/2010		MINUTE ORDER granting <u>156</u> Unopposed Motion for Further Extension of Time to File Response to CIA's Supplemental Memorandum. Accordingly, plaintiff's response to the CIA's Supplemental Memorandum is due on March 16, 2011. Signed by Judge Henry H. Kennedy, Jr. on December 16, 2010. (NP) (Entered: 12/16/2010)
12/13/2010	<u>156</u>	MOTION for Extension of Time to <i>File Response to CIA's Supplemental Memorandum</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 12/14/2010)
10/26/2010		MINUTE ORDER granting <u>153</u> Unopposed Motion for Extension of Time to File Response to CIA's Supplemental Memorandum. Accordingly, plaintiffs' response is due on December 14, 2010. Signed by Judge Henry H. Kennedy, Jr. on October 26, 2010. (NP) (Entered: 10/26/2010)
10/26/2010	<u>153</u>	Unopposed MOTION for Extension of Time to <i>Respond to CIA's Supplemental Filing in Response to Courts Nov. 12, 2009 Order</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 10/26/2010)
09/22/2010		MINUTE ORDER granting <u>152</u> Unopposed Motion for Extension of Time to Respond to Defendant's Supplemental Filing. Signed by Judge Henry H. Kennedy, Jr. on September 22, 2010. (lchhk3) (Entered: 09/22/2010)
09/21/2010	<u>152</u>	Unopposed MOTION for Extension of Time to <i>Respond to Defendant's Supplemental Filing</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 09/21/2010)
09/01/2010	<u>155</u>	LARGE ADDITIONAL ATTACHMENT(S) by CENTRAL INTELLIGENCE AGENCY <u>154</u> Notice (Other) filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: (Main Document is Exhibit C 17-20) # <u>1</u> Exhibit C 21-24, # <u>2</u> Exhibit C 25-28)(dr) (Entered: 12/03/2010)
09/01/2010	<u>154</u>	NOTICE of <i>Cole Declaration Exhibit C</i> by CENTRAL INTELLIGENCE AGENCY re <u>150</u> Notice (Other) (Attachments: (Main Document is Exhibit C 1-4) # <u>1</u> Exhibit C 5-8, # <u>2</u> Exhibit C 9-12, # <u>3</u> Exhibit C 13-16)(dr) (Entered: 12/03/2010)
09/01/2010		Motion terminated: <u>149</u> Defendant's Motion for Extension of Time to File Exhibit C of the Cole Declaration is terminated because it was entered in error and refiled as <u>151</u> . Signed by Judge Henry H. Kennedy, Jr. on September 1, 2010. (NP) (Entered: 09/01/2010)
09/01/2010		MINUTE ORDER granting nunc pro tunc <u>151</u> Defendant's Motion for Extension of Time to File Exhibit C of the Cole Declaration until August 24, 2010. Signed by Judge Henry H. Kennedy, Jr. on September 1, 2010. (NP) (Entered: 09/01/2010)
08/30/2010	<u>151</u>	MOTION for Extension of Time to <i>File Cole Declaration Exhibit C</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Rybicki, David) (Entered: 08/30/2010)
08/24/2010	<u>150</u>	NOTICE of <i>Filing of Cole Declaration Exhibit C</i> by CENTRAL INTELLIGENCE AGENCY re <u>148</u> Memorandum,, (Rybicki, David) (Entered: 08/24/2010)

08/23/2010	<u>149</u>	MOTION for Extension of Time to <i>File Cole Declaration Exhibit C</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Rybicki, David) (Entered: 08/23/2010)
08/23/2010	<u>148</u>	Supplemental MEMORANDUM re <u>137</u> by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit A, Williams Declaration, # <u>2</u> Exhibit B, Tisdale Declaration, # <u>3</u> Exhibit C, Hudson Declaration, # <u>4</u> Exhibit D, Smith Declaration, # <u>5</u> Exhibit E, Janosek Declaration, # <u>6</u> Exhibit F, Harney Declaration, # <u>7</u> Declaration Cole Declaration, # <u>8</u> Exhibit Cole Decl. Exh. A, # <u>9</u> Exhibit Cole Decl. Exh. B, # <u>10</u> Exhibit Cole Decl. Exh. D, # <u>11</u> Exhibit Cole Decl. Exh. E, # <u>12</u> Declaration Nelson Declaration, # <u>13</u> Exhibit Nelson Decl. Exh. A, # <u>14</u> Exhibit Nelson Decl. Exh. B, # <u>15</u> Exhibit Nelson Decl. Exh. C, # <u>16</u> Exhibit Nelson Decl. Exh. D, # <u>17</u> Exhibit Nelson Decl. Exh. E, # <u>18</u> Exhibit Nelson Decl. Exh. F, # <u>19</u> Exhibit Nelson Decl. Exh. G, # <u>20</u> Exhibit Nelson Decl. Exh. H, # <u>21</u> Exhibit Nelson Decl. Exh. I, # <u>22</u> Exhibit Nelson Decl. Exh. J, # <u>23</u> Exhibit Nelson Decl. Exh. K, # <u>24</u> Exhibit Nelson Decl. Exh. L, # <u>25</u> Exhibit Nelson Decl. Exh. M)(Rybicki, David) Modified event title and link on 8/24/2010 (znmw, ). (Entered: 08/23/2010)
08/12/2010		MINUTE ORDER granting <u>147</u> Defendant's Consent Motion for Extension of Time to Respond to the Court's November 11, 2009 Memorandum Opinion and Order. Accordingly, defendant's filing is due on August 23, 2010. It is further ordered that plaintiffs shall respond to defendant's supplemental filing within thirty (30) days of its submission to the Court. Signed by Judge Henry H. Kennedy, Jr. on August 12, 2010. (NP) (Entered: 08/12/2010)
08/11/2010	<u>147</u>	Consent MOTION for Extension of Time to <i>Respond to the Court's November 11, 2009, Memorandum Opinion &amp; Order</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Rybicki, David) (Entered: 08/11/2010)
02/17/2010	<u>146</u>	Corrected CASE MANAGEMENT PLAN AND BRIEFING SCHEDULE. Signed by Judge Henry H. Kennedy, Jr. on February 17, 2010. (NP) (Entered: 02/17/2010)
02/17/2010		MINUTE ORDER VACATING <u>145</u> CASE MANAGEMENT PLAN and BRIEFING SCHEDULE, docketed on February 16, 2010, because it was ENTERED IN ERROR. Signed by Judge Henry H. Kennedy, Jr. on February 17, 2010. (NP) Modified event title on 2/18/2010 (znmw, ). (Entered: 02/17/2010)
02/16/2010	<u>145</u>	VACATED PURSUANT TO MINUTE ORDER FILED 2/17/2010.....CASE MANAGEMENT PLAN and BRIEFING SCHEDULE. Signed by Judge Henry H. Kennedy, Jr. on February 16, 2010. (NP) Modified on 2/18/2010 (znmw, ). (Entered: 02/16/2010)
01/30/2010	<u>144</u>	NOTICE of Filing of Proposed Order by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order)(Lesar, James) (Entered: 01/30/2010)
01/26/2010		MINUTE ORDER. Counsel for plaintiffs shall submit their proposed briefing schedule to govern further proceedings in this case no later than January 29, 2010. Counsel shall also send their proposed order to Kennedy_Chambers@dcd.uscourts.gov in a word-processing (non-pdf) format. Signed by Judge Henry H. Kennedy, Jr. on January 26, 2010. (NP) (Entered: 01/26/2010)
01/08/2010	<u>143</u>	NOTICE of Filing of Plaintiffs' Case Management Report and Briefing Schedule by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 01/08/2010)
01/08/2010	<u>142</u>	MEET AND CONFER STATEMENT. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Supplement CIA FOIA Annual Report FY 2008)(Rybicki, David) (Entered: 01/08/2010)
01/04/2010		MINUTE ORDER denying as moot <u>139</u> Plaintiff's Unopposed Motion for Further Extension of Time to File the Parties' Joint Case Management Plan and Briefing Schedule. Signed by Judge Henry H. Kennedy, Jr. on January 4, 2010. (NP) (Entered: 01/04/2010)
01/04/2010	<u>141</u>	ORDER granting <u>140</u> Joint Motion for Extension of Time to Submit Joint Proposed Management Plan and Briefing Schedule to Govern Further Proceedings. Signed by Judge Henry H. Kennedy, Jr. on January 4, 2010. (NP) (Entered: 01/04/2010)

12/28/2009	<u>140</u>	Joint MOTION for Extension of Time to <i>File Case Management Report &amp; Briefing Schedule to Govern Further Proceedings</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Rybicki, David) (Entered: 12/28/2009)
12/18/2009	<u>139</u>	Unopposed MOTION for Extension of Time to <i>File Joint Case Management Plan and Briefing Schedule</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 12/18/2009)
12/04/2009		MINUTE ORDER granting <u>138</u> Joint Motion for Extension of Time to Submit Joint Proposed Case Management Plan & Briefing Schedule to Govern Further Proceedings. Accordingly, the parties' joint proposed case management plan and briefing schedule to govern further proceedings is due on December 18, 2009. Signed by Judge Henry H. Kennedy, Jr. on December 4, 2009. (NP) (Entered: 12/04/2009)
12/01/2009	<u>138</u>	Joint MOTION for Extension of Time to <i>Submit Joint Proposed Case Management Plan &amp; Briefing Schedule</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Rybicki, David) (Entered: 12/01/2009)
11/17/2009		Motions terminated: 110 Defendant's Renewed Motion to Dismiss and 124 Defendant's Motion to Compel. Signed by Judge Henry H. Kennedy, Jr. on November 17, 2009. (NP) (Entered: 11/17/2009)
11/12/2009	<u>137</u>	MEMORANDUM OPINION and ORDER granting in part and denying in part <u>109</u> CIA's Renewed Motion to Dismiss and for Partial Summary Judgment, <u>117</u> Hall's renewed Cross-Motion for Partial Summary Judgment, an Order Authorizing Plaintiffs to Take Discovery, an Order Instructing Defendant to Conduct Additional Searches, and Orders for Certain Other Relief, and <u>114</u> AIM's Cross-Motion for Summary Judgment and for Other Relief. Signed by Judge Henry H. Kennedy, Jr. on November 12, 2009. (NP) (Entered: 11/12/2009)
09/16/2009	<u>136</u>	REPLY to opposition to motion re <u>116</u> MOTION for Leave to File <i>Cross-Motion for Partial Summary Judgment One-Day Late</i> filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Attachment 1, # <u>2</u> Exhibit Attachment 2, # <u>3</u> Affidavit Kaiser Decl.)(Lesar, James) (Entered: 09/17/2009)
09/16/2009	<u>135</u>	REPLY to opposition to motion re <u>119</u> Consent MOTION for Extension of Time to File Response/Reply as to <u>114</u> Cross MOTION for Partial Summary Judgment, <u>109</u> MOTION for Partial Summary Judgment <i>and Cross Motion for Summary Judgment</i> <u>117</u> Consent MOTION for Extension of Time to File Response/Reply as to <u>114</u> Cross MOTION for Partial Summary Judgment, <u>109</u> MOTION for Partial Summary Judgment <i>and Cross Motion for Summary Judgment</i> <u>117</u> filed by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Exhibit AIM Material Facts and CIA Response)(Clarke, John) (Entered: 09/16/2009)
09/15/2009		MINUTE ORDER granting <u>134</u> Plaintiffs' Unopposed Motion for Further Extension of Time Within Which to Reply to Defendant's Opposition to Plaintiff's Renewed Cross-Motion for Summary Judgment. Accordingly, plaintiffs' reply is due on September 16, 2009. Signed by Judge Henry H. Kennedy, Jr. on September 15, 2009. (NP) (Entered: 09/15/2009)
09/14/2009	<u>134</u>	Unopposed MOTION for Extension of Time to <i>Reply to Defendant's Opposition to Plaintiffs' Cross-Motion for Summary Judgment</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 09/14/2009)
09/03/2009		MINUTE ORDER granting <u>133</u> Plaintiffs' Motion for Extension of Time to File Reply Memoranda. Accordingly, plaintiffs' reply to defendant's opposition to dispositive motions is due September 14, 2009. Signed by Judge Henry H. Kennedy, Jr. on September 3, 2009. (lchhk1) (Entered: 09/03/2009)
09/02/2009	<u>133</u>	Joint MOTION for Extension of Time to File Response/Reply to <i>Opposition to Summary Judgment</i> by ACCURACY IN MEDIA (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 09/02/2009)
08/23/2009		MINUTE ORDER denying <u>130</u> Corrected MOTION for Order Requiring Defendant to File A Status Report. (Kennedy, Henry) (Entered: 08/23/2009)
08/19/2009	<u>132</u>	REPLY to opposition to motion re <u>128</u> MOTION for Order <i>Requiring Defendant to Submit Status Report on Compliance with President Obama's Order</i> filed by ROGER

		HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 08/19/2009)
08/07/2009	<u>131</u>	REPLY to opposition to motion re <u>130</u> MOTION for Order to <i>File Status Report</i> filed by CENTRAL INTELLIGENCE AGENCY. (Rybicki, David) (Entered: 08/07/2009)
07/27/2009	<u>130</u>	Corrected MOTION for Order Requiring Defendant to File A Status Report by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIA (tr) (Entered: 07/28/2009)
07/27/2009		MINUTE ORDER granting <u>129</u> Unopposed Motion for Leave to File. Accordingly, plaintiffs may file a corrected motion for an order requiring defendant to submit a status report. Signed by Judge Henry H. Kennedy, Jr. on July 27, 2009. (lchhk1) (Entered: 07/27/2009)
07/10/2009	<u>129</u>	Unopposed MOTION for Leave to File <i>Corrected Motion for Order Requiring Defendant to Submit Status Report</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIA (Attachments: # <u>1</u> Motion for Order Requiring CIA to File Status Report)(Lesar, James) (Entered: 07/10/2009)
07/08/2009		MINUTE ORDER denying <u>128</u> Plaintiff's Motion for Order Requiring Defendant to File a Status Report without prejudice because movant did not comply with LCvR 7(m), which imposes a duty on counsel to confer with opposing counsel before filing any nondispositive motion and to "include in [the] motion a statement that the required discussion occurred, and a statement as to whether the motion is opposed." Signed by Judge Henry H. Kennedy, Jr. on July 8, 2009. (lchhk1) (Entered: 07/08/2009)
07/07/2009	<u>128</u>	MOTION for Order <i>Requiring Defendant to Submit Status Report</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIA (Attachments: # <u>1</u> Exhibit Attachment: OIP Guidance)(Lesar, James) (Entered: 07/07/2009)
07/06/2009	<u>127</u>	NOTICE OF SUBSTITUTION OF COUNSEL by David Cotter Rybicki on behalf of CENTRAL INTELLIGENCE AGENCY Substituting for attorney AUSA Mercedeh Momeni (Rybicki, David) (Entered: 07/06/2009)
04/08/2009	<u>126</u>	ORDER granting in part and denying in part <u>122</u> Plaintiffs Joint Motions for (1) a Stay of All Proceedings Except with Respect to Referrals, and (2) an Order Requiring the CIA to Provide a List of Referrals and to Release Nonexempt Referrals or Portions Thereof Within 90 Days. Signed by Judge Henry H. Kennedy, Jr. on April 8, 2009. (NP) (Entered: 04/08/2009)
03/24/2009	<u>125</u>	REPLY to opposition to motion re <u>122</u> Joint MOTION to Stay <i>Proceedings, Etc.</i> filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIA. (Attachments: # <u>1</u> Exhibit AG Holder Memorandum)(Lesar, James) (Entered: 03/24/2009)
03/16/2009	124	MOTION to Compel by CENTRAL INTELLIGENCE AGENCY (tr)(See Docket Entry <u>123</u> to view document) (Entered: 03/17/2009)
03/16/2009	<u>123</u>	Memorandum in opposition to re <u>122</u> Joint MOTION to Stay filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 03/16/2009)
03/02/2009	<u>122</u>	Joint MOTION to Stay by ACCURACY IN MEDIA (Attachments: # <u>1</u> Exhibit Executive Order)(Clarke, John) (Entered: 03/02/2009)
02/24/2009	121	Memorandum in opposition to re <u>114</u> Cross MOTION for Partial Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (tr)(See Docket Entry <u>120</u> to view document) (Entered: 02/25/2009)
02/24/2009	<u>120</u>	REPLY to opposition to motion re <u>109</u> MOTION for Partial Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Statement of Facts Response to AIM, # <u>2</u> Statement of Facts Response to Hall)(Momeni, Mercedeh) (Entered: 02/24/2009)
02/10/2009		MINUTE ORDER granting <u>119</u> Consent Motion for Extension of Time. Defendant's responses to plaintiffs' filings are due on February 24, 2009. Signed by Judge Henry H. Kennedy, Jr. on February 10, 2009. (NP) (Entered: 02/10/2009)

02/09/2009		MINUTE ORDER granting <u>118</u> Partial Consent Motion for Extension of Time. Accordingly, Defendant's responses to plaintiffs' filings are due February 9, 2009. Signed by Judge Henry H. Kennedy, Jr. on February 9, 2009. (NP) (Entered: 02/09/2009)
02/09/2009	<u>119</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>114</u> Cross MOTION for Partial Summary Judgment, <u>109</u> MOTION for Partial Summary Judgment and Cross Motion for Summary Judgment <u>117</u> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 02/09/2009)
01/14/2009	<u>118</u>	MOTION for Extension of Time to Respond to Plaintiffs' Recent Filings by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 01/14/2009)
12/19/2008		MINUTE ORDER granting <u>116</u> Plaintiffs' Motion for Leave to File One Day Late. Signed by Judge Henry H. Kennedy, Jr. on December 19, 2008. (NP) (Entered: 12/19/2008)
12/18/2008	<u>117</u>	ERRATA by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Memorandum in Support Plaintiffs' Cross-Motion for Partial Summary Judgment)(Lesar, James) (Entered: 12/18/2008)
12/18/2008	<u>116</u>	MOTION for Leave to File Cross-Motion for Partial Summary Judgment One-Day Late by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Plaintiffs' Cross-Motion for Partial Summary Judgment, # <u>2</u> Local Rule 7.1(h) Statement, # <u>3</u> Exhibit Attachment A--Keenan Opinion, # <u>4</u> Exhibit Attachment B--Shanberg Letter, # <u>5</u> Affidavit 2d Revised Hall Decl., # <u>6</u> Appendix Appendix A--PNOK Chart, # <u>7</u> Exhibit Attachment 7, # <u>8</u> Exhibit Attachment 8, # <u>9</u> Exhibit Exhibit 3, # <u>10</u> Exhibit Exhibit 4, # <u>11</u> Exhibit Exhibit 7-A, # <u>12</u> Exhibit Exhibit 7-B, # <u>13</u> Exhibit Exhibit 7-C, # <u>14</u> Exhibit Exhibit 7-D, # <u>15</u> Exhibit Exhibit 8-D, # <u>16</u> Exhibit Exhibit 8-B, # <u>17</u> Exhibit Exhibit 9, # <u>18</u> Exhibit Exhibit 10, # <u>19</u> Exhibit Exhibit 11-A, # <u>20</u> Exhibit Exhibit 11-B, # <u>21</u> Exhibit Exhibit 11-C, # <u>22</u> Exhibit Exhibit 12, # <u>23</u> Exhibit Exhibit 12-E, # <u>24</u> Exhibit Exhibit 18, # <u>25</u> Exhibit Exhibit 18-B, # <u>26</u> Exhibit Exhibit 18-C, # <u>27</u> Exhibit Exhibit 19, # <u>28</u> Exhibit Exhibit 23-A, # <u>29</u> Exhibit Exhibit 23-B, # <u>30</u> Exhibit Exhibit 24, # <u>31</u> Exhibit Exhibit 32, # <u>32</u> Exhibit Exhibit 35, # <u>33</u> Exhibit Exhibit 36-A, # <u>34</u> Exhibit Exhibit 36-B, # <u>35</u> Exhibit Exhibit 36-C, # <u>36</u> Exhibit Exhibit 37, # <u>37</u> Exhibit Exhibit 38-A, # <u>38</u> Exhibit Exhibit 38-B, # <u>39</u> Exhibit Exhibit 38-C, # <u>40</u> Exhibit Exhibit 40, # <u>41</u> Exhibit Exhibit 41, # <u>42</u> Affidavit Hall Rule 56(f) Affidavit, # <u>43</u> Affidavit Douglass Affidavit, # <u>44</u> Affidavit Hrdlicka Affidavit, # <u>45</u> Affidavit O'Daniel Affidavit, # <u>46</u> Affidavit Second Affidavit of Cong. Billy Hendon)(Lesar, James) (Entered: 12/18/2008)
12/17/2008	<u>115</u>	Memorandum in opposition to re <u>110</u> MOTION to Dismiss filed by ACCURACY IN MEDIA. (tr)(See Docket Entry <u>114</u> to view document) (Entered: 12/17/2008)
12/17/2008	<u>114</u>	Cross MOTION for Partial Summary Judgment by ACCURACY IN MEDIA (Attachments: # <u>1</u> Exhibit Administrative Record)(Clarke, John) (Entered: 12/17/2008)
12/11/2008		Set/Reset Deadlines: Plaintiffs' cross motions due by 12/17/2008. Defendant's reply due by 1/19/2009. (gdf) (Entered: 12/11/2008)
12/10/2008		MINUTE ORDER granting <u>113</u> Plaintiff's Motion for Further Extension of Time. Accordingly, plaintiffs' cross-motion for summary judgment is due on December 17, 2008; and defendant's reply is due on January 19, 2009. Signed by Judge Henry H. Kennedy, Jr. on December 10, 2008. (NP) (Entered: 12/10/2008)
12/09/2008	<u>113</u>	Consent MOTION for Extension of Time to File Cross Motion for Summary Judgment by ACCURACY IN MEDIA (Clarke, John) (Entered: 12/09/2008)
12/03/2008		MINUTE ORDER granting <u>112</u> Plaintiffs' Unopposed Motion for an Extension of Time to File Cross-Motions for Summary Judgment and Oppositions to Defendant's Motion for Summary Judgment. Accordingly, plaintiffs' cross-motions and oppositions to defendant's summary judgment motion are due on December 9, 2008. Signed by Judge Henry H. Kennedy, Jr. on December 3, 2008. (NP) (Entered: 12/03/2008)
12/03/2008	<u>112</u>	Unopposed MOTION for Extension of Time to File Oppositions and Replies by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 12/03/2008)

		12/03/2008)
11/14/2008		NOTICE: The status hearing currently scheduled for today (11/14/08) @ 11am is now CANCELED.(tj ) (Entered: 11/14/2008)
10/21/2008	<u>111</u>	ERRATA Filing of Exhibits by CENTRAL INTELLIGENCE AGENCY re <u>110</u> MOTION to Dismiss, <u>109</u> MOTION for Partial Summary Judgment (Attachments: # <u>1</u> Exhibit July 13, 2007 Letter (Exh. A), # <u>2</u> Exhibit Sept. 28, 2007 Letter (Exh. 1 of DiMaio Decl.), # <u>3</u> Exhibit DiMaio Vaughn (Exh. 2, Part 1), # <u>4</u> Exhibit DiMaio Vaughn (Exh. 2, part 2), # <u>5</u> Exhibit DiMaio Vaughn (Exh. 2, Part 3), # <u>6</u> Exhibit DiMaio Vaughn (Exh. 2, Part 4))(Momeni, Mercedeh) Modified on 10/22/2008 to enhance docket text (tr). (Entered: 10/21/2008)
10/20/2008	<u>110</u>	MOTION to Dismiss by CENTRAL INTELLIGENCE AGENCY (tr)(See Docket Entry <u>109</u> to view document) (Entered: 10/21/2008)
10/20/2008	<u>109</u>	MOTION for Partial Summary Judgment by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Declaration DiMaio Decl.)(Momeni, Mercedeh) Modified on 10/21/2008 to enhance docket text (tr). (Entered: 10/20/2008)
09/12/2008	<u>108</u>	MEET AND CONFER STATEMENT. (Clarke, John) (Entered: 09/12/2008)
08/29/2008	<u>107</u>	ORDER denying without prejudice <u>54</u> , <u>55</u> , <u>72</u> , <u>73</u> all pending motions to dismiss and/or for summary judgment that have been filed by all parties, and directing the parties to subject a proposed briefing schedule by September 12, 2008. Signed by Judge Henry H. Kennedy, Jr. on August 29, 2008. (NP) (Entered: 08/29/2008)
08/29/2008	<u>106</u>	ORDER denying <u>95</u> plaintiff's objections to the memorandum opinion and order docketed by United States Magistrate Judge John Facciola on March 10, 2008. Signed by Judge Henry H. Kennedy, Jr. on August 29, 2008. (NP) (Entered: 08/29/2008)
08/12/2008	<u>105</u>	NOTICE of Filing by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit Lesar Declaration, # <u>2</u> Exhibit Attachment 8)(Lesar, James) (Entered: 08/12/2008)
08/11/2008	<u>104</u>	REPLY to opposition to motion re <u>95</u> MOTION for Reconsideration of Memorandum Opinion of Magistrate Judge John Facciola filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 08/11/2008)
08/06/2008	<u>103</u>	ORDER that no further extensions of time will be granted with respect to plaintiffs' reply in support of its motion for reconsideration <u>102</u> . Signed by Judge Henry H. Kennedy, Jr. on August 6, 2008. (NP) (Entered: 08/06/2008)
07/31/2008		NOTICE of Hearing: Status Conference currently scheduled for 8/8/08 is VACATED and rescheduled for 11/14/2008 @ 11:00 AM in Courtroom 27A before Judge Henry H. Kennedy. (tj ) (Entered: 07/31/2008)
07/24/2008		MINUTE ORDER granting <u>102</u> Plaintiffs' Unopposed Motion for Further Extension of Time within which to Reply to Defendant's Opposition to Motion for Reconsideration. Accordingly, plaintiff's reply is due on August 11, 2008. Signed by Judge Henry H. Kennedy, Jr. on July 24, 2008. (NP) (Entered: 07/24/2008)
07/23/2008	<u>102</u>	Unopposed MOTION for Extension of Time to Reply to Defendant's Oppositin to Motion for Reconsideratin by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 07/23/2008)
07/22/2008		MINUTE ORDER granting <u>101</u> Unopposed Motion for a Two-Day Extension of Time within which to Reply to Defendant's Opposition to Plaintiffs' Motion for Reconsideration. Accordingly, plaintiffs' reply is due on July 23, 2008. Signed by Judge Henry H. Kennedy, Jr. on July 22, 2008. (NP) (Entered: 07/22/2008)
07/22/2008	<u>101</u>	Unopposed MOTION for Extension of Time to Reply to Defendant's Opposition to Motion for Reconsideration by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 07/22/2008)
07/18/2008		MINUTE ORDER granting <u>100</u> Plaintiffs' Unopposed Motion for Further Extension of Time Within Which to Reply to Defendant's Opposition to Plaintiff's Motion for Reconsideration. Accordingly, plaintiffs' reply is due July 21, 2008. Signed by Judge Henry H. Kennedy, Jr. on July 18, 2008. (NP) (Entered: 07/18/2008)

07/17/2008	<u>100</u>	Unopposed MOTION for Extension of Time to <i>Reply to Defendant's Opposition to Plaintiff's Motion for Reconsideration</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 07/17/2008)
07/09/2008		MINUTE ORDER granting <u>99</u> Unopposed Motion for an Extension of Time within which to Reply to Defendant's Opposition to Plaintiff's Motion for Reconsideration. Accordingly, plaintiffs' reply is due on July 16, 2008. Signed by Judge Henry H. Kennedy, Jr. on July 9, 2008. (NP) (Entered: 07/09/2008)
07/08/2008	<u>99</u>	Unopposed MOTION for Extension of Time to <i>Reply to Defendant's Opposition to Motion to Reconsider</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 07/08/2008)
06/25/2008	<u>98</u>	Memorandum in opposition to re <u>95</u> MOTION for Reconsideration of <i>Memorandum Opinion of Magistrate Judge John Facciola</i> filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 06/25/2008)
06/18/2008		MINUTE ORDER granting <u>97</u> Consent Motion for Extension of Time to File an Opposition to Plaintiff's Motion for Reconsideration. Signed by Judge Henry H. Kennedy, Jr. on June 18, 2008. (NP) (Entered: 06/18/2008)
06/17/2008	<u>97</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>95</u> MOTION for Reconsideration of <i>Memorandum Opinion of Magistrate Judge John Facciola</i> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 06/17/2008)
06/11/2008	<u>96</u>	NOTICE of Filing of Revised Declaration of Roger Hall by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit Revised Hall Declaration)(Lesar, James) (Entered: 06/11/2008)
06/04/2008	<u>95</u>	MOTION for Reconsideration of <i>Memorandum Opinion of Magistrate Judge John Facciola</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Table of Contents, # <u>2</u> Affidavit Revised Hall Declaration, # <u>3</u> Exhibit Attachment 1, # <u>4</u> Exhibit Attachment 2, # <u>5</u> Exhibit Attachment 3, # <u>6</u> Exhibit Attachment 4, # <u>7</u> Exhibit Attachment 5, # <u>8</u> Exhibit Attachment 6, # <u>9</u> Exhibit Attachment 7, # <u>10</u> Exhibit Attachment 9, # <u>11</u> Exhibit Exh. 3, # <u>12</u> Exhibit Exh. 4, # <u>13</u> Exhibit Exh. 5, # <u>14</u> Exhibit Exh. 6, # <u>15</u> Exhibit Exh. 7, # <u>16</u> Exhibit Exh. 8, # <u>17</u> Exhibit Exh. 9, # <u>18</u> Exhibit Exh. 10, # <u>19</u> Exhibit Exh. 11, # <u>20</u> Exhibit Exh. 12, # <u>21</u> Exhibit Exh. 15, # <u>22</u> Exhibit Exh. 18, # <u>23</u> Exhibit Exh. 19, # <u>24</u> Exhibit Exh. 21, # <u>25</u> Exhibit Exh. 23-A, # <u>26</u> Exhibit Exh. 23-B, # <u>27</u> Exhibit Exh. 24, # <u>28</u> Exhibit Exh. 26, # <u>29</u> Exhibit Exh. 28, # <u>30</u> Exhibit Exh. 32, # <u>31</u> Exhibit Exh. 33, # <u>32</u> Exhibit Exh. 34, # <u>33</u> Exhibit Exh. 35, # <u>34</u> Exhibit Exh. 36-A, # <u>35</u> Exhibit Exh. 36-B, # <u>36</u> Exhibit Exh. 36-C, # <u>37</u> Exhibit Exh. 37, # <u>38</u> Exhibit Exh. 38, # <u>39</u> Exhibit Exh. 39, # <u>40</u> Exhibit Exh. 40, # <u>41</u> Exhibit Exh. 41, # <u>42</u> Affidavit Affidavit of Joseph Douglas, Jr., # <u>43</u> Affidavit Affidavit of Carol Hrdlicka, # <u>44</u> Affidavit Affidavit of Larry J. O'Daniel, # <u>45</u> Affidavit Second Affidavit of Cong. Bill Hendon)(Lesar, James) (Entered: 06/04/2008)
06/04/2008		MINUTE ORDER granting <u>94</u> Plaintiff's Unopposed Motion for a One-Day Extension of Time to File Motion for Reconsideration. Signed by Judge Henry H. Kennedy, Jr. on June 4, 2008. (NP) (Entered: 06/04/2008)
06/03/2008	<u>94</u>	Unopposed MOTION for Extension of Time to <i>Move for Reconsideration of Magistrate Judge Facciola's Memorandum Opinion</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 06/03/2008)
05/22/2008		MINUTE ORDER granting <u>93</u> Plaintiff's Unopposed Motion for a Further Extension of Time to File Motion for Reconsideration. Accordingly, plaintiffs shall file their motion for reconsideration on or before June 3, 2008. Signed by Judge Henry H. Kennedy, Jr. on May 22, 2008. (NP) Modified on 5/23/2008 (nmw, ). (Entered: 05/22/2008)
05/21/2008		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>92</u> MOTION for Extension of Time to <i>Move for Reconsideration of Magistrate Judge Facciola's Ruling</i> was entered in error and re-filed as # <u>93</u> with corrected pages.(jf, ) (Entered: 05/21/2008)
05/21/2008	<u>93</u>	MOTION for Extension of Time to <i>File Mot. for Reconsideration of Magistrate Judge Facciola's Ruling</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.

		(Lesar, James) (Entered: 05/21/2008)
05/20/2008	<u>92</u>	ENTERED IN ERROR.....MOTION for Extension of Time to <i>Move for Reconsideration of Magistrate Judge Facciola's Ruling</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) Modified on 5/21/2008 (jf, ). (Entered: 05/20/2008)
05/12/2008		MINUTE ORDER granting <u>91</u> Plaintiffs' Consent Motion for a Further Extension of Time to File Motion for Reconsideration. Accordingly, plaintiffs's motion for reconsideration is due on or before May 21, 2008. Signed by Judge Henry H. Kennedy, Jr. on May 12, 2008. (NP) Modified on 5/13/2008 (nmw, ). (Entered: 05/12/2008)
05/08/2008	<u>91</u>	Consent MOTION for Extension of Time to <i>File Motion for Reconsideration</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 05/08/2008)
04/03/2008		Reset Hearings: Status Conference currently scheduled for Friday, April 4, 2008 @ 11:15am is VACATED and rescheduled for Friday, August 8, 2008 @ 10:30am in Courtroom 27A before Judge Henry H. Kennedy. (zj ) (Entered: 04/03/2008)
04/02/2008		Reset Deadlines: plaintiffs motion for reconsideration to be filed by 5/14/2008. (tj ) (Entered: 04/02/2008)
04/01/2008		MINUTE ORDER granting <u>90</u> Unopposed Motion of Plaintiffs Roger Hall and Studies Solution Results, Inc. for Extension of Time to File Motion for Reconsideration of Magistrate Judge Facciola's Ruling. Accordingly, plaintiffs' motion is due on or before May 14, 2008. Signed by Judge Henry H. Kennedy, Jr. on April 1, 2008. (NP) (Entered: 04/01/2008)
03/31/2008	<u>90</u>	Unopposed MOTION for Extension of Time to <i>Reply to Def's Opp. to Mot. for Reconsideration</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/31/2008)
03/25/2008		MINUTE ORDER granting <u>89</u> Plaintiffs' Unopposed Motion for Extension of Time Within Which to Move for Reconsideration of Magistrate's Ruling. Accordingly, plaintiffs have up to and including March 31, 2008 to move for reconsideration. Signed by Judge Henry H. Kennedy, Jr. on March 25, 2008. (NP) (Entered: 03/25/2008)
03/22/2008	<u>89</u>	Unopposed MOTION for Extension of Time to <i>Move for Reconsideration of Magistrate's March 10, 2008 Decision</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 03/22/2008)
03/10/2008	<u>88</u>	MEMORANDUM OPINION re: <u>77</u> Defendant's Motion to Strike, In Part, Plaintiff Hall's Declaration. An Order accompanies this Memorandum Opinion. Signed by Magistrate Judge John M. Facciola on 3/10/08. (lcjmf1) (Entered: 03/10/2008)
03/10/2008	<u>87</u>	ORDER granting <u>77</u> Defendant's Motion to Strike, In Part, Plaintiff Hall's Declaration. Signed by Magistrate Judge John M. Facciola on 3/10/08. (lcjmf1) (Entered: 03/10/2008)
01/24/2008		Reset Hearings: Status Conference currently scheduled for 1/25/08 @ 11:30 is VACATED and rescheduled for 4/4/2008 @ 11:15 AM in Courtroom 27A before Judge Henry H. Kennedy. (tj ) (Entered: 01/24/2008)
11/21/2007		NOTICE OF CORRECTED DOCKET ENTRY: Motion #77 was stricken in error. This entry has now been corrected. The motion is no longer stricken. (ldc, ) (Entered: 11/21/2007)
11/16/2007	<u>86</u>	REPLY to opposition to motion re <u>77</u> MOTION to Strike <i>Plaintiff Hall's Declaration, In Part</i> filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 11/16/2007)
11/01/2007		Reset Hearings: Status Conference currently scheduled for 11/2/07 @ 10am is VACATED and rescheduled for 1/25/2008 @ 11:30 AM in Courtroom 27A before Judge Henry H. Kennedy. (tj ) (Entered: 11/01/2007)



10/18/2007		MINUTE ORDER granting <u>85</u> Motion for Extension of Time to File Reply re <u>83</u> Opposition to MOTION to Strike. Reply due by 11/16/2007. Signed by Magistrate Judge John M. Facciola on 10/18/07. (lcjmf1) (Entered: 10/18/2007)
10/16/2007	<u>85</u>	Second MOTION for Extension of Time to File Response/Reply as to <u>77</u> MOTION to Strike <i>Plaintiff Hall's Declaration, In Part</i> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 10/16/2007)
09/13/2007		MINUTE ORDER granting <u>84</u> Motion for Extension of Time to File Reply to Opposition to Motion to Strike. Signed by Magistrate Judge John M. Facciola on 9/13/07. (SP, ) (Entered: 09/13/2007)
09/12/2007	<u>84</u>	Consent MOTION for Extension of Time to <i>Reply to Opposition to Motion to Strike</i> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 09/12/2007)
09/10/2007		Set/Reset Deadlines: Responses due by 9/6/2007 (ldc, ) (Entered: 09/10/2007)
09/10/2007		MINUTE ORDER granting nunc pro tunc <u>82</u> Plaintiffs' Unopposed Motion for Further Extension of Time to File Response to Motion to Strike the Declaration of Roger Hall. Opposition shall be due on or before September 6, 2007. Signed by Magistrate Judge John M. Facciola on 9/7/07. (lcjmf1, ) (Entered: 09/10/2007)
09/06/2007	<u>83</u>	Memorandum in opposition to re <u>77</u> MOTION to Strike <i>Plaintiff Hall's Declaration, In Part</i> by filed by CAROL HRDLICKA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Affidavit Att. 1--Affidaviat of Barry Toll# <u>2</u> Exhibit Attachment 2--Innman Deposition# <u>3</u> Exhibit Attachment 3--Sullivan Deposition# <u>4</u> Exhibit Att. 4--Briefing Books# <u>5</u> Exhibit Att. 5--Duck Soup# <u>6</u> Exhibit Att. 6# <u>7</u> Exhibit Att. 7--Nhom Marrott# <u>8</u> Exhibit Att. 8--Nhom Marrott# <u>9</u> Exhibit Att. 8--Sejna Deposition# <u>10</u> Exhibit Att. 9--Sejna documents# <u>11</u> Exhibit Att. 11--Handwritten notes on Feb 1981 mtg.# <u>12</u> Exhibit Att. 12--Order of Battle# <u>13</u> Exhibit Att. 13--Docs. Showing DOD collaboration# <u>14</u> Exhibit Att. 14--Docs. showing DOD collaboraation# <u>15</u> Exhibit Att. 15--LeBoutillier Decl.# <u>16</u> Exhibit Att. 16--Moorer Depositino# <u>17</u> Exhibit Att. 17--Murphy Deposition# <u>18</u> Exhibit Att. 18--IPWICH# <u>19</u> Exhibit Att. 19--Reed Deposition# <u>20</u> Exhibit Att. 20--Sprague-Mathews# <u>21</u> Exhibit Att. 21--MACVSOG docs.# <u>22</u> Exhibit Att. 22--Nhom Marrott background# <u>23</u> Exhibit Att. 23--# <u>24</u> Exhibit Att. 24--# <u>25</u> Exhibit Att. 25--Brightwood# <u>26</u> Exhibit Att. 26--Hendon# <u>27</u> Exhibit Att. 27--Red McDaniel# <u>28</u> Exhibit Att. 28--Doc. on POLLARD# <u>29</u> Exhibit Att. 29--Status of POWs in Laos# <u>30</u> Exhibit # <u>31</u> Declaration Supplemental Declaration of Roger Hall# <u>32</u> Declaration Doublas Declaration# <u>33</u> Exhibit Exh. 31--Depositon of Terry Reed)(Lesar, James) (Entered: 09/06/2007)
09/04/2007	<u>82</u>	Unopposed MOTION for Extension of Time to File <i>Response to Motion to Strike</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) (Entered: 09/04/2007)
08/28/2007		Set/Reset Deadlines: Responses due by 9/4/2007 (ldc, ) (Entered: 08/28/2007)
08/20/2007		MINUTE ORDER granting <u>81</u> Plaintiffs' Unopposed Motion for Further Extension to (sic) Time to Oppose Defendant's Motion to Strike the Declaration of Roger Hall. Opposition shall be due September 4, 2007. Signed by Magistrate Judge John M. Facciola on 8/20/07. (lcjf1, ) (Entered: 08/20/2007)
08/19/2007	<u>81</u>	Unopposed MOTION for Extension of Time to <i>Oppose 77 Motion to Strike Declaratrion of Roger Hall</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) Modified on 8/20/2007 (lc, ). (Entered: 08/19/2007)
08/09/2007		Set/Reset Deadlines: Responses due by 8/21/2007 (ldc, ) (Entered: 08/09/2007)
08/09/2007		MINUTE ORDER granting <u>80</u> Plaintiffs' Unopposed Motion for Extension of Time to file their opposition to defendant's motion to strike the declaration of Roger Hall. The opposition is due on or before August 21, 2007. Signed by Magistrate Judge John M. Facciola on 8/9/07. (lcjf1, ) (Entered: 08/09/2007)
08/06/2007	<u>80</u>	Unopposed MOTION for Extension of Time to <i>Oppose 77 Defendant's Motion to Strike Declaration of Roger Hall</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Lesar, James) Modified on 8/7/2007 (lc, ). (Entered: 08/06/2007)

08/01/2007		Reset Hearings: Status Conference currently scheduled for 8/3/07 is OFF and rescheduled for 11/2/2007 @ 10:00 AM in Courtroom 27A before Judge Henry H. Kennedy. (tj ) (Entered: 08/01/2007)
08/01/2007	<u>79</u>	ORDER re referral to Judge Facciola for the motion to strike <u>77</u> . Signed by Magistrate Judge John M. Facciola on 8/1/07. (SP, ) (Entered: 08/01/2007)
07/30/2007		CASE REFERRED to Magistrate Judge John M. Facciola for resolution of Motion to Strike <u>77</u> . (jeb, ) (Entered: 07/31/2007)
07/30/2007	<u>78</u>	Order referring <u>77</u> to United States Magistrate Judge John Facciola. Defendant shall file a combined opposition and reply regarding the pending dispositive motions ten (10) days after the resolution of the motion to strike. Signed by Judge Henry H. Kennedy, Jr., on July 30, 3007. (FL, ) (Entered: 07/30/2007)
07/24/2007	<u>77</u>	MOTION to Strike <i>Plaintiff Hall's Declaration, In Part</i> by CENTRAL INTELLIGENCE AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Momeni, Mercedeh) Modified on 10/18/2007 (ldc, ). Modified on 11/21/2007 (ldc, ). (Entered: 07/24/2007)
05/30/2007		Reset Deadlines: Defendant shall have up to and including July 30, 2007, to file an opposition to plaintiffs' dispositive motions. (ztj, ) (Entered: 05/30/2007)
05/30/2007		Minute order granting <u>76</u> defendant's consent motion for extension of time to oppose dispositive motions. Defendant shall have up to and including July 30, 2007, to file oppositions to plaintiffs' dispositive motions. Signed by Judge Henry H. Kennedy, Jr., on May 30, 2007. Official paperless order (FL, ) (Entered: 05/30/2007)
05/24/2007	<u>76</u>	Consent MOTION for Extension of Time to <i>Oppose Dispositive Motions</i> by CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 05/24/2007)
05/21/2007		Reset Deadlines: Reply to Dispositive Motions due by 5/31/2007. (ztj, ) (Entered: 05/21/2007)
05/12/2007	<u>75</u>	NOTICE of Filing by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Local Rule 7.1(h) Statement# <u>2</u> Proposed Order)(Lesar, James) (Entered: 05/12/2007)
05/10/2007	<u>74</u>	Memorandum in opposition to re <u>54</u> MOTION to Dismiss <i>and for Partial Summary Judgment</i> filed by ACCURACY IN MEDIA. (To view document, please see docket entry <u>72</u> ) (lc, ) (Entered: 05/11/2007)
05/10/2007	<u>73</u>	MOTION for Summary Judgment <i>Motion of Plainiffs Roger Hall and SSRI for Partial Summary Judgment and Other Relief</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> Affidavit Declaration of Roger Hall# <u>2</u> Exhibit 1# <u>3</u> Exhibit 2)(Lesar, James) Modified on 5/11/2007 (lc, ). (Entered: 05/10/2007)
05/10/2007	<u>72</u>	Cross-MOTION for Partial Summary Judgment <i>and opposition to motion to dismiss</i> by ACCURACY IN MEDIA (Attachments: # <u>1</u> Statement of Facts # <u>2</u> Statement of genuine issue# <u>3</u> proposed Order# <u>4</u> Exhibit FOIA Request# <u>5</u> Exhibit PNOK Releases# <u>6</u> Exhibit PNOK-list of 1700# <u>7</u> Exhibit CIA FOIA response# <u>8</u> Exhibit FOIA Adminisrative Appeal# <u>9</u> Exhibit CIA acknowledge of Admin Appeal)(Clarke, John) Modified on 5/11/2007 (lc, ). (Entered: 05/10/2007)
05/10/2007	<u>71</u>	NOTICE of Change of Address by John Harrison Clarke (Clarke, John) (Entered: 05/10/2007)
05/08/2007		Reset Hearings: Status Conference currently scheduled for 5/11/07 @ 11:30am is OFF and RESCHEDULED for 8/3/2007 @ 11:00 AM in Courtroom 27A before Judge Henry H. Kennedy. (ztj, ) (Entered: 05/08/2007)
05/08/2007		Minute order granting <u>70</u> plaintiffs' unopposed motion for two-day tension [sic] of time to respond to defendant's motion to dismiss and for partial summary judgment. Plaintiffs shall have up to and including May 10, 2007, to file a response to defendant's motion to dismiss or for partial summary judgment. Defendant's reply is due May 31, 2007. Signed by Judge Henry H. Kennedy, Jr., on May 8, 2007. Official paperless order (FL, ) (Entered: 05/08/2007)

05/07/2007	<u>70</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <u>54</u> Defendant's Motion to Dismiss or for Partial Summary Judgment by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIA (Lesar, James) Modified on 5/8/2007 (lc, ). (Entered: 05/07/2007)
05/02/2007		Reset Deadlines: Reply to Dispositive Motions extended to 5/8/2007. (ztj ) (Entered: 05/04/2007)
05/02/2007		Minute order granting <u>69</u> plaintiffs' unopposed motion for extension of time to respond to defendant's motion to dismiss and for partial summary judgment. Plaintiffs shall have up to and including May 8, 2007, to respond to defendant's motion to dismiss or for partial summary judgment. Signed by Judge Henry H. Kennedy, Jr., on May 2, 2007. Official paperless order (FL, ) (Entered: 05/02/2007)
04/30/2007	<u>69</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <u>54</u> Defendant's Motion to Dismiss or for Summary Judgment by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIAMotions referred to John M. Facciola. (Lesar, James) Modified on 5/1/2007 (lc, ). (Entered: 04/30/2007)
04/11/2007	<u>68</u>	ORDER granting <u>53</u> Defendant's Motion for Protective Order. Signed by Magistrate Judge John M. Facciola on 4/11/07. (lcjf1, ) (Entered: 04/11/2007)
01/17/2007	<u>67</u>	SURREPLY to re <u>53</u> MOTION for Protective Order filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (zlc, ) (Entered: 01/18/2007)
01/17/2007		Minute order granting <u>66</u> plaintiffs' motion for leave to file response to defendant's reply to plaintiffs' opposition to defendant's motion for a protective order. Signed by Judge Henry H. Kennedy, Jr., on January 17, 2007. Official paperless order (FL, ) (Entered: 01/17/2007)
01/16/2007	<u>66</u>	MOTION for Leave to File Response to Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for a protective order by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.; (Attachments: # <u>1</u> Exhibit– Response to Defendant's Reply in Support of its Motion for a Protective Order# <u>2</u> Text of Proposed Order)(jeb, ) (Entered: 01/16/2007)
01/11/2007		MINUTE ORDER denying <u>65</u> Motion for Extension of Time because the motion does not indicate that the movant discussed the anticipated motion with opposing counsel to determine whether there is any opposition to the relief sought, as required by LCvR 7.1(m). This denial is without prejudice to the filing of a new motion that complies with the rules of this court. (Kennedy, Henry) (Entered: 01/11/2007)
01/11/2007	<u>65</u>	MOTION for Extension of Time to 1/17/07 to file a supplemental memorandum regarding defendant's protective order by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Text of Proposed Order)(jeb, ) (Entered: 01/11/2007)
12/28/2006	<u>64</u>	REPLY to opposition to motion re <u>53</u> MOTION for Protective Order filed by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 12/28/2006)
12/14/2006		Reset Hearings: Status Conference currently scheduled for 12/21/06 is OFF and rescheduled for 5/11/2007 @ 11:30 AM in Courtroom 27A before Judge Henry H. Kennedy. (tj ) (Entered: 12/14/2006)
12/12/2006		MINUTE ORDER granting <u>63</u> Motion for Extension of Time to File a Reply in Support of Defendant's Motion for a Protective Order. Signed by Magistrate Judge John M. Facciola on 12/11/06.(lcjf1, ) (Entered: 12/12/2006)
12/06/2006	<u>63</u>	MOTION for Extension of Time to File Reply in Support of Defendant's Motion for a Protective Order by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Momeni, Mercedeh) (Entered: 12/06/2006)
12/01/2006	<u>62</u>	ORDER re referral to Judge Facciola for the motion for a protective order <u>53</u> . Signed by Magistrate Judge John M. Facciola on 12/1/06. (SP, ) (Entered: 12/01/2006)
11/29/2006		CASE REFERRED to Magistrate Judge John M. Facciola for motion for protective order #53. (jsc) (Entered: 11/30/2006)

11/27/2006		Reset Deadlines: Defendant shall have until December 8, 2006 to file a reply in support of its motion for a protective order. (tj) (Entered: 11/29/2006)
11/27/2006		Minute order granting <u>61</u> defendant's consent motion for extension of time to file a reply in support of defendant's motion for a protective order. Defendant shall have an additional two (2) weeks until December 8, 2006, to file a reply in support of its motion for a protective order. Signed by Judge Henry H. Kennedy, Jr., on November 27, 2006. Official paperless order (FL, ) (Entered: 11/27/2006)
11/22/2006	<u>61</u>	Consent MOTION for Extension of Time to File Response/Reply <i>in Support of</i> <u>53</u> <i>Motion for a Protective Order</i> by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) Modified on 11/24/2006 (zlc, ). (Entered: 11/22/2006)
11/15/2006	<u>60</u>	Order of Reference <u>53</u> to United States Magistrate Judge John Facciola. Signed by Judge Henry H. Kennedy, Jr., on November 15, 2006. (FL, ) (Entered: 11/15/2006)
11/14/2006		Minute order granting <u>59</u> plaintiffs' motion for leave to file opposition to defendant's motion for a protective order out-of-time. Signed by Judge Henry H. Kennedy, Jr., on November 14, 2006. Official paperless order (FL, ) (Entered: 11/14/2006)
11/14/2006		Discovery Schedule <u>57</u> : If the court grants defendant's pending motion for a protective order, plaintiffs' opposition shall be filed within twenty-one (21) days after the order granting the motion. If the court denies the motion, plaintiffs shall file an opposition within twenty-one (21) days after the completion of the discovery requested by plaintiffs on October 3, 2006. (FL, ) Modified on 11/14/2006 (FL, ). (Entered: 11/14/2006)
11/14/2006		Minute order granting <u>57</u> plaintiffs' motion for an extension of time to respond to defendant's motion for partial summary judgment. Signed by Judge Henry H. Kennedy, Jr., on November 14, 2006. Official paperless order(FL, ) (Entered: 11/14/2006)
11/14/2006	<u>59</u>	MOTION for Leave to File <i>Opposition to Defendant's Motion for a Protective order Out-of-Time</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Opposition to Defendant's Motion for a Protective Order# <u>2</u> Exhibit 1# <u>3</u> Exhibit 2# <u>4</u> Exhibit 3# <u>5</u> Exhibit 4# <u>6</u> Exhibit 5# <u>7</u> Exhibit 6# <u>8</u> Exhibit 7)(Lesar, James) (Entered: 11/14/2006)
11/13/2006	<u>58</u>	Memorandum in opposition to re <u>53</u> MOTION for Protective Order filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Exh. 1# <u>2</u> Exhibit Exh. 2# <u>3</u> Exhibit Exh. 3# <u>4</u> Exhibit Exh 5# <u>5</u> Exhibit Exh. 4# <u>6</u> Exhibit Exh. 6# <u>7</u> Exhibit Exh. 7)(Lesar, James) (Entered: 11/14/2006)
11/13/2006	<u>57</u>	MOTION for Extension of Time to <i>Respond to</i> <u>54</u> <i>Defendant's Motion for Partial Summary Judgment</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC., ACCURACY IN MEDIA. (Lesar, James) Modified on 11/14/2006 (lc, ). (Entered: 11/13/2006)
11/07/2006		Minute order granting <u>56</u> plaintiffs' unopposed motion for extension of time to oppose defendant's motion for a protective order and motion to vacate court's November 6, 2006 minute order granting motion for protective order. Plaintiffs Roger Hall and Studies Solutions Results, Inc. shall have up to and including November 13, 2006, to oppose defendant's motion for a protective order. The court's November 6, 2006, minute order granting motion for protective order is vacated. Signed by Judge Henry H. Kennedy, Jr., on November 7, 2006. Official paperless order (FL, ) (Entered: 11/07/2006)
11/07/2006	<u>56</u>	Unopposed MOTION for Extension of Time to File Response/Reply <i>Opposition to Defendant's Motion for a Protective Order</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 11/07/2006)
11/06/2006		VACATED pursuant to Minute Order filed 11/7/2006.....MINUTE ORDER granting <u>53</u> Motion for Protective Order (Kennedy, Henry) Modified on 11/8/2006 (lc, ). (Entered: 11/06/2006)
10/30/2006	<u>55</u>	MOTION for Partial Summary Judgment by CENTRAL INTELLIGENCE AGENCY. (see docket entry #54 for document images) (lc, ) (Entered: 10/31/2006)

10/30/2006	<u>54</u>	MOTION to Dismiss <i>and for Partial Summary Judgment</i> by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Affidavit of Scott A. Koch# <u>2</u> Exhibit # <u>3</u> Exhibit # <u>4</u> Exhibit # <u>5</u> Exhibit # <u>6</u> Exhibit # <u>7</u> Exhibit # <u>8</u> # <u>9</u> Exhibit # <u>10</u> Exhibit # <u>11</u> Exhibit # <u>12</u> # <u>13</u> # <u>14</u> Exhibit # <u>15</u> Exhibit # <u>16</u> Vaughn Index (item 6))(Momeni, Mercedeh) (Entered: 10/30/2006)
10/24/2006	<u>53</u>	MOTION for Protective Order by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit Discovery Requests# <u>2</u> Exhibit 2006 Cover Letters)(Momeni, Mercedeh) (Entered: 10/24/2006)
10/20/2006		Minute order granting <u>52</u> defendant's consent motion for extension of time to file a dispositive motion. Defendant shall have an additional seven (7) days until October 30, 2006, to file a dispositive motion. Any reply shall be filed by the deadlines set forth in LCvR 7. Signed by Judge Henry H. Kennedy, Jr. on October 20, 2006. Official paperless order (FL, ) (Entered: 10/20/2006)
10/20/2006	<u>52</u>	Consent MOTION for Extension of Time to <i>file a Dispositive Motion</i> by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 10/20/2006)
09/29/2006		Deadline set: Dispositive Motions due by 10/23/2006. (tj ) (Entered: 10/02/2006)
09/29/2006		Minute order granting <u>51</u> defendant's consent motion for extension of time to file a dispositive motion. Defendant shall have up to and including October 23, 2006, to file a dispositive motion. Any reply shall be filed by the deadlines set forth in LCvR 7. Signed by Judge Henry H. Kennedy, Jr., on September 29, 2006. Official paperless order (FL, ) (Entered: 09/29/2006)
09/28/2006	<u>51</u>	Consent MOTION for Extension of Time to <i>File a Dispositive Motion</i> by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 09/28/2006)
09/07/2006		Reset Deadlines: Defendant's dispositive motions are due on or before 9/30/2006. (tj) (Entered: 09/07/2006)
09/06/2006		Minute order granting <u>50</u> defendant's consent motion for extension of time to file a dispositive motion. Defendant shall have up to and including September 30, 2006, to file a dispositive motion. Signed by Judge Henry H. Kennedy, Jr., on September 6, 2006. Official paperless order (FL, ) (Entered: 09/06/2006)
08/29/2006	<u>50</u>	Consent MOTION for Extension of Time to <i>File a Dispositive Motion</i> by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 08/29/2006)
07/06/2006		Set/Reset Hearings: Status Conference set for 7/6/06 has been reset for 12/21/2006 09:45 AM in Courtroom 27A before Judge Henry H. Kennedy. (adc) (Entered: 07/06/2006)
05/30/2006		Set/Reset Deadlines: Defendant's Dispositive Motions due by 8/31/2006. Plaintiff's Response to Dispositive Motions due by 9/30/2006. Defendant's Reply due by 10/31/2006. Plaintiff's Reply due by 11/15/2006. (rew, ) (Entered: 05/30/2006)
05/27/2006		MINUTE ORDER: The proposed briefing schedule set forth in the parties' joint report filed May 26, 2006 (#49), is adopted by the court and is SO ORDERED. Further, the status conference scheduled for July 6, 2006, is cancelled and is rescheduled to convene on December 21, 2006 at 9:45 a.m. (Kennedy, Henry) (Entered: 05/27/2006)
05/26/2006	<u>49</u>	STATUS REPORT <i>and Proposed Briefing Schedule</i> by CENTRAL INTELLIGENCE AGENCY. (Momeni, Mercedeh) (Entered: 05/26/2006)
04/26/2006		Minute Entry for proceedings held before Judge Henry H. Kennedy : Status Conference held on 4/26/2006. Counsel to file joint report and briefing schedule by 5/26/2006. Further Status Conference set for 7/6/2006 at 09:45 AM in Courtroom 27A before Judge Henry H. Kennedy. (Court Reporter Annie Shaw.) (rew, ) (Entered: 04/26/2006)
04/20/2006		Set/Reset Hearings: Status Conference set for 4/25/2006 AT 9:45 AM is OFF and reset for 4/26/2006 at 10:45 AM in Courtroom 27A before Judge Henry H. Kennedy. At the request of the defendant. (rew, ) (Entered: 04/20/2006)
02/14/2006	<u>48</u>	ANSWER to Amended Complaint by CENTRAL INTELLIGENCE AGENCY. Related document: <u>45</u> Amended Complaint filed by ACCURACY IN

		MEDIA,,(Momeni, Mercedeh) (Entered: 02/14/2006)
02/14/2006		Set/Reset Hearings: Status Conference set for 3/9/2006 at 9:30 AM is OFF and reset for 4/25/2006 at 09:45 AM in Courtroom 27A before Judge Henry H. Kennedy. (rew, ) (Entered: 02/14/2006)
01/25/2006	<u>47</u>	Order denying <u>32</u> plaintiff's motion for partial reconsideration. Defendant shall file an answer or otherwise respond to plaintiffs' amended complaint within twenty days of the docketing of this order. Signed by Judge Henry H. Kennedy, Jr., on January 25, 2006. (FL, ) (Entered: 01/25/2006)
01/25/2006	<u>46</u>	Memorandum Opinion and Order. Signed by Judge Henry H. Kennedy, Jr., on January 25, 2006. (FL, ) (Entered: 01/25/2006)
01/06/2006		Set/Reset Hearings: Status Conference set for 1/10/2006 AT 9:30 AM is OFF and reset for 3/9/2006 at 09:45 AM in Courtroom 27A before Judge Henry H. Kennedy. (rew, ) (Entered: 01/06/2006)
09/26/2005	<u>45</u>	AMENDED COMPLAINT against CENTRAL INTELLIGENCE AGENCY filed by ACCURACY IN MEDIA.(lc, ) (Entered: 09/27/2005)
09/26/2005		Set/Reset Hearings: Status Conference set for 9/28/2005 at 4:30 AM is OFF and reset for 1/10/2006 at 09:30 AM in Courtroom 14 before Judge Henry H. Kennedy. (rew, ) (Entered: 09/26/2005)
09/26/2005	<u>44</u>	NOTICE Amended Complaint by ACCURACY IN MEDIA (Clarke, John) (Entered: 09/26/2005)
08/08/2005		Set/Reset Hearings: Status Conference set for 8/11/2005 at 9:30 AM is OFF and reset for 9/28/2005 at 04:30 PM in Courtroom 14 before Judge Henry H. Kennedy. (rew, ) (Entered: 08/08/2005)
08/01/2005	<u>43</u>	NOTICE of Filing by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC. (Attachments: # <u>1</u> )(Lesar, James) (Entered: 08/01/2005)
07/25/2005		Minute order denying <u>42</u> motion for leave to file brief as amicus curiae in support of plaintiff. Signed by Judge Henry H. Kennedy, Jr., on July 25, 2005. Official paperless order(FL, ) (Entered: 07/25/2005)
07/19/2005	<u>42</u>	MOTION for Leave to Appear Amicus Curiae by CAROL HRDLICKA. (Attachments: # <u>1</u> Proposed Brief)(lc, ) (Entered: 07/22/2005)
05/31/2005	<u>41</u>	Order re [defendant's unopposed oral motion for an extension of time] that defendant shall file an answer or otherwise respond to plaintiffs' complaint, or any amended complaints that may be filed, within twenty (20) days after the court resolves the pending motions. Signed by Judge Henry H. Kennedy, Jr., on May 31, 2005. (FL, ) (Entered: 05/31/2005)
05/27/2005		Minute Entry for proceedings held before Judge Henry H. Kennedy : Status Conference held on 5/27/2005. Further Status Conference set for 8/11/2005 at 09:30 AM in Courtroom 14 before Judge Henry H. Kennedy. (Court Reporter Jon Hundley (Miller Reporting).) (rew, ) (Entered: 05/27/2005)
05/27/2005	<u>40</u>	NOTICE OF WITHDRAWAL by ACCURACY IN MEDIA re <u>39</u> Amended Complaint (Clarke, John) (Entered: 05/27/2005)
05/27/2005	<u>39</u>	WITHDRAWN per Notice filed 5/27/2005.....AMENDED COMPLAINT against CENTRAL INTELLIGENCE AGENCY filed by ACCURACY IN MEDIA.(nmw, ) Modified on 5/31/2005 (lc, ). (Entered: 05/27/2005)
05/26/2005	<u>38</u>	NOTICE of Filing by ROGER HALL (Attachments: # <u>1</u> Att.A--Lesar-Koch (May 23, 2005)# <u>2</u> Att. B--Lesar-Koch (May 24, 2005))(Lesar, James) (Entered: 05/26/2005)
05/25/2005	<u>37</u>	REPLY to opposition to motion re <u>32</u> Accounting filed by ROGER HALL. (Lesar, James) (Entered: 05/25/2005)
05/25/2005	<u>36</u>	REPLY to opposition to motion re <u>32</u> Partial Refonsideration filed by ROGER HALL. (Lesar, James) (Entered: 05/25/2005)

05/16/2005	<u>35</u>	NOTICE of Appearance by Mercedeh Momeni on behalf of CENTRAL INTELLIGENCE AGENCY (Momeni, Mercedeh) (Entered: 05/16/2005)
05/13/2005	<u>34</u>	Memorandum in opposition to motion re <u>32</u> <i>Defendant's Opposition to the Motion of Plaintiff Roger Hall For an Accounting of Time and Costs of Searches</i> filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit Def. Exh. 1 -- CIA Ltr 06-15-04# <u>2</u> Exhibit Def. Exh. 2 -- CIA Ltr 05-11-05# <u>3</u> Exhibit Def. Exh. 3 -- Att 2 Feb 7, 2003 FOIA Req)(Fiore, Uldric) (Entered: 05/13/2005)
05/13/2005	<u>33</u>	Memorandum in opposition to motion re <u>32</u> <i>Defendant's Opposition to the Motion of Plaintiff Roger Hall for Partial Reconsideration of this Court's April 13, 2005 Memorandum Opinion and Order</i> filed by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit Def. Exh. 1 -- CIA Ltr 06-15-04# <u>2</u> Exhibit Def. Exh. 2 -- CIA Ltr 05-11-05# <u>3</u> Exhibit Def. Exh. 3 -- Att 2 Feb 7, 2003 FOIA Req)(Fiore, Uldric) (Entered: 05/13/2005)
05/02/2005	<u>32</u>	MOTION for Reconsideration of <i>Court's April 13, 2005 Order and Motion for Accounting</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Att. 1# <u>2</u> Att. 2# <u>3</u> Att. 3# <u>4</u> Att. 4# <u>5</u> Att. 5# <u>6</u> Att. 6)(Lesar, James) (Entered: 05/02/2005)
04/26/2005		Set/Reset Deadlines: Answer due by 6/16/2005. (rew, ) (Entered: 04/26/2005)
04/26/2005		Minute order granting <u>31</u> defendant's consent motion for an enlargement of time to answer or otherwise respond to the complaint. Defendant has up to and including June 16, 2005, within which to answer, move, or otherwise respond to plaintiff's complaint. Signed by Judge Henry H. Kennedy, Jr., on April 26, 2005. Official paperless order (FL, ) (Entered: 04/26/2005)
04/21/2005	<u>31</u>	Consent MOTION for Extension of Time to File Answer re <u>1</u> Complaint by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Fiore, Uldric) (Entered: 04/21/2005)
04/19/2005		Set/Reset Hearings: Status Conference set for 5/24/2005 at 9:45 AM is OFF and reset for 5/27/2005 at 11:15 AM in Courtroom 14 before Judge Henry H. Kennedy. (rew, ) (Entered: 04/19/2005)
04/14/2005		Set/Reset Hearings: Status Conference set for 5/24/2005 at 09:45 AM in Courtroom 14 before Judge Henry H. Kennedy. (rew, ) (Entered: 04/14/2005)
04/13/2005	<u>30</u>	Memorandum Opinion and Order. Signed by Judge Henry H. Kennedy, Jr., on April 13, 2005. (FL, ) (Entered: 04/13/2005)
02/02/2005	<u>29</u>	SURREPLY to re <u>17</u> MOTION to Dismiss filed by ACCURACY IN MEDIA. (lc, ) (Entered: 02/03/2005)
02/02/2005		Minute order granting <u>28</u> plaintiff, Accuracy In Media's unopposed motion for leave to file sur-reply to defendant's reply to opposition to motion to dismiss. Plaintiff Accuracy In Media's sur-reply to defendant's reply to opposition to motion to dismiss is deemed filed. Signed by Judge Henry H. Kennedy, Jr., on February 2, 2005. (FL, ) (Entered: 02/02/2005)
02/02/2005	<u>28</u>	Unopposed MOTION for Leave to File <i>Sur-reply to defendant's reply to opposition to motion to dismiss</i> by ACCURACY IN MEDIA. (Attachments: # <u>1</u> Text of Proposed Order # <u>2</u> Exhibit Sur-reply to defendant's reply to opposition to motion to dismiss)(Clarke, John) (Entered: 02/02/2005)
02/02/2005	<u>27</u>	NOTICE of Change of Address by John Harrison Clarke (Clarke, John) (Entered: 02/02/2005)
09/13/2004		Minute order granting <u>26</u> plaintiff's unopposed motion for leave to file replies to defendant's opposition to (1) motion of Roger Hall to require production of certain categories of records, and (2) motion of Roger Hall and SSRI for a waiver of search and copying fees. Plaintiff's motion to require production of certain categories of records and Motion of Roger Hall and SSRI for a waiver of search and copying fees are accepted for filing. Signed by Judge Henry H. Kennedy, Jr., on September 13, 2004. (FL, ) (Entered: 09/13/2004)

09/10/2004	<u>26</u>	MOTION for Leave to File <i>Replies Out-of-Time</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 09/11/2004)
09/10/2004	<u>25</u>	REPLY to opposition to motion re <u>11</u> <i>Production of Records and Waiver of Fees</i> filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Att. 1--Strickland-English (990524)# <u>2</u> Exhibit Att. 2--Mem. Op. and Order (020722)# <u>3</u> Exhibit Att. 3--Joint Report (020823)# <u>4</u> Exhibit Att. 4--Lesar-Dyer (021015)# <u>5</u> Exhibit Att. 5--Order (030116)# <u>6</u> Exhibit Att. 6--Joint Report (030131)# <u>7</u> Exhibit Att. 7--Memorandum Opinion (031113)# <u>8</u> Exhibit Att. 8--Opinion (040422)# <u>9</u> Exhibit Att. 900Lesar-Herman (031126)# <u>10</u> Exhibit Att. 10--Zaid (040729)# <u>11</u> Exhibit Att. 11--Notice of Corrected Calculation of Search Fees (030402))(Lesar, James) (Entered: 09/11/2004)
09/10/2004		MINUTE ORDER granting <u>24</u> Unopposed MOTION for Extension of Time to Reply to Def's Oppositions to Mot. to Req. Prod. of Records and Waive Fees (Kennedy, Henry) (Entered: 09/10/2004)
09/07/2004	<u>24</u>	Unopposed MOTION for Extension of Time to <i>Reply to Def's Oppositions to Mot. to Req. Prod. of Records and Waive Fees (040907)</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 09/07/2004)
09/07/2004	<u>23</u>	REPLY to opposition to motion re <u>17</u> <i>Defendant's Reply to Plaintiff Accuracy in Media's Opposition to Defendant's Motion to Dismiss</i> filed by CENTRAL INTELLIGENCE AGENCY. (Fiore, Uldric) (Entered: 09/07/2004)
09/02/2004		Minute order granting <u>22</u> plaintiffs' unopposed motion for extension of time to respond to (1) defendant's opposition to motion of Roger Hall to require defendant to produce certain categories of records forthwith, and (2) defendant's opposition to motion of plaintiff Studies Solutions Results, Inc. for a waiver of copying fees and search costs. Plaintiffs, Roger Hall and Studies Solutions Results, Inc., shall have up to and including September 7, 2004, within which to reply to defendant's opposition to plaintiffs' motions, npt. Signed by Judge Henry H. Kennedy, Jr., on September 2, 2004. Official paperless order (FL, ) (Entered: 09/02/2004)
08/31/2004	<u>22</u>	Unopposed MOTION for Extension of Time to <i>respond to def's Opp. to Mot. to Produce and Mot. for Fee Waiver</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 08/31/2004)
08/25/2004	21	REPLY to opposition to motion re <u>7</u> statutory fee waiver filed by ACCURACY IN MEDIA (Please see Document No. 20 for scanned image). (nmw, ) (Entered: 08/26/2004)
08/25/2004	<u>20</u>	Memorandum in opposition to motion re <u>7</u> <i>fee waiver and motion to dismiss</i> filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 08/25/2004)
08/20/2004	19	Memorandum in opposition to motion re <u>7</u> Statutory Fee Waiver filed by CENTRAL INTELLIGENCE AGENCY (Please see Document No. 17 for scanned image). (nmw, ) (Entered: 08/23/2004)
08/20/2004	<u>18</u>	REPLY to opposition to motion re <u>5</u> <i>Defendant's Reply in Support of its Motion to Stay Proceedings, or in the Alternative, to Dismiss Without Prejudice</i> filed by CENTRAL INTELLIGENCE AGENCY. (Fiore, Uldric) (Entered: 08/20/2004)
08/20/2004	<u>17</u>	MOTION to Dismiss by CENTRAL INTELLIGENCE AGENCY. (Fiore, Uldric) (Entered: 08/20/2004)
08/20/2004	<u>16</u>	Memorandum in opposition to motion re <u>7</u> <i>Defendant's Opposition to Plaintiff Accuracy in Media's Motion for a Statutory Fee Waiver</i> filed by CENTRAL INTELLIGENCE AGENCY. (Fiore, Uldric) (Entered: 08/20/2004)
08/17/2004	<u>15</u>	Memorandum in opposition to motion re <u>11</u> MOTION to Produce Certain Categories of Records filed by CENTRAL INTELLIGENCE AGENCY. (nmw, ) (Entered: 08/18/2004)
08/17/2004	<u>14</u>	Memorandum in opposition to motion re <u>12</u> MOTION for Waiver of Search Fees and Copying Costs filed by CENTRAL INTELLIGENCE AGENCY. (nmw, ) (Entered: 08/18/2004)



08/04/2004		Minute order granting <u>9</u> defendant's consent motion for an enlargement of time to file its opposition to plaintiff's Accuracy in Media's motion for statutory fee waiver. Responses due by 8/20/2004; replies due by 8/31/2004. Signed by Judge Henry H. Kennedy, Jr., on August 3, 2004. Official paperless order (FL, ) Modified on 8/4/2004 (FL, ). (Entered: 08/04/2004)
08/04/2004		Minute order granting <u>10</u> plaintiffs' motion for leave to file opposition to defendant's motion to stay proceedings or to dismiss out-of-time. Plaintiffs' opposition to defendant's motion to stay proceedings or, in the alternative, to dismiss without prejudice is accepted for filing. Signed by Judge Henry H. Kennedy, Jr., on August 3, 2004. Official paperless order (FL, ) (Entered: 08/04/2004)
08/03/2004	<u>12</u>	MOTION Waiver of Search Fees and Copyinng Costs by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Exhibit Att. !---Lesar-Dyer (030207))(Lesar, James) (Entered: 08/03/2004)
08/03/2004	<u>11</u>	MOTION to Produce <i>Certain Categories of Records</i> by ROGER HALL. (Attachments: # <u>1</u> # <u>2</u> Exhibit Exh. 2--JHL-Dyer (021015)# <u>3</u> Exhibit Exh. 3--Notice of Corrected Calculation of Search Fees# <u>4</u> Exhibit Exh. 4--JHL-Herman (031126)# <u>5</u> Exhibit Exh. 5--Zaid-Herman (031126)# <u>6</u> Exhibit Exh. 6--Zaid-Herman (040729))(Lesar, James) (Entered: 08/03/2004)
08/03/2004	<u>10</u>	MOTION for Leave to File <i>Opposition to Defendant's Motion to Stay Proceedings</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Attachments: # <u>1</u> Opposition to Defendant's Motion to Stay Proceedings)(Lesar, James) (Entered: 08/03/2004)
08/03/2004	<u>9</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>7</u> First MOTION statutory fee waiver by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Fiore, Uldric) (Entered: 08/03/2004)
07/30/2004	<u>13</u>	RESPONSE to defendant's <u>5</u> MOTION to Dismiss without prejudice or, in the alternative, to Stay filed by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (jf, ) (Entered: 08/05/2004)
07/30/2004	<u>8</u>	REPLY to opposition to motion re <u>5</u> MOTION to Dismiss MOTION to Stay re <u>1</u> Complaint <i>Motion to Stay Proceedings, or in the Alternative, To Dismiss Without Prejudice, and Memorandum in Support</i> MOTION to Dismiss MOTION to Stay re <u>1</u> Complaint <i>Motion to Stay Proceedings, or in the Alternative, To Dismiss Without Prejudice, and Memorandum in Support</i> filed by ACCURACY IN MEDIA. (Clarke, John) (Entered: 07/30/2004)
07/30/2004	<u>7</u>	First MOTION statutory fee waiver by ACCURACY IN MEDIA. (Clarke, John) (Entered: 07/30/2004)
07/07/2004		Set Deadlines: Responses due by 8/20/2004 to defendants motion to stay. (rew, ) (Entered: 07/07/2004)
07/07/2004		Briefing Schedule <u>6</u> : Plaintiffs, Roger Hall and Studies Solutions Results, Inc. have up to and including July 30, 2004, within which to respond to defendant's motion to stay proceedings or, in the alternative, to dismiss this action without prejudice. Defendant's reply to plaintiffs' response shall be due on or before August 20, 2004. Official paperless order (FL, ) (Entered: 07/07/2004)
07/07/2004		Minute order granting <u>6</u> plaintiffs' consent motion to establish briefing schedule for defendant's motion to stay proceedings, or, in the alternative, to dismiss without prejudice. Signed by Judge Henry H. Kennedy, Jr., on July 7, 2004. Official paperless order (FL, ) (Entered: 07/07/2004)
07/01/2004	<u>6</u>	Consent MOTION for Extension of Time to <i>Establish Briefing Schedule</i> by ROGER HALL, STUDIES SOLUTIONS RESULTS, INC.. (Lesar, James) (Entered: 07/01/2004)
06/18/2004	<u>5</u>	MOTION to Dismiss, MOTION to Stay re <u>1</u> Complaint <i>Motion to Stay Proceedings, or in the Alternative, To Dismiss Without Prejudice, and Memorandum in Support</i> by CENTRAL INTELLIGENCE AGENCY. (Attachments: # <u>1</u> Exhibit Def Ex 1 -- FOIA Request 02-07-03# <u>2</u> Exhibit Def Ex 2 -- Agency Acknowledgment 03-13-03# <u>3</u> Exhibit Def Ex 3 -- Agency Response 06-15-04# <u>4</u> Text of Proposed

		Order)(Fiore, Uldric) (Entered: 06/18/2004)
05/25/2004	<u>4</u>	NOTICE of Appearance by John Harrison Clarke on behalf of ACCURACY IN MEDIA (Clarke, John) (Entered: 05/25/2004)
05/25/2004	<u>3</u>	NOTICE of Appearance by Uldric L. Fiore Jr. on behalf of CENTRAL INTELLIGENCE AGENCY (Fiore, Uldric) (Entered: 05/25/2004)
05/24/2004	<u>2</u>	LCvR 7.1 – CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests for ACCURACY IN MEDIA, INC. (jf, ) (Entered: 05/25/2004)
05/24/2004		SUMMONS Issued (3)as to CENTRAL INTELLIGENCE AGENCY, U.S. Attorney and U.S. Attorney General (bcs, ) (Entered: 05/24/2004)
05/19/2004	<u>1</u>	COMPLAINT against CENTRAL INTELLIGENCE AGENCY (Filing fee \$ 150.) , filed by ACCURACY IN MEDIA, ROGER HALL, STUDIES SOLUTIONS RESULTS, INC..(bcs, ) (Entered: 05/24/2004)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 04-814 (RCL)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

NOTICE OF APPEAL

Notice is hereby given this 5th day of September, 2022, that plaintiff Accuracy in Media, Inc., hereby appeals to the United States Court of Appeals for the District of Columbia Circuit from the final judgment of this Court entered on the 7th day of July, 2022, in favor of the Central Intelligence Agency, and against Plaintiffs.

Date: September 5, 2022.

Respectfully submitted,

          /s/          John H. Clarke            
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*Counsel for Plaintiff*  
*Accuracy in Media, Inc.*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, *et al.*,

*Plaintiffs,*

v.

CENTRAL INTELLIGENCE AGENCY,

*Defendant.*

Case No. 1:04-cv-814-RCL


**ORDER**

For the reasons stated in the Court's memorandum opinion, the Court **GRANTS** the CIA's motion for summary judgment and **DENIES** plaintiffs' motion for summary judgment.

The Court furthermore **GRANTS** [381] Motion for Extension of Time and [382] Consent Motion for Extension of Time nunc pro tunc.

**IT IS SO ORDERED.**

Date: July 7, 2022

  
\_\_\_\_\_  
Royce C. Lamberth  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**ROGER HALL**, *et al.*,

*Plaintiffs,*

v.

**CENTRAL INTELLIGENCE AGENCY**,

*Defendant.*

**Case No. 1:04-cv-814-RCL**

**MEMORANDUM OPINION**

This Freedom of Information Act (“FOIA”) action has been running for over eighteen years. What began as a drawn-out contest has narrowed to one final issue which the Court will put to rest today. The Court ordered the Central Intelligence Agency (“CIA”) to conduct a search of its operational files, which are typically exempt from a FOIA search. ECF No. 340 at 3. The CIA conducted that search and found no responsive records. ECF No. 353. The case was then closed, after which plaintiffs moved to reconsider so that this Court could evaluate the adequacy of the CIA’s operational file search. ECF No. 364. The Court reopened the case for that single “limited purpose.” ECF No. 375 at 5.

In December of 2021, the CIA filed a motion for summary judgment alongside a declaration that described the CIA’s search of its operational files. CIA Mot., ECF No. 376; Vanna Blaine Decl., ECF No. 376-3. Plaintiffs timely filed a cross-motion for summary judgment and opposition to the CIA’s motion, ECF No. 377, as well as a Memorandum in Support (“Pls. Mem.”), ECF No. 377.

After considering the briefing, the Court will **GRANT** the CIA’s motion for summary judgment and **DENY** plaintiffs’ motion for summary judgment.

## I. BACKGROUND

The Court has previously explained at length the factual background of this case. Plaintiffs filed a FOIA request with the CIA in February of 2003 seeking records related to prisoners of war (“POW”) from the Vietnam War. ECF No. 1 at 2. This action was commenced in May of 2004. *Id.* at 1. The procedural history in this case between 2004 and 2009 is set out in Judge Kennedy’s 2009 opinion. *Hall v. Cent. Intel. Agency*, 668 F. Supp. 2d 172 (D.D.C. 2009), ECF No. 137. Procedural history from 2009 to 2012 is set out in this Court’s 2012 opinion. *Hall v. Cent. Intel. Agency*, 881 F. Supp. 2d 38 (D.D.C. 2012), ECF No. 187. History from 2012 to 2017 is set out in the 2017 opinion. *Hall v. Cent. Intel. Agency*, 268 F. Supp. 3d 148 (D.D.C. 2017), ECF No. 291. This Court will now briefly describe the main points leading to this opinion.

In 2019, this Court ordered the CIA to search its operational files for “additional records allegedly shown to Congress.” ECF No. 340 at 1. Operational files are typically exempt from search and disclosure, but this Court ordered their search under an exception. *Id.* at 3; 50 U.S.C. § 3141(a).<sup>1</sup> The CIA conducted a search of operational files, but found no results satisfying the plaintiffs’ request. Vanna Blaine Decl. ¶ 15; *see id.* at ¶ 13 (explaining that the CIA searched for “1,400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations”). As a result, the case was terminated in summary judgment for the CIA. ECF No. 353. Then in late 2021,

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<sup>1</sup> Operational files are defined as:

(1) files of the National Clandestine Service [now known as the Directorate of Operations] which document the conduct of foreign intelligence or counterintelligence operations or intelligence or security liaison arrangements or information exchanges with foreign governments or their intelligence or security services;

(2) files of the Directorate of Science and Technology which document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems; and

(3) files of the Office of Personnel Security which document investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources;

except the files which are the sole repository of disseminated intelligence are not operational files. 50 U.S.C. § 3141(b).

the Court reopened the case for the sole and limited purpose of considering the adequacy of the CIA's search of its operational files. ECF No. 375.

## II. LEGAL STANDARDS

FOIA allows the general public to request release of records from government agencies. 5 U.S.C. § 552. It contains a “strong presumption in favor disclosure.” *A.C.L.U. v. U.S. Dep't of Justice*, 655 F.3d 1, 5 (D.C. Cir. 2011) (quoting *Nat'l Ass'n of Home Builders v. Norton*, 309 F.3d 26, 32 (D.C. Cir. 2002)).

Courts routinely settle FOIA disputes in the summary judgment stage. *See Def. of Wildlife v. U.S. Border Patrol*, 623 F. Supp. 2d 83, 87 (D.D.C. 2009). Summary judgment is appropriate where “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). Therefore, summary judgment is only appropriate “where ‘the evidence is such that a reasonable jury could not return a verdict for the nonmoving party.’” *Wash. Post Co. v. U.S. Dep't of Health and Hum. Serv.*, 865 F.2d 320, 325 (D.C. Cir. 1989) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). The Court must evaluate the record “in the light most favorable to the nonmoving party.” *Id.*

In order for the CIA to succeed on summary judgment, it must “demonstrate[] that 1) no material facts are in dispute, 2) it has conducted an adequate search for responsive records, and 3) each responsive record that it has located has either been produced to the plaintiff or is exempt from disclosure.” *Hall*, 268 F. Supp. 3d at 154 (citing *Miller v. Dep't of Justice*, 872 F. Supp. 2d 12, 18 (D.D.C. 2012)). “The ‘genuine issue of fact’ relevant to a FOIA summary judgment motion is not the existence of any particular document, but rather the reasonableness of the agency's search.” *Id.* at 159 (citing *SafeCard Serv., Inc. v. S.E.C.*, 926 F.2d 1197, 1201 (D.C. Cir. 1991)).

### III. DISCUSSION

To satisfy its burden to conduct an adequate search for documents, an agency must “conduct a search reasonably calculated to uncover all relevant documents.” *Truitt v. Dep’t of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (quoting *Weisberg v. Dep’t of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983)). Adequacy does not depend on whether other responsive documents may exist. *Id.* Rather, 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. U.S. Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). An agency may meet its burden of showing that it complied with the requirements of FOIA by providing “[a] reasonably detailed affidavit, setting forth the search terms and type of search performed, and averring that all files likely to contain responsive materials (if such records exist) were searched.” *Id.* The requirement exists as a matter of common sense: its purpose is to “afford a FOIA requester an opportunity to challenge the adequacy of the search and to allow the district court to determine if the search was adequate in order to grant summary judgment.” *Id.* In response to this affidavit, a FOIA requestor may then present “countervailing evidence.” *Iturralde v. Comptroller of Currency*, 315 F.3d 311, 314 (D.C. Cir. 2003) (citing *Founding Church of Scientology of Wash., D.C., Inc. v. Nat’l Sec. Agency*, 610 F.2d 824, 836 (D.C. Cir. 1979)).

If the totality of the circumstances “raises substantial doubt, as to a search’s adequacy, particularly in view of well-defined requests and positive indications of overlooked materials[,] summary judgment would not be appropriate.” *Hall*, 268 F. Supp. 3d at 154 (internal quotation marks omitted) (quoting *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 326 (D.C. Cir. 1999)). When considering the credibility of the agency affidavits, courts must “accord[] a presumption of good faith, which cannot be rebutted by ‘purely speculative claims about the



existence and discoverability of other documents.” *SafeCard Serv.*, 926 F.2d at 1200 (quoting *Ground Saucer Watch, Inc. v. Cent. Intel. Agency*, 692 F.2d 770, 771 (D.C. Cir. 1981)).

The CIA submitted an initial and supplemental affidavit here. Vanna Blaine Decl.; Supp. Vanna Blaine Decl., ECF No. 383-2. The CIA describes the search conducted in reasonable detail including what it searched for, Vanna Blaine Decl. ¶10, who searched, *id.* at ¶ 11, the types of documents searched and the terms used, *id.* at ¶ 12, the process by which initially responsive results were reviewed, *id.* at ¶ 13–14, and the final results, *id.* at ¶ 14. The CIA further explained that it “included all relevant office databases likely to contain responsive records.” *Id.* at ¶ 12. And later supplemented its initial declaration by explaining that “[a]ny database where operational files related to Plaintiff’s request could reasonably have been located were searched in the course of this review.” Supp. Vanna Blaine Decl. ¶ III.1. These affidavits are accorded a presumption of good faith. *See SafeCard Serv.*, 926 F.2d at 1200.

In response, plaintiffs make three primary arguments. First, that there are documents that should have turned up in the search but did not, thus indicating an inadequate search. Second, that the search terms used by the CIA were inadequate. Third, that the CIA has not adequately described its search. After evaluating the arguments that plaintiffs raise, the CIA’s own briefing, and the relevant affidavits, the Court concludes that the CIA has met its burden and established that it has conducted an adequate search. Accordingly, summary judgment is warranted.

**A. Plaintiffs’ Contention That Alleged Missing Records Indicate An Inadequate Search Fails**

“In order to obtain summary judgment the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can reasonably be expected to produce the information requested.” *Oglesby*, 920 F.2d at 68. Sometimes, failure to

uncover a particular document in a search will be given “significant weight” by a court analyzing adequacy. *Iturralde*, 315 F.3d at 315. However, unsubstantiated allegations of unreleased files hold little merit. *Meeropol v. Meese*, 790 F.2d 942, 952–53 (D.C. Cir. 1986) (“[A] search is not unreasonable simply because it fails to produce all relevant material.”). And failure to turn up a document is not alone enough—the inquiry is “the appropriateness of the methods used to carry out the search” rather than “the fruits of the search.” *Iturralde*, 315 F.3d at 315 (citing *Steinberg v. Dep’t of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994)).

Plaintiffs contend that their evidence demonstrates that the CIA has not released records “clearly in its possession.” Pls. Mem. 3. Plaintiffs cite generally to their 2016 statement of material facts, and to several affidavits, to support their contention that “affidavits contain numerous examples of operations, events and activities that surely generated relevant records that have not been provided or otherwise identified.” *Id.* at 3–4 & n.1. After reviewing the specific portions of the 2016 statement of material facts cited to by plaintiffs, as well as the affidavits referenced, this Court has identified several that form a substantial basis for plaintiffs’ contention. For example, the affidavits of Former United States Senator Bob Smith and James Sanders are statements tending to establish the prior existence of records shown to Congress.

Senator Smith stated that the Senate Select Committee on Prisoners of War found, “thousands of live-sighting reports over the years from the end of the [Vietnam] war into the 1990s.” ECF No. 258-4 ¶ 8. James Sanders quotes a Senate report from the 1990s that, “the U.S. government has at least 1,400 such [live-sighting] reports.” ECF No. 258-2 at ¶ 13.<sup>2</sup>

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<sup>2</sup> Other examples include declarations previously credited by the Court, such as those of former Congressmen Bill Hendon and John LeBoutillier. ECF No. 340 at 2; *see* ECF No. 95-45; ECF No. 83-15.

Plaintiffs also point to the 1994 affidavit of Barry Toll, who served in the Army in Southeast Asia in the 1960s and 70s. ECF No. 83-1. His statements are of a different kind, pointing not to evidence of Congressional review of records, but rather to how the purported files were kept internal to the Executive Branch. In the late 1960s and 70s Toll worked in a Department of Defense group that organized, coordinated, and collected intelligence and operations regarding POWs in Southeast Asia during the Vietnam War. *Id.* at 3. According to Toll, that group, termed the Studies Observation Group (“SOG”), was the “central bottleneck” through which all POW related intelligence from any agency “flowed to the White House.” *Id.* at 4.

Years after his work for SOG, and following extensive Congressional testimony about his experiences, Toll formed a group of experts on POWs to apprise the newly inaugurated President Clinton about “what he was not being told [about POWs].” *Id.* at 12. One member of this group was George Carver, a former CIA employee who worked in the Nixon White House during the years when SOG would send information to Washington. *Id.* Carver and Toll met with Anthony Lake, President Clinton’s National Security Advisor in 1993. *Id.* at 15. Toll recounts this meeting in his affidavit. *Id.* Carver told Toll that the SOG archives were routinely ferried from the White House to CIA headquarters at Langley where he said they would likely remain, either in the “Director of Operations files” or the “Executive Registry Files of CIA.” *Id.* at 16–18. Furthermore, Carver also stated that, even if the files had been destroyed, there would be a record of them. *Id.* at 18. Toll admits in his affidavit, however, that the Senate Select Committee was never able to “locate the SOG archives.” *Id.* at 11.

These kinds of statements were previously credited by the Court as “positive indications of overlooked materials.” ECF No. 340 at 2 (quoting *Aguiar v. Drug Enf’t Admin.*, 865 F.3d 730, 738 (D.C. Cir. 2017)). The Court came to that conclusion, in part, because the CIA specifically

refused to “confirm nor deny” the existence of the records. *Id.* Back then, the CIA stated that, if the records existed, they would be in operational files. *Id.* That ominous non-answer has been rendered moot by the search at issue here, which turned up no responsive records in the CIA’s operational files. Thus, the plaintiffs’ affidavits and other evidence must now stand alone. But, just because “a document [might have] once existed does not mean that it now exists.” *Miller v. Dep’t of State*, 779 F.2d 1378, 1385 (8th Cir. 1986). This logic applies to the statements of Toll, the statements of Sanders and Senator Smith, as well as additional statements tending to establish the existence of records shown to Congress in the past. Files once displayed to plaintiffs’ declarants need not exist thirty to fifty years later. In like fashion, plaintiffs’ varied and voluminous references to documents and exhibits, some of which the CIA has previously released, do not demonstrate that the CIA possesses related files. “[M]ere reference to other files does not establish the existence of [relevant] documents.” *Morley v. Cent. Intel. Agency*, 508 F.3d 1108, 1121 (D.C. Cir. 2007) (internal quotation marks omitted) (quoting *Steinberg*, 23 F.3d at 552).

But more fundamentally, plaintiffs’ evidence fails given the limited purpose here. Agencies normally have discretion when determining which systems they believe are going to be responsive to a plaintiff’s request. *See Oglseby*, 920 F.2d at 68. But here, the Court specifically ordered a search of operational files. ECF No. 340 at 3. The Court is only addressing the adequacy of that operational files search. ECF No. 375 at 5. And the plaintiffs’ evidence does not establish, or even significantly suggest, that the files referenced are in the CIA’s current operational files.<sup>3</sup>

In sum, plaintiffs’ evidence is simply too attenuated to sufficiently overcome the CIA’s adequate affidavit. *See Iturralde*, 315 F.3d at 315. Plaintiffs’ affidavits, even considered alongside

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<sup>3</sup> Plaintiffs’ assertion that “the Agency declined to search” the systems mentioned by Mr. Toll for responsive records that they believe to be within the SOG archives is thus even further off base. Pls. Mem. 7–8. The CIA was only required to search its operational files.

the other parts of the eighteen-year record, fail to bind together in a manner that overcomes the CIA's showing of an adequate operational files search. Thus, the fact that these referenced records did not appear does not counsel a finding of inadequacy. *See id.*

### **B. Plaintiffs' Contention That Search Terms Were Insufficient Fails**

Plaintiffs' next argument is that a litany of search terms should have been used by the CIA. Pls. Mem. 4–7. This is no small request, especially since plaintiffs argue that the CIA should search its operational files for over 1700 individual names and terms related specifically to Laos. *Id.* at 4–5. Furthermore, such a request runs directly into FOIA precedent advising that “agencies generally have ‘discretion in crafting a list of search terms’ as long as they are ‘reasonably tailored to uncover documents responsive to the FOIA request.’” *Heffernan v. Azar*, 317 F. Supp. 3d 94, 108 (D.D.C. 2018) (quoting *Tushnet v. U.S. Immigr. & Customs Enf't*, 246 F. Supp. 3d 422, 434 (D.D.C. 2017)); *see Bigwood v. U.S. Dep't of Def.*, 132 F. Supp. 3d 124, 140–41 (D.D.C. 2015); *Liberation Newspaper v. U.S. Dep't of State*, 80 F. Supp. 3d 137, 146 (D.D.C. 2015).

Here the CIA lists the following search terms: “POWs, prisoners of war, MIA, missing in action, Vietnam, task force, House Special POW, image, and different combinations and variations of those search terms.” Vanna Blaine Decl. ¶ 12. The CIA also explains that it used broad search terms because the use of more specific terms may have omitted documents potentially responsive to plaintiff. Supp. Vanna Blaine Decl. ¶ III.2. The Court finds these terms sufficient because “it . . . appears more than likely that the terms utilized would identify” documents responsive to plaintiffs' request. *See Bigwood*, 132 F. Supp. 3d at 141. The terms used by the CIA appear to be reasonably likely to have yielded the files sought by plaintiffs if they were indeed present in the CIA's operational files.

### **C. Plaintiffs’ Contention That The CIA Failed To Describe Its Search in Adequate Detail Fails**

Plaintiffs’ last argument is that the CIA’s description of its search is insufficient to warrant summary judgment. Pls. Mem. 2–3. The Court holds the CIA’s description is adequate, especially considering the circumstances of this case, wherein the Court has ordered the CIA to search its operational files.

When describing its search an agency must provide affidavits that are “‘relatively detailed’ and nonconclusory and must be submitted in good faith.” *Perry v. Block*, 684 F.2d 121, 126 (D.C. Cir. 1982) (quoting *Goland v. Cent. Intel. Agency*, 607 F.2d 339, 352 (D.C. Cir. 1978)). Moreover, affidavits must “explain in reasonable detail the scope and method of the search conducted by the agency.” *Id.* at 127. However, an agency need not “in every FOIA case . . . set forth with meticulous documentation the details of an epic search for the requested records.” *Id.*

The D.C. Circuit’s cases lay out general criteria for determining adequate description. *See, e.g., Weisberg* 627 F.2d at 371; *Mobley v. Cent. Intel. Agency*, 806 F.3d 568, 581 (D.C. Cir. 2015); *Morley*, 508 F.3d at 1122. Broadly, an adequate description will include (1) an explanation of what files were searched, (2) who searched them, and (3) a description of the systematic approach used to locate responsive documents. The Court will take each of these in turn.

First, the CIA denotes what files were searched. It does so by specifying (1) the search terms used, (2) why they were selected, (3) that the search was not limited by date range, (4) and that both electronic and hard-copy files were searched across “Agency-wide operational file systems.” Vanna Blaine Decl. ¶¶ 10, 12; Supp. Vanna Blaine Decl. ¶ III.1–2. Second, for who, the CIA explains that “CIA information management professionals” searched through the file systems and conducted a two-tiered review. Vanna Blaine Decl. ¶ 11. Finally, the CIA describes its

systematic approach. The CIA describes the “broad search terms” used to find initially responsive documents. *Id.* at ¶ 12. Then, for files identified by the search, the CIA explains how it proceeded to individually review any responsive records for information relating to the plaintiffs’ request. *Id.* at ¶¶ 13–14.

Nevertheless, Plaintiffs argue that the CIA must provide more information such as, the names of offices and records systems searched, how many databases were searched, if there were indices used, and how many hours were devoted to the search. Pls. Mem. 3. Plaintiffs cite to an earlier opinion in this case, *Hall*, 668 F. Supp. 2d at 172, which held that a different CIA search was inadequately described. *Id.* at 184; Pls. Mem. 2. There, the CIA provided “no information regarding how the search used to locate the records produced . . . occurred.” *Hall*, 668 F. Supp. 2d at 184. But, unlike then, the affidavit here contains detailed information about how this search was conducted.

Plaintiffs cite no other cases to support their proposition that the CIA must be more detailed. And, in fact, cases suggest that the CIA is not obligated to, “disclose the specific offices searched or other search methodologies with such granularity.” *Looks Filmproduktionen GmbH v. Cent. Intel. Agency*, 199 F. Supp. 3d 153, 167 (D.D.C. 2016); see *DiBacco v. Dep’t of the Army*, 795 F.3d 178, 194–95 (D.C. Cir. 2015). The CIA’s description is therefore sufficient on its own merits.<sup>4</sup>

But even beyond the affidavit’s independent sufficiency, this case involves unique circumstances that further counsel ruling in favor of the CIA. The Court ordered the CIA to search its operational files. ECF No. 340. Operational files are typically exempt from search, review, or

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<sup>4</sup> The CIA’s declaration certifies that, “[a]ny database where operational files related to plaintiffs’ request could reasonably have been located were searched in the course of this review.” Supp. Vanna Blaine Decl. ¶ III.1.


disclosure under the National Security Act of 1947. 50 U.S.C. § 3141(a); *Morley*, 508 F.3d at 1116. It is only because this Court applied one of the Act’s limited exceptions that the CIA needed to search its operational files here. ECF No. 340 at 3; 50 U.S.C. § 3141 (f)(4). The CIA rightfully points out the sensitive national security nature of its operational files. Supp. Vanna Blaine Decl. ¶ III.1. Thus, requiring an even more detailed description would be delicate matter.

Particularly given that the CIA’s affidavits already make a strong showing of sufficiency, this Court finds that the description is adequate.<sup>5</sup>

#### IV. CONCLUSION

For the foregoing reasons, the Court will **GRANT** the CIA’s motion for summary judgment and **DENY** plaintiffs’ motion for summary judgment by separate order.

Date: July 7, 2022

  
\_\_\_\_\_  
Royce C. Lamberth  
United States District Judge

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<sup>5</sup> Given the aforementioned analysis, the plaintiffs’ other argument, that the CIA’s description fails because the search “generated a few [initially responsive] records,” Vanna Blaine Decl. ¶ 13, but did not detail the exact number, cannot win the day. Plaintiffs cite no case wherein a court has found a search inadequate based on a lack of specificity regarding the initial number of responsive records. And cases in this Circuit suggest that without more missing information, a court will not hold a search inadequate on such a basis. *See Morley*, 508 F.3d at 1122; *Nation Magazine, Wash. Bureau v. U.S. Customs Serv.*, 71 F.3d 885, 891 (D.C. Cir. 1995). Thus, plaintiffs cannot impugn the adequacy of the CIA’s search by demanding the specific numbers of initially responsive records.



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,

Plaintiffs,

v.

Case No. 1:04-cv-814-RCL

CENTRAL INTELLIGENCE AGENCY,

Defendant.

**SUPPLEMENTAL DECLARATION OF VANNA BLAINE, INFORMATION REVIEW  
OFFICER FOR THE LITIGATION INFORMATION REVIEW OFFICE,  
CENTRAL INTELLIGENCE AGENCY**

I, VANNA BLAINE, hereby declare and state:

**I. INTRODUCTION**

1. I currently serve as the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I have held this position since February 2020.

2. I respectfully refer the court to my previous Declaration for a detailed description of my professional experience.

3. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA requests. I make

the following statements based upon my personal knowledge and information made available to me in my official capacity.

**II. PURPOSE OF THIS DECLARATION**

4. The purpose of this declaration is to further clarify the CIA's search of its operational records.

5. On August 2, 2019, this Court ordered the CIA to "review its operational files and explain with specificity whether any additional responsive records exist and, if so, why they must be exempt from FOIA." ECF 340.

6. On August 30, 2019, the CIA filed a Motion to Reconsider in response to the Court's August 2019 order to search its operational files. ECF 342.

7. On March 31, 2020, the Court denied the CIA's Motion to Reconsider. ECF 345. Following the Court's March 31, 2020 order, the CIA began the process of searching its operational files.

8. On October 30, 2020, the CIA reported to the Court the search was complete and no responsive records were located.

9. On December 21, 2021 the CIA filed a Motion for Summary Judgment along with a Declaration detailing the CIA's operational file search.

**III. ADEQUACY OF THE SEARCH**

1. Given the CIA's national security mandate, specific information about Agency databases and exactly how these repositories are structured and searched cannot be described in great detail on the public record. However, I can say that the CIA searched centralized


internal databases containing Agency-wide operational files, including cables, intelligence reports and other records. Aged operational files, originally maintained in hard copy form, were digitized and made a part of these databases. Any database where operational files related to Plaintiff's request could reasonably have been located were searched in the course of this review.

2. The search terms the CIA provided in the December 21, 2021 Declaration ("POWs," "prisoners of war," "MIA," "missing in action," "Vietnam," "task force," "House Special POW," "image,") were a selection of those used for the search of operational files. Keyword searches were calculated to retrieve from the database records that contained those terms as well as variants of those terms. The search method did not include more precise or narrowed terms because utilizing more specific search terms would not have necessarily been effective in identifying documents potentially responsive to Plaintiffs' request, and may have inadvertently excluded otherwise responsive documents that failed to contain the more specific search terms. Out of an abundance of caution, a broad search method was employed to properly capture all documents potentially responsive to Plaintiffs' request.

\* \* \*

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 11<sup>th</sup> day of May 2022.

  
\_\_\_\_\_  
Vanna Blaine  
Information Review Officer  
Litigation Information Review Office  
Central Intelligence Agency



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 04-814 (RCL)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT,  
AND OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

COMES NOW plaintiff Accuracy in Media, Inc. ("AIM"), under Rule 56 of the Federal Rules of Civil Procedure, and respectfully move this Court for entry of Summary Judgment in its favor, and opposes defendant CIA's motion for summary judgment. Counsel for plaintiffs Roger Hall and Studies Solutions Results, Inc., will be submitting their dispositive pleadings separately, if given leave to do so late.

In support of this relief, plaintiff submits its attached *Memorandum of Points and Authorities*, together with Plaintiff's *Statement of Facts*, and its *Response to Defendant's Statement of Facts*.

Date: January 25, 2022.

Respectfully submitted,

\_\_\_\_\_/s/ John H. Clarke  
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Counsel for Plaintiffs

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 04-814 (RCL)  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
PLAINTIFF ACCURACY IN MEDIA'S OPPOSITION TO DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT, AND IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT

**Legal Standard**

***Required Description of Search.*** The affidavits or declarations submitted to meet the CIA's burden must "explain in reasonable detail the scope and method of the agency's search." *Defenders of Wildlife v. U.S. Border Patrol*, 623 F. Supp. 2d 83, 91 (D. D.C. 2009) (citing *Judicial Watch, Inc. v. U.S. Dep't of Justice*, 185 F. Supp. 2d 54, 63 (D. D.C. 2002)); see also *Morley v. CIA*, 508 F. 3d 1108, 1121 (D.C. Cir. 2007) (holding that the CIA's description of a search was inadequate where the declaration "provide[d] no information about the search strategies of the components charged with responding to [plaintiff]'s FOIA request" and did not "provide any indication of what each directorate's search specifically yielded"); *Steinberg*, 23 F. 3d at 551-52 (finding a "serious doubt" as to whether an agency's search was reasonable when the accompanying affidavit "fails to describe what records were searched, by whom, and through what processes").

At the summary judgment stage, the agency bears the burden of showing that it complied with FOIA and it may meet this burden "by providing 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." *Iturralde v.*

*Comptroller of Currency*, 315 F.3d 311, 313-14 (D.C. Cir. 2003). *See, e.g., Hall v. C.I.A.*, 668 F.Supp.2d 172, 179 (D. D.C. 2009):

The DiMaio Declaration includes no information regarding how the search used to locate the records produced in September 2007 occurred. DiMaio Aff. ¶ 6. The Court therefore denies the CIA's request for summary judgment as to the adequacy of its search for additional item 3 records. The CIA must provide a supplemental declaration describing its search method, including search terms, databases searched, and other relevant information that will allow the Court to evaluate whether the Agency's search was adequate.

***Indications of Overlooked Materials.*** If a review of the record created by these affidavits "raises substantial doubt," as to a search's adequacy, "particularly in view of 'well defined requests and positive indications of overlooked materials,'" summary judgment would not be appropriate. *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 326 (D.C. Cir. 1999) (quoting *Founding Church of Scientology v. Nat'l. Sec. Agency*, 610 F.2d 824, 837 (D.C. Cir. 1979).

### **Argument**

***Absence of Information Regarding Search.*** In support of its Summary Judgment Motion, ECF No. 376 (*Motion*), the CIA provided the Declaration of Vanna Blaine, ECF No. 376-3 (*Blaine Decl.*). "The purpose of this declaration," writes the CIA, "is to explain and justify, to the greatest extent possible on the public record, the CIA's search of its operational records." *Blaine Decl.* ¶ 5.

The CIA's explanation, and justification, is that it "conducted thorough and diligent searches of relevant systems of operational records" (*id.* ¶ 10), it used eight search terms, ("POWs," "prisoners of war," "MIA," "missing in action," "Vietnam," "task force," "House

Special POW," and "image") (*id.* ¶ 12), the search "generated a few records," (*id.* ¶ 13), none of which were responsive. *Id.* ¶ 14.

That is the sum total of the CIA's description of its search.

What are the relevant record systems? How many are there? What are the names of those systems? The systems are repositories for what components or offices? Did CIA search the records of the National Clandestine Service, or the Directorate for Science and Technology, or the Office of Personnel Security, or the Office of Congressional Affairs, or the National Archives?

Were the searches electronic, or hard copies, or both? Do the systems have indices, or sub-indices? If so, how many indices were searched? Did any index refer to a potentially relevant series? How many hours were devoted to the search?

***Positive Indications of Overlooked Materials.*** Notwithstanding the fundamental question being not "whether there might exist any other documents responsive to the request, but rather whether the search for those documents was adequate," *Steinberg v. Dep't of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994) the absence of identification and production of responsive records is so wide-ranging as to be highly probative of the inadequacy of the government's search.

Plaintiffs' affidavits contain numerous examples of operations, events and activities that surely generated relevant records that have not been provided or otherwise identified. The paucity of the CIA's production, compared to the records clearly in its possession, is uncontroverted. Plaintiffs have pointed to a number of specific documents which are



reasonably thought to be responsive records—but which remain unidentified.<sup>1</sup>

Defendant's Declaration is suspect on its face. Plaintiffs are hard-pressed to imagine that the CIA searched all repositories of all its operational records using the search term, "Vietnam," and the search generated only "a few records" *Blaine Decl.* ¶ 13.

Moreover, such a search should have contained the search term, "Laos."

**Laos.** Although the CIA was joined by the DOD in tracking POWs in Southeast Asia—both before and after Operation Homecoming—the CIA played a major, if not the dominant, role in those efforts. "Asked who was the dominant collector of information in Laos, the CIA or the Department of Defense (DOD), [Major General Richard] Secord replied, 'CIA, clearly, because of the resources they had on the ground.' Asked who had the best information, the Defense Intelligence Agency or the CIA, Secord replied:

The CIA was in charge of the war [in Laos], not the military. The military helped out a little bit on the side, particularly through the provisions of air assets, but the military had very few people on the ground except for forward air controllers, which were very good, and some air attaches, whereas the

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<sup>1</sup> See, e.g., *Plaintiffs' Statement of Material Facts*, ECF No. 258-5, Contents at 2-3:  
Thousands of live sighting reports. . . . . 16-18  
Policy of withholding records. . . . . 19-22  
Criminal misconduct, cover-up. . . . . 23-26  
Secret military signals and codes  
and messages sent from POWs. . . . . 27-31  
Other satellite imagery and photographs . . . . . 32-50  
Offer to repatriate POWs for reward. . . . . 51-56  
Rescue operations. . . . . 57-65  
Military Assistance Command, Vietnam—  
Special Operations Group. . . . . 66-69  
Nhom Marrott. . . . . 70-74  
David Hrdlicka. . . . . 75-79  
Other records not produced. . . . . 80-109  
Other records of POWs in Laos. . . . . 110-114  
Other records of specific operations and locations. . . . . 115-125  
Lists of prison sites. . . . . 126-127  
Additional records of POWs into the 1980s and 1990s. . . . . 128-153  
POWs transferred to Russia, North Korea, China. . . . . 154-159

Central Intelligence Agency had several hundred people on the ground in Laos.

*Hall Aff.* ¶ 119, quoting Exhibit 8 at Bates 32.

"CIA station chiefs testified before the Senate Committee that the CIA had primary responsibility for interviewing all human sources of such intelligence, including refugees during this period. See Exhibit 26, October 1991 Select Committee Deposition COS, Vientiane (1970-1973) Bates 111-19." *Hall Aff.* ¶ 151.

"[A]ll live sighting reports that came into the [US] embassy [in Laos] went directly to the CIA Station Chief." *LeBoutillier Aff.* Docket 83-15 ¶ 12. "Witnesses before the Select Committee testified repeatedly to the involvement of CIA field stations in Vietnam, Laos, Cambodia, and Thailand, in the gathering of information about POW/MIAs." *Hall Aff.* ¶ 122.

"The government had over 1,400 first-hand live-sighting reports, and several thousand second hand reports, of Americans being held captive throughout Vietnam and Laos" (*Sanders Aff.* ¶ 13), and "investigators on the Senate Select Committee found literally thousands of live-sighting reports over the years from the end of the war into the 1990s." *Smith Aff.* ¶ 9. These accounts of live sighting occasioned an initial interview, and an interview report, accompanied, presumably, by hand-written notes. Of the several thousand raw initial interview reports, the CIA has produced exactly *zero*. It has produced a few hundred summaries—a far cry from the *thousands* available to the Senate Select Committee looking into the matter.

***Search Terms.*** After being order to search the 1,711 names on the Primary Next-of-Kin list, the CIA produced records on only 11 of those names. But that was before defendant was ordered to search its operational records. So, the CIA should conduct that search of its operational records.

Moreover, the Agency is well aware that other search terms are appropriate. For example, it could search using the names of facilities known to house American POWs,<sup>2</sup> including Nhom Marrott—the subject of Lynn O'Shea's book, "Abandoned in Place,"<sup>3</sup> or the code names of known operations of rescue reconnaissance,<sup>4</sup> for which it has provided *no* responsive records. Nor has the CIA provided any records of POWs transferred to Russia, North Korea, or China.<sup>5</sup>

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<sup>2</sup> See *Plaintiffs' Statement of Material Facts* ECF No. 258-5; Tran Phu prison in Haiphong, North Vietnam (¶¶ 29, 39, Dong Vai (Dong Mang) prison (*id.*), camp in Sam Neua Laos (¶¶ 50,103), or Tan Lap Prison, Vinh Phu Province, North Vietnam (¶ 92), facilities in the towns of Mahaxy, Pha Kateom, Laos (*id.* ¶ 114), or in Son Tay, Vietnam (*id.* ¶ 119).

<sup>3</sup> *Id.* ¶ 71:

The Central Intelligence Agency (CIA) holds never released documents relating to American servicemen Prisoners of War and Missing in Action in Southeast Asia, and at least one camp believed to hold these servicemen after March 1973. During the period March 1979- June 1981, the CIA gathered intelligence, including human intelligence reporting, and imagery of a prison camp located in the Nhom Marrott District of Khammouane Province Laos. According to intelligence reports approximately 18- 30 American Prisoner of War were held at this camp from September 1980-May 1981 and perhaps beyond. Between January and May 1981 the CIA dispatched a least one reconnaissance team to the camp location to photograph the inmates and gather intelligence. The CIA continues to withhold information on the preparation for the mission, team progress reports, photographs taken at the camp and the debriefing of reconnaissance team members. *O'Shea Aff.* Docket 182-6 ¶¶ 1-2.

<sup>4</sup> *E.g.*, code names Duck Soup (*id.* ¶ 57), Operation Thunderhead (*id.* ¶ 62), Operation Blackbeard, Oak, Nantucket, Vesuvius One, Sunstune Park, Gunboat, Bright Light, Project Alpha, Operation Pocket Change, Project Corona (*id.* ¶ 115).

<sup>5</sup> See *e.g.*, *id.* ¶¶ 154-158:

After his May 19, 1967, shoot down and capture, James Kelly Patterson, "an expert in the use of his aircraft's state-of-the-art electronics system being used to defeat Vietnam's Russian-made missile defense system" was shipped

Additionally, plaintiffs' affidavits include proof that the Director of Operations maintained files "detailing our certain knowledge of the second tier prison system in Laos, and the numbers of American POWs being held there," and that these files may have

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to a closed Russian military region dedicated to missile research and testing. *McDaniel Aff.* ¶ 12.

"Exhibit 99 is a CIA Report to the White House Situation Room regarding alleged location of live American POWs in Luang Prabang province Laos mid-1985, 1986, at Bates 303. It relates: 'There had been 12 American POWs at the site but in 1985 five of the Americans POWs were moved to the Soviet Union....' The CIA has not provided any... information regarding the POWs mentioned in this document." *Hall Aff.* ECF No. 260 ¶ 88.

"Exhibit 43, Bates 206, is a March 12, 1982, Foreign Intelligence Information Report from the CIA's Domestic Collection Division, claiming Soviet incarceration of U.S. Vietnam era POWs.... I have not received any records regarding this from the CIA." *Id.* ¶ 38.

"Exhibit 44 is a March 9, 1988 CIA Memorandum regarding "alleged Sightings of American POWs in North Korea from 1975 to 1982." It refers to three reports. One is of "two Americans [observed] in August 1986," and the other is regarding "about 10 military pilots captured in North Vietnam [that] were brought to North Korea." The third report concerns a sighting of 11 "Caucasians," in 1988. The CIA has produced no records regarding any POWs brought to Korea during the Vietnam War." *Id.* ¶ 99.

"Exhibit 38(h), at Bates 189, is a June 1992 Memo to Select Committee re 'President's Daily [CIA] Intel Briefings,' seeking copies of those briefings 'given to the President regarding the possibility of POWs being transferred to the East Bloc after Homecoming.' The author has 'a source who claims to have seen them.' The memo said the CIA had responded that they "are not available to anyone." The CIA has provided few President's Daily Intel Briefings. The CIA should produce all such briefings that address the POW issue. *Id.* ¶ 121.

thereafter been relocated to the "Executive Registry Files of CIA."<sup>6</sup> But, as far as plaintiffs know, the Agency declined to search those records.

### CONCLUSION

There is no genuine issue of material fact regarding defendant's failures to conduct, and describe, meaningful searches.

WHEREFORE, Plaintiff Accuracy in Media, Inc., respectfully asks that the Court enter Summary Judgment in its favor.

DATE: January 25, 2022.

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<sup>6</sup> *Plaintiffs' Statement of Material Fact* ¶¶ 163-65:

At a meeting in the White House in 1993, "George [Carver] proffered CIA documents he'd authored, as late as 1975, going to the Director himself, about Americans still held captive in Indochina in the hundreds. I [Toll] provided CIA documents going to the Director himself, in 1967 and 1969, detailing our certain knowledge of the second tier prison system in Laos, and the numbers of American POWs being held there at the time. Their exact coordinates were noted." *Toll Aff.* Docket 83-1 at p. 12.

At a meeting in the White House in 1993 Toll asked Carver "'all of those intelligence materials and product flowed directly to you in the Nixon White House, did they not?' and George said 'Yes,'" again. *Toll Aff.* Docket 83-1 at p. 12.

Regarding records referenced in the foregoing paragraph, "George [Carver] said, 'I sent them back to Langley for storage, through the DO,' meaning the Directorate for Operations in the CIA. 'That was the arrangement I had,' he continued, 'usually by courier.'" *Toll Aff.* Docket 83-1 at p. 18.

Carver stated that [i]f they moved them out of Operations, historically, they would probably be moved to the Director's files... to the Executive Registry Files of CIA..." *Toll Aff.* Docket 83-1 at p. 18.

Respectfully submitted,

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*Counsel for Plaintiff*  
*Accuracy in Media, Inc.*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 04-814 (RCL)  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

PLAINTIFFS' STATEMENT  
OF MATERIAL FACTS NOT IN GENUINE DISPUTE

COMES NOW plaintiff Accuracy in Media, Inc., ("AIM"), under to Fed. R. Civ. P. 56(c)(1) and Local Civil Rule 7(h), and respectfully submits this Statement of Material Facts as to which there is no Genuine Issue.

1. CIA did not name any component, or office, searched. *Blaine Decl.*, ECF No. 376-3.
2. CIA did not identify any records system searched. *Id.*
3. CIA did not identify whether its searches were of hard copies, or electronic searches, or both. *Id.*
4. CIA did not identify whether its searches utilized indices, or sub-indices.
5. CIA did not identify how many hours were devoted to its search.

Date: January 25, 2022.

Respectfully submitted,

          /s/ John H. Clarke            
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1629 K Street, NW  
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*Attorney for Plaintiff*  
*Accuracy in Media, Inc.*



UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 04-814 (RCL)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

PLAINTIFFS' RESPONSE TO DEFENDANT'S LOCAL RULE STATEMENT

COMES NOW plaintiff Accuracy in Media, Inc., ("AIM"), under Local Civil Rule 7(h), and respectfully submits this Response to Defendant's Statement of undisputed Material Facts.

CIA Statement:

1. On August 2, 2019, this Court ordered the CIA to “review its operational files and explain with specificity whether any additional responsive records exist and, if so, why they must be exempt from FOIA.” ECF 340. Blaine Decl. ¶ 6.

Plaintiff's Response: Admit.

CIA Statement:

2. On August 30, 2019, the CIA filed a Motion to Reconsider in response to the Court's August 2019 order to search its operational files. ECF 342. *Id.* ¶ 7

Plaintiff's Response: Admit.

CIA Statement:

3. On March 31, 2020, the Court denied the CIA's Motion to Reconsider. ECF 345. Following the Court's March 31, 2020, the CIA began the process of searching its operational files. *Id.* ¶ 8.

Plaintiff's Response: Deny. Plaintiff is without sufficient information to admit the forgoing Statement because defendant has wholly failed to describe its search.

CIA Statement:

4. On October 30, 2020, the CIA reported to the Court the search was complete and no

responsive records were located. *Id.* ¶ 9.

Plaintiff's Response: Admit.

CIA Statement:

5. The CIA conducted thorough and diligent searches of relevant systems of operational records that were reasonably calculated to find documents with respect to "1,400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations." *Id.* ¶ 10.

Plaintiff's Response: Deny. Plaintiff is without sufficient information to admit the forgoing Statement because defendant has wholly failed to describe its search.

CIA Statement:

6. In response to the Court's 2020 order, CIA information management professionals searched Agency records in operational file systems. *Id.* ¶ 11.

Plaintiff's Response: Deny. Plaintiff is without sufficient information to admit the forgoing Statement because defendant has wholly failed to describe its search.

CIA Statement:

7. The search included an exhaustive electronic and hard copy search of Agency records. In the course of this search, CIA personnel included all relevant office databases likely to contain responsive records. Experienced CIA information management professionals cast a deliberately wide net for the requested records by employing broad search terms such as "POWs," "prisoners of war," "MIA," "missing in action," "Vietnam," "task force," "House Special POW," "image," and different combinations and variations of those search terms. The search was not limited to a particular date range and was thus conducted to include records through the date of the search. *Id.* ¶ 12.

Plaintiff's Response: Deny. Plaintiff is without sufficient information to admit the forgoing Statement because defendant has wholly failed to describe its search, including whether it searched electronically, or by reading hard copies,

CIA Statement:

8. The expansive search terms used generated a few records. Each of these records was retrieved from the database and Agency personnel reviewed them to determine whether the records were responsive to the Court-ordered search with respect to "1,400 live sighting reports that were reportedly displayed at Congressional

briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations.” The Agency used a plain reading of the request to inform its responsiveness calls. *Id.* ¶ 13.

Plaintiff's Response: Deny. Plaintiff cannot admit the forgoing Statement because defendant has wholly failed to describe its search.

CIA Statement:

9. Following this second-level review, the Agency determined none of the potentially responsive documents retrieved using the electronic search protocols were actually responsive. In each instance, the documents the search retrieved contained at most a mere mention of one or more of the terms but did not address the actual request. *Id.* ¶ 14.

Plaintiff's Response: Deny. Plaintiff is without sufficient information to admit the forgoing Statement because defendant has wholly failed to describe its search.

CIA Statement:

10. CIA personnel conducted a thorough search of all relevant records systems that were reasonably calculated to uncover responsive records. The Agency did not locate records responsive to the request, despite the Agency's exhaustive search. *Id.* ¶ 15.

Plaintiff's Response: Deny. Plaintiff is without sufficient information to admit the forgoing Statement because defendant has wholly failed to describe its search.

Date: January 25, 2022.

Respectfully submitted,

\_\_\_\_\_  
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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,

*Plaintiffs,*

v.

CENTRAL INTELLIGENCE AGENCY,

*Defendant.*

Civil Action No. 04-0814 (RCL)

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Defendant, the Central Intelligence Agency, respectfully moves for summary judgment in this Freedom of Information Act case brought by Plaintiffs Roger Hall and others. As explained in the accompanying brief and supporting materials, the Agency conducted a reasonable and thorough search and found no responsive records. Therefore, the Agency is entitled to summary judgment. A proposed order is attached.

Dated: December 21, 2021

Respectfully submitted,

MATTHEW M. GRAVES, D.C. Bar. # 481052  
United States Attorney

BRIAN P. HUDAK  
Acting Chief, Civil Division

*/s/ Thomas W. Duffey*  
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*Attorneys for Defendant*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

Case No. 1:04-cv-814-RCL

DECLARATION OF VANNA BLAINE, INFORMATION REVIEW OFFICER FOR  
THE LITIGATION INFORMATION REVIEW OFFICE,  
CENTRAL INTELLIGENCE AGENCY

I, VANNA BLAINE, hereby declare and state:

I. INTRODUCTION

1. I currently serve as the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). I have held this position since February 2020.

2. Prior to becoming the IRO for LIRO, I served as the Deputy IRO for LIRO beginning in April 2019, during which time I also served as the Acting IRO in the IRO's absence. Prior to becoming the Deputy IRO for LIRO, I served as the office's Litigation Production Manager for 24 months. In that capacity, I was the senior litigation analyst responsible for managing and tracking case assignments, and litigation deadlines. In this role, I also conducted second-line reviews of Agency information subject to

litigation, making classification and release determinations regarding such information when necessary. Before serving as the Production Manager, I was an Associate Information Review Officer for the Director's Area of the CIA for 11 months. In that role, I was responsible for making classification and release determinations for information originating within the Director's Area, which included, among other offices, the Office of the Director of the CIA, the Office of Congressional Affairs, the Office of Public Affairs, and the Office of General Counsel. Prior to that, I was an Associate Information Review Officer and Team Lead in LIRO for 28 months, where I performed similar review functions, routinely making classification and release determinations regarding Agency-wide information subject to pending litigation. I have held other administrative and professional positions within the CIA since 2007, and have worked in the information review and release field since 2014.

3. As the IRO for LIRO, I am currently responsible for the classification review of CIA documents and information that may be the subject of court proceedings or public requests for information under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. I am a senior CIA official and hold original classification authority at the TOP SECRET level under written delegation of authority pursuant to section 1.3(c) of Executive Order No. 13,526, 75 Fed. Reg. 707 (Jan. 5, 2010) ("E.O. 13526"). This means I am authorized

to assess the current, proper classification of CIA information, up to and including TOP SECRET information, based on the classification criteria of E.O. 13526 and applicable regulations.

4. Through the exercise of my official duties, I have become familiar with this civil action and the underlying FOIA requests. I make the following statements based upon my personal knowledge and information made available to me in my official capacity.

**II. PURPOSE OF THIS DECLARATION**

5. The purpose of this declaration is to explain and justify, to the greatest extent possible on the public record, the CIA's search of its operational records.

6. On August 2, 2019, this Court ordered the CIA to "review its operational files and explain with specificity whether any additional responsive records exist and, if so, why they must be exempt from FOIA." ECF 340.

7. On August 30, 2019, the CIA filed a Motion to Reconsider in response to the Court's August 2019 order to search its operational files. ECF 342.

8. On March 31, 2020, the Court denied the CIA's Motion to Reconsider. ECF 345. Following the Court's March 31, 2020, the CIA began the process of searching its operational files.

9. On October 30, 2020, the CIA reported to the Court the search was complete and no responsive records were located.

**III. ADEQUACY OF THE SEARCH**

10. The CIA conducted thorough and diligent searches of relevant systems of operational records that were reasonably calculated to find documents with respect to "1,400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations."

11. In response to the Court's 2020 order, CIA information management professionals searched Agency records in operational file systems.

12. This search included an exhaustive electronic and hard copy search of Agency records. In the course of this search, CIA personnel included all relevant office databases likely to contain responsive records. Experienced CIA information management professionals cast a deliberately wide net for the requested records by employing broad search terms such as "POWs," "prisoners of war," "MIA," "missing in action," "Vietnam," "task force," "House Special POW," "image," and different combinations and variations of those search terms. The search was not limited to a particular date range and was thus conducted to include records through the date of the search.

13. The expansive search terms used generated a few records. Each of these records were retrieved from the database and Agency personnel reviewed them to determine whether the records were



responsive to the Court-ordered search with respect to "1,400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations." The Agency used a plain reading of the request to inform its responsiveness calls.

14. Following this second-level review, the Agency determined none of the potentially responsive documents retrieved using the electronic search protocols were actually responsive. In each instance, the documents the search retrieved contained at most a mere mention of one or more of the terms, but did not address the actual request.

15. In sum, CIA personnel conducted a thorough search of all relevant records systems that were reasonably calculated to uncover responsive records. The Agency did not locate records responsive to the request, despite the Agency's exhaustive search.

\* \* \*

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of December 2021.

  
\_\_\_\_\_  
Vanna Blaine  
Information Review Officer  
Litigation Information Review Office  
Central Intelligence Agency

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, *et al.*,

*Plaintiffs,*

v.

CENTRAL INTELLIGENCE AGENCY,

*Defendant.*

Case No. 1:04-cv-814-RCL

MEMORANDUM & ORDER

Here marks the latest chapter in this 17-year Freedom of Information Act (“FOIA”) saga. While the Court was eager to bring this lawsuit to a close, the Court agrees with plaintiffs that this lawsuit’s end is not yet upon us. For the reasons stated below, the Court will **GRANT** the plaintiffs’ motions [364, 365] to reconsider and reopen this case for one singular, limited purpose—to consider the adequacy of the Central Intelligence Agency’s (“CIA”) most recent search.

After the most recent round of summary judgment briefing (the fourth in this case), the CIA had not yet confirmed the existence of records allegedly shown to Congress and responsive to plaintiffs’ FOIA request. *See, e.g.*, ECF No. 340. Given the “positive indications of overlooked materials” present in this case, the Court held that the CIA needed to “search its operational files and explain whether any additional responsive records exist, and if so, why they remain operational.” *Id.* at 2–3. The Court ordered the parties to meet and confer and update the Court as to the CIA’s search plan and the need for any further briefing. *Id.* at 3–4.

But the parties did not agree on a plan for the search—or at least did not inform the Court of any agreed-upon plan. Instead, the CIA deemed it “premature” to discuss that plan with

plaintiffs because they intended to seek reconsideration of the Court's order granting summary judgment to plaintiffs. ECF No. 341. Shortly after the CIA filed its reconsideration motion, ECF No. 342, the Court denied the motion for reconsideration in a one-page order, ECF No. 345. On April 24, 2020, the Court ordered the CIA to provide a status report as to when it expected to complete the search "so that dates can be set for a *Vaughn* index and dispositive motions." ECF No. 346.

After a series of status reports and COVID-19-related delays, *see* ECF Nos. 347, 348, 350, 351, the CIA finally represented in a status report filed October 30, 2020, that it had completed its supplemental search of its operational files and located no responsive records with respect to "1400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations." ECF No. 352. No additional detail about the search was provided.

Hearing nothing further from the parties, the Court issued final judgment in favor of plaintiffs and dismissed the case with prejudice on November 30, 2020. ECF No. 353. On December 17, 2020, plaintiffs filed a consent motion for an extension of time to file a motion for reconsideration. ECF No. 354. The Court granted that request, ECF No. 355, as well as the additional requests for additional time, ECF No. 359.<sup>1</sup>

Plaintiffs then filed two motions to reconsider on April 20, 2021. ECF Nos. 364, 365. Neither motion cites the commonly invoked standards for reconsideration found in Federal Rules of Civil Procedure 59(e) and 60(b). Plaintiff Accuracy in Media ("AIM") argues that the CIA has a motive to overclassify information and focuses primarily on the need to "find out what happened"

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<sup>1</sup> Plaintiff's outstanding consent motion for an extension of time filed March 30, 2021, ECF No. 363, is **GRANTED nunc pro tunc**.

to missing prisoners of war. *See* ECF No. 364 at 7. AIM also argues that the government failed to submit a *Vaughn* index and should be ordered to “submit declarations regarding its searches.” *Id.* at 4 & 7. Plaintiff Roger Hall and Studies Solutions Results argue that reconsideration is also warranted based on “significant new evidence,” which includes (1) evidence that the U.S. Bureau of Prisons was allegedly misclassifying and withholding documents from the public and (2) alleged discrepancies in metadata from President John F. Kennedy’s assassination documents. *See* ECF No. 365 at 2–4.<sup>2</sup> The CIA opposed these requests, arguing that most of plaintiffs’ arguments have already been litigated, *see* ECF No. 369 at 5–6, or are irrelevant, *id.* at 6–7. Plaintiffs filed a reply, ECF No. 372, and the motions for reconsideration are now ripe for review.<sup>3</sup>

\* \* \*

Given that the Court cannot extend the time to file a motion under Rule 59(e), *see* Fed. R. Civ. P. 6(b), the Court will consider plaintiffs’ motions under Rule 60(b). Plaintiffs invoke, among others, Federal Rule of Civil Procedure 60(b)(1), which authorizes a court to relieve a party from a previous judgment for mistake, inadvertence, surprise, or excusable neglect. Fed. R. Civ. P. 60(b)(1). To obtain relief under any of Rule 60(b)’s provision, a movant must have a “meritorious claim or defense to the motion upon which the district court dismissed the complaint.” *Marino v. Drug Enforcement Admin.*, 685 F.3d 1076, 1080 (D.C. Cir. 2012) (citation omitted). The “decision to grant or deny a rule 60(b) motion is committed to the discretion of the District Court.” *PETA v. U.S. Dep’t of Health & Hum. Servs.*, 226 F. Supp. 3d 39 (D.D.C. 2017), *aff’d*, 901 F.3d 343 (D.C. Cir. 2018). Rule 60(b) motions are not opportunities to reargue theories because the party

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<sup>2</sup> Hall not only suggests that these documents are relevant, but also that they are discoverable in the context of this case. ECF No. 365 at 4.

<sup>3</sup> AIM represented that Hall and Studies Solutions Results joined its arguments in its reply brief. ECF No. 372 at 4. But Hall and Studies Solutions Results also separately filed a motion for an indefinite extension of time to provide “new evidentiary facts and legal developments.” ECF No. 373 at 2–3. Given the Court’s conclusion here, that motion to extend is **DENIED AS MOOT**.

disagrees with the district court. *See, e.g., Avila v. Dailey*, 404 F. Supp. 3d 15, 22 (D.D.C. 2019). Instead, Rule 60(b)(1) allows district courts to correct only “limited types of substantive errors.” *Hall v. CIA*, 437 F.3d 94, 99 (D.C. Cir. 2006); *see Avila*, 404 F. Supp. 3d at 23 (“[C]ase law suggests that the rule applies only when the district court has committed an ‘obvious error.’”).

With this framework in mind, the Court turns to the parties’ arguments. The Court rejects the bulk of plaintiffs’ contentions. The Court will not permit plaintiffs to relitigate arguments about the CIA’s classification practices and former disclosures. Nor will the Court reconsider its decision because of Hall’s purported “new evidence,” which is irrelevant to this case. But the Court will reopen this matter because it has not yet had the occasion to consider the adequacy of the CIA’s search of its operational records.

First, the Court agrees with the CIA that plaintiffs’ complaints about the CIA’s classification practices and the lack of a *Vaughn* index for the August 20, 2019 production have been previously litigated and addressed by the Court. *See, e.g.*, 08/03/2017 Mem. Op. at 18–19, ECF No. 291. As the CIA explains, the 2019 production is merely a reprocessing to comply with this Court’s order denying the CIA’s redactions of non-CIA employees. *See, e.g., id.*; ECF No. 369-1. As far as the Court can tell—and plaintiffs do not dispute this characterization in their reply—the 2019 production is the same production that was previously provided to plaintiffs, but without the redactions that this Court deemed improper. ECF No. 369-1. The CIA provided a *Vaughn* index to plaintiffs with that production. *See* Decl. of Antoinette B. Shiner, Ex. B. & C, ECF No. 248-2. The Court will not permit plaintiffs to relitigate these issues via its reconsideration motion at this stage. *See Avila*, 404 F. Supp. 3d at 22.

Next, the Court is not persuaded by Hall's arguments concerning purported "new evidence." His contentions about the Bureau of Prisons and the John F. Kennedy assassination records are either irrelevant or far too speculative to support the relief he requests.

But plaintiffs do raise a single meritorious issue in their motion for reconsideration—that the CIA did not provide a declaration regarding its search of its operational records. *See* ECF No. 364 at 4. In FOIA cases, the 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. U.S. Dep't of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). Affidavits or declarations that "adequately describe the agency's search"—such as by stating the search terms used or type of search conducted—satisfy this burden. *Id.* An agency does not need to search all of its records, but it must "aver[ ] that all files likely to contain responsive materials (if such records exist) were searched." *Id.*

Because the Court did not consider the adequacy of the CIA's search—indeed, this issue was never litigated—the Court finds that Rule 60(b)(1) authorizes plaintiffs' requested relief. Here, CIA has provided no declaration regarding the search of its operational records. And while the CIA contends that neither the Court nor plaintiffs requested such a declaration, the CIA is wrong that this Court ever determined that the search of its operational records was adequate. Indeed, this Court had originally contemplated that the parties would reach an agreement concerning the search, *see* ECF No. 340 at 3–4, or after the CIA completed its search, a round of dispositive motions would be filed concerning the CIA's declarations and *Vaughn* indices. *See* ECF No. 346 at 1. Neither occurred. The Court will reopen this case for the limited purpose of considering the adequacy of the CIA's search of its operational files.

Based on the foregoing, it is hereby

**ORDERED** that plaintiffs' consent motion [363] for an extension of time to file their reconsideration motion is **GRANTED** *nunc pro tunc*; it is further

**ORDERED** that plaintiffs' motions [364, 365] for reconsideration are **GRANTED**; it is further

**ORDERED** that AIM's consent motion [370] for an extension of time to file a reply is **GRANTED** *nunc pro tunc*; it is further

**ORDERED** that Hall's motion [373] for an extension of time to file is **DENIED AS MOOT**; it is further

**ORDERED** that the CIA shall file any declaration(s) and accompanying dispositive motion concerning its efforts to search its operational files by December 21, 2021; it is further

**ORDERED** that plaintiffs shall file their combined dispositive motion and opposition to defendant's motion by January 25, 2022; it is further

**ORDERED** that the CIA shall file its combined opposition to plaintiffs' motion and reply in support of its own motion by February 8, 2022; it is further

**ORDERED** that plaintiffs shall file their reply in support of their motion by February 22, 2022; it is further

**ORDERED** that no extensions to the above schedule will be granted absent compelling circumstances. It is time to bring this litigation to an end.

**IT IS SO ORDERED.**

Date: 11/23/21

  
Royce C. Lamberth  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 04-814 (RCL)  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

PLAINTIFF ROGER HALL AND STUDIES  
SOLUTION RESULTS, INC., MOTION TO RECONSIDER  
THE COURT'S NOVEMBER 30, 2020 ORDER AND JUDGMENT

COMES NOW plaintiffs Roger Hall and Studies Solutions Results Inc.,  
("Hall") move this Court for reconsideration of the Court' November 30, 2020  
Order and Judgment.

PRELIMINARY STATEMENT

Plaintiffs incorporate by reference the Statements of Material Facts set forth  
by all plaintiffs in previous pleadings. Because of COVID-19 and other  
circumstanced including a plethora of court deadlines in other cases, Mr. Lesar is  
unable to do more than proffer below significant new evidence bearing on the  
search issues in this case.



## MEMORANDUM OF POINTS AND AUTHORITIES

### A. CIMS SYSTEM DO-NOT-FILE INDEX

1. The E.J. Hurst Declaration, filed in *Clement v. FBI, DOJ*, C.A. No. 13-0108, provided detailed evidence regarding CIMS (Central Inmate Monitoring System), indexing procedure. This system employs an updated "JUNE MAIL" method of hiding information on prison inmates, or potential inmates, which permits information on them to be hidden from Congressional Committees, other agencies, and journalists, through a special notation on how to conduct a non-search for information the Bureau of Prisons wants to be kept hidden. A copy of Mr. Hurst's Declaration is attached hereto. It is a part of ECF No. 63, Clemente's Cross-Motion for Summary Judgment, before Judge Hogan. It sets forth relevant facts as required to support summary judgment under Rule 56 of the Federal Rules of Civil Procedure. It is also described as a confidential source indices. Mr. Hurst updated his Declaration, and the undersigned will supply it to the Court as soon as I can located it.

2. Mr. Hurst later used his expert knowledge of the Bureau of Prisons system to submit a more detailed explanation of how the BOP confidential source function to hide information that the BOP and other authorities do not want known. Hurst's expertise enabled him to provide a much more detailed explanation of the working of the BOP's do not file files.

3. AIM and Hall sought information about POWs and MIAs including live sightings. The special indexing system could explain the huge discrepancy between the number of POW/MIA records that were disclosed, and the number that one could reasonably expect to have been located. This could explain why other agencies, such as DIA, Air Force, Army, NSA, and the State Department, could not locate more records than they did.

#### B. NEW EVIDENCE REGARDING JFK ACT RECORDS

1. Rex Bradford is CEO of the Mary Ferrell Foundation, Inc. ("MFF, Inc."), and is a member of the Board of Directors of the Assassination and Research Center ("AARC"). The AARC is a 501(c)(3) non-profit corporation. The undersigned counsel is currently the acting President of the AARC. Mr. Bradford has studied the records officially designated JFK assignment-related records under the President John F Kennedy Assassination Records Act of 1992. ("JFK Records Act.")

2. Mr. Bradford has obtained what purports to be the entire collection of records officially designated for inclusion in the JFK Act records collection. He also obtained from NARA the metadata for those records. There is a huge discrepancy between the officially designated records and those that are actually available to the public. Mr. Bradford has concluded that this cannot be due to just coincidence. He has concluded that these records were intentionally withheld from

the collection despite the fact that the records are, by law, to be included in the collection.

3. Mr. Bradford obtained from NARA a spreadsheet of all records that are supposed to be in the JFK Act collection. There is a field which bears the code, CNTUS. NARA has been unable to explain the absence of any records in this field. It has explained, after consulting with its experts, that it is unable to determine what CNTUS refers to. Mr. Bradford and other members of the research community, and confidential sources working inside government agencies, have also been unable to identify what this code stands for. It is a proper subject of discovery in this case to learn what meaning and application it may have to the records sought by plaintiffs.

### CONCLUSION

Because of the press of time, undersigned counsel is unable at this time to discuss changes in the state of the law regarding exemptions developed since the Court last ruled on the merits on those claims.

It is abundantly clear ththat there are disputed issues of material fact in dispute which preclude granting a final judgment against Plaintiff Hall.

DATE: April 20, 2021.

Respectfully submitted,

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 04-814 (RCL)  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

PLAINTIFF ACCURACY IN MEDIA'S MOTION TO RECONSIDER  
THE COURT'S NOVEMBER 30, 2020 ORDER AND JUDGMENT

COMES NOW plaintiff Accuracy in Media, Inc., by counsel, and respectfully asks the Court to reconsider its November 30, 2020 Order and Judgment.

Background

On January 23, 1973, government policy on the issue was established, on national television, with President Nixon's announcement that the Paris Peace Accords had brought a close to the Vietnam War, and that "all our boys are on the way home."<sup>1</sup> But it was not true. Communists withheld 678 POWs<sup>2</sup> as collateral for payment of the approximately \$3.5 billion in war reparations that President Nixon had promised.<sup>3</sup> The money never came, and the POWs never came home.

"The total number of first-hand and hearsay live sighting reports and other related reports is more than 15,000 since 1975."<sup>4</sup> Pilots and navigators were particularly targeted never to be repatriated, some of whom were transferred to Russia.<sup>5</sup> The CIA has records of at least a dozen reconnaissance or rescue operations.<sup>6</sup> It has imagery,<sup>7</sup> including distress signals known only to the POWs.<sup>8</sup> Its intelligence includes information on the communist's two-tier prison system.<sup>9</sup> The CIA tracked POWs.<sup>10</sup> It used mercenaries to gather

intelligence.<sup>11</sup> It collaborated with other agencies.<sup>12</sup> And it has records of communist offers to sell POWs back to America.<sup>13</sup>

Plaintiffs are particularly interested in the extensive records that the CIA collected<sup>14</sup> on POWs incarcerated in Laos,<sup>15</sup> the existence of whom was admitted by both governments.<sup>16</sup>

In 1992, satellite imagery was leaked that undermined the government's long-standing position, or policy, very publicly. There has been no disclosure of any intelligence gathered since 1992. In his book, *An Enormous Crime, The Definitive Account of American POWs Abandoned in Southeast Asia*, former U.S. Rep. Billy Hendon (R-NC) recounts the October 6, 1992, *NBC Dateline* segment, at 452-53:

SCOTT: (Voiceover) DATELINE has obtained this computer-enhanced photograph, taken by an American spy satellite in January, 1988, in a rice paddy in Northern Laos, the letters U-S-A are clearly distinguishable. But what is chilling to some Pentagon analysts is the symbol below. (Document showing rudimentary U-S-A spelling)

\* \* \*

MR. HENDON: And I have talked to the people in charge of the compartmented program, that—that deals with the escape and evasion symbol that was in the satellite photography. And they say, "Hey, no question. That's an American flier."

SCOTT: This is list of distress signals American flyers were told to display on the ground if shot down...

MR. HENDON: That can only be a US pilot telling you, "Get me out of here." That's all it can mean.

SCOTT: And he's saying that in January of 1988?

MR. HENDON: Absolutely.

*See generally Hendon Aff.*, ECF 95-45.

The story in *US News & World Report* included an image of a "walking K" distress symbol, taken in the Sam Neua area of Laos, where David Hrdlicka was being held. "The government should have notified me," writes his wife, Carol, "But I had to read about it in the magazine." *Hrdlicka Aff.*, ECF 261-1 ¶ 17. According to the Senate Select Committee's

1993 Report, at p. 200, "These possible distress symbols, several of which match pilot distress symbols used during the war, span a period from 1973 to 1988, and as late as June 1992."

### Argument

In the 48 years since Operation Homecoming, numerous individuals, including former POWs, organizations, Congressional Committees, and journalists, have advocated for the government to reveal what it knows of the fate of these Americans. Congressional members who have personally seen the records are among those who opine that there is no legitimate reason for continued nondisclosure.<sup>17</sup>

The CIA reports that it "conducted a supplemental search of its operational files and located no responsive records with respect to '1400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations.' Order dated March 31, 2020." *CIA Status Report*, ECF 352.

***The Record in this Case.*** A great deal of intelligence on the matter has been disclosed. The existence of much that has not been disclosed is amply proven by the record in this case. The CIA provided 1,400 first-hand live-sighting reports to the Select Committee (note 4 *infra*), but it claims it cannot locate them. Its possession of imagery is well-documented (note 8 *infra*), but it cannot find a single image. It claimed to have located no records of any of the dozen or more reconnaissance or rescue operations, or of the two-tier prison system, or its use of mercenaries, or its collaboration with other agencies, or offers to sell POWs back to America. Notes 6-13 *infra*.

***Vaughn index.*** Defendant provided no declaration regarding its search of operational records. Did it use the codenames of these operations in its search? Did it search its records of its collaborations with the Defense Intelligence Agency, or Military Assistance Command Vietnam-Special Operations Group (MACVSOG), or the National Security Council, or the State Department (note 12 *infra*)? And the CIA has yet to provide any description of the organization of its POW/MIA records.<sup>18</sup>

Additionally, defendant provided no *Vaughn* index regarding its 2019 production, totaling 2,012 pages, hundreds of which are redacted, and dozens of which are withheld in full.

The CIA ran the war in Laos.<sup>19</sup> "[I]n both Bangkok and Vientiane all live sighting reports that came into the embassy went directly to the CIA Station Chief." *LeBoutillier Aff.*, ECF 83-13 ¶12. Defendant has twice committed to addressing the issue of live-sighting reports in its *Vaughn* index,<sup>20</sup> but has failed to submit any *Vaughn* index at all.

***Post 1992 Records.*** The older the records, the higher the justification needed to withhold them from public view. But the more recent the intelligence on these abandoned Americans, the keener the public's interest, also mandating a heightened justification for non-disclosure.

The CIA's robust intelligence-gathering on POWs did not cease in 1973 with establishment of the government policy—"all our boys are on the way home." Defendant now claims that its search of its operational records reveals that it has obtained no intelligence whatsoever on the 678 Americans since 1992, 28 years ago. Would the CIA assert that all intelligence gathering ceased in 1992, when the leaked imagery so embarrassed it?



One example of a more recent record is presumably the CIA's brief to President Obama before he addressed the Lao National Cultural Hall, in Vientiane, in 2016. He remarked, "And I'm pleased that, as a result of this visit, we will increase our efforts and bring more of our missing home to their families in America."<sup>21</sup> And the CIA likely has records on Special Forces Green Beret Master Sgt. John Hartley Robertson, who was declared dead after being shot down over Laos on a classified mission in 1968, but who is now living in Laos. *See Unclaimed*, 2013 documentary.

***Motives for withholding.*** Here, every one of defendant's disclosures on the issue inculcates the government in knowingly abandoning its citizens—*An Enormous Crime*—as Rep. Billy Hendon aptly named his book.

Another motive for withholding the records sought is the demoralizing effect it would have on the Armed Forces. *See, e.g., Hendon Aff.*, ECF 95-45 ¶ 18, quoting October 1992 speech by Deputy Assistant Secretary of Defense:

The basic lie is that the U.S. Government knowingly left Americans behind and is now covering up. If this lie lives, then it will tear at the guts of our military. If future Americans become convinced that their country won't stand behind them when the chips are down, then they won't stand on the front lines for their county.

***Practice of Over-classification.*** The CIA is required to consider in the "historical value or other public interest in the subject matter of the particular category of files" in conducting its Decennial reviews. There have been four. Over the course of this case, defendant has produced around 8,000 pages of records, the vast majority of which should have been disclosed upon the four Decennial reviews, beginning in 1985. As plaintiffs observed in their *Motion for Stay*, ECF 278 at 2, the CIA's over-classification is evidenced by

the 33 records that were released only upon its completion of its 2015 Decennial review. The records are dated from 1974 to 1990, up to 45 years after Operation Homecoming.

So too with its 2,012-page production in 2019. Attached hereto is the Affidavit of researcher Bethany Hendershot, together with her itemization of the 392 records. "152 [of these] records are from the sixties, and 149 are from the seventies." After four Decennial reviews. Nor has defendant complied Executive Orders 13526 or 12812.<sup>22</sup>

One of the more telling belated disclosures was the CIA's only production in 2016, the *Critical Assessment of 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*. (Note 2 infra, records posted <http://johnhclarkelaw.com/pdf/Hall-CIA/CIA-Production-2016-209-pages.pdf>.) It is the most illuminating record ever released on the issue of the number of POWs remaining in communist hands at war's end. It unequivocally establishes the reliability of the so-called "1205 Document," discovered in Soviet archives. It is a transcript of a Vietnamese Politburo meeting just months before War's end, recorded by the Soviets, secretly. The Vietnamese reported that the number of communist-held American POWs in Southeast Asia was 1,205. Defendant disclosed this 1998 record in 2016, having declined to do so upon its Decennial review in 2005, and in 2015.

### **Conclusion**

In 1992, during the testimony of government officials before the Senate Select Committee on POW/MIA Affairs, Vice Chairman Bob Smith quoted a government official as having testified "there is no evidence to suggest that any U.S. personnel were not released from captivity." Senator Smith continued:

Now that's just, I mean, I just don't understand people in responsible positions coming up here to the Hill and saying that, that kind of thing, and I,

I don't want to dispute it because I've been through that for eight years with you people, I don't have the desire to dispute it, as I said in my opening statement the facts speak for themselves, the evidence speak for themselves, for itself, and it's time for you people to come up here to accept that evidence **and begin to move to the next step, which is to find out what happened to these people and where they are.** That's what we gotta start doing. So why don't you just admit that you've got the evidence.

(Emphasis supplied.)

Plaintiffs agree with the Senator. Plaintiffs seek, *inter alia*, to find out what happened to these people.

WHEREFORE, plaintiff Accuracy in Media, Inc., respectfully asks that the Court reconsider its November 30, 2020, Order and Judgment, and order Defendant CIA to submit declarations regarding its searches.

Date: April 20, 2021.

Respectfully submitted,

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*Counsel for Plaintiff  
Accuracy in Media, Inc.*

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1 The President stated:

Within 60 days, all American prisoners of war throughout Indochina will be released. There will be the fullest possible accounting of all those missing in action...

In particular, I would like to say a word to some of the bravest people I have ever met. The wives, children and family of our prisoners of war and missing in action. When others called on us to settle on any terms, you had the courage to stand for the right kind of peace.

2 *Plaintiff's Motion for Summary Judgment*, ECF 312 at 23:

In 2016, the year *after* its 2015 Decennial review, the CIA released... the most illuminating record ever released on the issue of the number of POWs remaining in communist hands at war's end.

In November of 1998, six years after the conclusion of the Senate Select Committee's probe, Senator and former Committee Vice-Chairman Bob Smith issued, *Critical Assessment of 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue*. (aim.org/pdf/Hall-CIA/CIA-Production-2016-209-pages.pdf). The report unequivocally establishes the reliability of the so-called "1205 Document," which exposed that, just months before War's end, the Vietnamese reported that the number of communist-held American POWs in Southeast Asia was 1,205. Three months later, the Vietnamese government released 527, holding some 678 Americans. \*\*\*

[I]n 2016, thirteen years after plaintiffs submitted their FOIA request, the CIA disclosed the 1998 record that authoritatively establishes the number of POWs remaining in Vietnam and Laos after Operation Homecoming in February of 1974.

3 *Plaintiff's Motion for Summary Judgment*, ECF 258 at 23:

In accordance with their "long-standing communist policy holding back POWs in furtherance of political and economic goals," the Vietnamese and Laotian governments held back approximately 600 POWs, as collateral for the approximately \$3.5 billion in war reparations that President Nixon had promised. The money never came, and the POWs never came home. *Id.* ¶¶ 4, 7, 10.

*Sanders Aff.*, ECF 258-2 ¶ 7:

"The Vietnamese believed that they had a deal--a dirty deal, to be sure, in which prisoners would be exchanged for cold cash. It was a deal brokered by Secretary of State Henry Kissinger via a secret hand-carried letter. It would be perfectly consistent with the historical Communist policy to hold back

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prisoners against their will, and even the remains of the dead, to exchange for dollars at a later date. The evidence of this investigation, therefore, must be weighed against the probabilities of the historical background." Report at 14.

- 4 *See Plaintiff's Motion for Summary Judgment*, ECF 312 at 4:  
According to the Senate Select Committee's 1993 Report (at 178), "[t]he total number of first-hand and hearsay live sighting reports and other related reports is more than 15,000 since 1975." The Senate had access to at least 1,400 first-hand reports, and as many as 2,000 second-hand reports.

*See also id.* note 17 at 9, quoting *Sanders Aff.* ¶ 13, quoting 1991 *Senate Foreign Staff Report, An Examination of U.S. Policy Toward POW/MIAs*:

The original plan of the Minority Staff was to review the U.S. government's handling and evaluation of "live-sighting" reports. These reports are firsthand narratives by witnesses who believe that they have seen American military personnel alive in various locations in Southeast Asia. \*\*\* For Vietnam, the U.S. Government has at least 1,400 such reports, including reports that have been received up until the publication of this report in May, 1991. In addition, the U.S. Government has received thousands and thousands of second-hand reports--accounts often full of vivid detail...

*And see id.* at 13, quoting *Smith Aff.* ¶ 9:

"Investigators on the Senate Select Committee found literally thousands of live-sighting reports over the years from the end of the war into the 1990s."

- 5 *See Sanders Aff.*, ECF 258-3 ¶¶ 20-21:  
POW-related information from CIA debriefings of various Soviet defectors, including MIG-pilot defector Alexander Zuyev, who was moved to the United States and whose POW/MIA knowledge is referenced in 2016 production and limited open-source references. The produced document C06002273 from 1999 also refers to additional information from Soviet sources that has not been produced.

CIA analysis of the statement by Dmitri Volkogonov, Russian head of the U.S. Joint Commission on POW/MIAs, whose widely-publicized comments on a "KGB-assigned mission and plan to 'transfer knowledgeable Americans (POWs in Vietnam) to the USSR'" is also referenced in 2016 production.

*See also McDaniel Aff.*, ECF 258-1 ¶¶ 10-11:

It was not long after I began to "speak out" in 1986 that I received a late-night phone call from a National Security Council official confirming that we did indeed still have living American POWs in Southeast Asia. I was admonished to "be patient" and advised that we would have them home "in two or three years, plus" ...

Shortly after the fall of the USSR, an investigative reporter in the respected Moscow newspaper *Commersant* wrote in an article published on November 4, 1991, that a "U.S. second pilot shot down over North Vietnam on May 19, 1967, was taken overland through a 'window' in the China-Soviet border to Saryshagansk on Lake Balkash in the then Soviet Socialist Republic of Kazakhstan during the fall of 1967." A copy of that article is attached.

<sup>6</sup> *Plaintiff's Motion for Summary Judgment*, ECF 312 at 7:

For examples, the CIA withholds records on *Sage Brush I* and *Sage Brush II*, code names for rescue attempts using CIA paid and trained Provincial Reconnaissance Units. *Plaintiffs' Statement of Material Facts*, Oct. 21, 2016, ECF 258-5 ¶ 61. Defendant withholds records on *Operation Thunderhead*, a 1972 White House-approved escape plan from the "Hanoi Hilton." *Id.* ¶ 62. It withholds records concerning *Operation Pocket Change*, the planned rescue of POWs held in Laos, and the 1972 *Son Tay* raid, a plan to try to rescue up to 60 POWs held in Laos, but cancelled because of the then pending Peace Agreement. *Id.* ¶ 65.

Disclosure would reveal a wealth of information on David Hrdlicka. *Duck Soup* was a CIA run attempt to rescue him. There was a "raft of CIA cables" concerning Hrdlicka, and a June 1990 report on his sighting. *Id.* ¶¶ 57, 59. There is a great deal of intelligence regarding multiple reconnaissance and rescue attempts at a POW camp near Nhom Marrot, Laos, including a 1981 attempt, preceded by an inter-agency meeting that included the CIA. *Id.* ¶¶ 63, 64. *See also id.* ¶ 71:

Nor has the CIA disclosed any information on Operation Blackbeard, Oak, Nantucket, Vesuvius One, Sunstune Park, Gunboat, Bright Light, Project Alpha, or Project Corona. *Id.* ¶ 115.

*See also Plaintiff's Statement of Material Facts*, ECF 258-5 ¶ 64:

A December 5, 1991 DIA memorandum states that JSOC (Joint Special Operations Command) was involved in planning the 1981 operation for the reconnaissance in support of a rescue of POWs at Nhom Marrot.... Later on, an inter-agency meeting was held to discuss what actions to take. "JSOC, JCS, CIA, and NSA attended." *Id.* at Bates 62. When JSOC argued that Delta should perform the reconnaissance for this mission, the CIA insisted that it had jurisdiction over the reconnaissance. *Hrdlicka Aff.*, ECF 258-5 ¶ 75.

<sup>7</sup> *Plaintiff's Motion for Summary Judgment*, ECF 258, at 7:

The government had "vast studies of these camps in Laos, derived from SOG operations, Imagery Intelligence (IMINT, satellite, low and high altitude aircraft), and much agent reporting from... operations and CIA operatives reporting on the Americans held in these camps in Laos." Particularly illuminating was the "unreleased SOG archives and the satellite imagery

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showing secret authenticator symbols for dozens of missing men, since 1975 to late 1992," some of which are "newly emerged intelligence documents... since the Senate Select Committee closed up shop in January, 1993." *Id.* at 13. One such camp was Nhom Marrott, Laos.  
(Footnotes omitted)

The Central Intelligence Agency (CIA) holds never released documents relating to American servicemen Prisoners of War and Missing in Action in Southeast Asia, and at least one camp believed to hold these servicemen after March 1973. During the period March 1979-June 1981, the CIA gathered intelligence, including human intelligence reporting, and imagery of a prison camp located in the Nhom Marrott District of Khammouane Province Laos. According to intelligence reports approximately 18- 30 American Prisoner of War were held at this camp from September 1980-May 1981 and perhaps beyond. Between January and May 1981 the CIA dispatched a least one reconnaissance team to the camp location to photograph the inmates and gather intelligence. The CIA continues to withhold information on the preparation for the mission, team progress reports, photographs taken at the camp and the debriefing of reconnaissance team members. *O'Shea Aff.* Docket 182-6 ¶¶ 1-2.

8 *Id.* note 13 at 7:

*See Hrdlicka Aff.* ¶ 19: "In 1992, I then called Lorenzo Burroughs, a government satellite imagery expert, about this imagery. I asked him whether any authenticator codes were picked up with it. He responded that there were around ten." *See also Hendon Aff.*, Docket 95-45 ¶ 21: "During the closed briefings... Dussault explained to the senators what the CIA personnel had said about the June 5, 1992, SEREX imagery.... and then stunned those present by declaring that, while recently reviewing 1988 imagery of Laos, he and his associates had discovered nineteen four-digit numbers that matched the four-digit authenticators of known MIAs..."

*Plaintiff's Statement of Material Facts*, ECF 258-5 ¶ 36:

"Satellite imagery imaged in 1975 and analyzed in mid-1976 had shown what CIA and DOD photo interpreters believed at the time was a valid USAF/USN Escape and Evasion code at this same Dong Vai (Dong Mang) prison.... In addition, approximately a half dozen postwar HUMINT (human intelligence) reports had told of US POWs being detained at the prison both during and after the war...." in 1976, 1979, and 1982. *Hendon Aff.* Docket 95-45 ¶ 16.

*Id.* ¶ 31:

Richard V. Allen... testified to the Senate Committee about seeing in 1981 a photograph of escape and evasion codes stamped in the grass at what was understood to be a Vietnamese prison.... President Reagan launched an operation to investigate the site. Despite Mr. Allen's testimony about CIA

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involvement in the preparation for and conduct of this mission, the CIA has failed to release any records pertaining to it." *Hall Aff.* ¶ 81

*Id.* ¶ 35:

Before the Senate Select Committee, twenty-six-year veteran Robert G. Dussault testified that "while studying recent (June 5, 1992) satellite imagery of the Dong Val (Dong Mang) Prison north of Hon Gai, he and one of his associates discovered a valid escape and evasion code in a field just west of the prison and above it the name of a missing USAF flight officer. The deputy director would later testify formally what he and his associate had seen: A. I saw up at the CIA, very clearly to me there was the name S-E-R-E-X. Q. Capital letters? A. Yes, and it was in a field just outside the...[Dong Vai Prison], and there was a number above it and there was the name SEREX, and below it, as I remember now, 72/TA/88. *Hendon Aff.* Docket 95-45 ¶ 12.

*Id.* ¶ 36:

"Satellite imagery imaged in 1975 and analyzed in mid-1976 had shown what CIA and DOD photo interpreters believed at the time was a valid USAF/USN Escape and Evasion code at this same Dong Vai (Dong Mang) prison.... In addition, approximately a half dozen postwar HUMINT (human intelligence) reports had told of US POWs being detained at the prison both during and after the war...." in 1976, 1979, and 1982. *Hendon Aff.* Docket 95-45 ¶ 16.

*Id.* ¶ 37:

"During the closed briefings, held on October 2 and 5 1992, Dussault... stunned those [Senators] present by declaring that, while recently reviewing 1988 imagery of Laos, he and his associates had discovered nineteen four-digit numbers that matched the four-digit authenticators of known MIAs..." *Hendon* "believes that the CIA is in possession of this imagery." *Hendon Aff.* Docket 95-45 ¶ 22.

<sup>9</sup> *Plaintiff's Motion for Summary Judgment*, ECF 258, at 17:

Additionally, plaintiffs' affidavits include proof that the Director of Operations maintained files "detailing our certain knowledge of the second tier prison system in Laos, and the numbers of American POWs being held there," and that these files may have thereafter been relocated to the "Executive Registry Files of CIA." But the Agency declined to search those records.

*Id.* at 6:

"Overtly, [the government] search[ed] for remains of Americans missing, or last known held prisoner there, while covertly, standing ready to affect their rescue in the known, second-tier POW camp system operating in Northern Cambodia and Laos, that [had been] extensively detailed, photographed, and ground reconnoissanced throughout the war era." *Toll Aff.* Docket 83-1, p. 6.



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10 *Plaintiff's Statement of Material Facts*, ECF 258-5 ¶ 112:

"While searching for records in the Library of Congress, [Mrs. Hrdlicka] found a report that the government had been tracking 23 POWs in 1984... 'Number of persons in custody: 23 American Prisoners of War.' Another 1984 report... reflects that the CIA believed the number to be 20, not 23." *Hrdlicka Aff.* ¶¶ 41-42, citing Exhibits 32, 45.

11 *Plaintiff's Motion for Summary Judgment*, ECF 312 at 8:

Defendant has released no records of the activities of the *Military Assistance Command Vietnam, Studies and Observations Group*, which routinely used CIA trained mercenaries to insert into Laos for reconnaissance on the "second-tier POW camp system." *Id.* ¶ 58. The CIA has a large volume of records on its mercenaries, in its "indigenous personnel" files, also known as "Controlled American Source" files (*id.* ¶ 65), so a sufficient *Vaughn* index would address its search of those records.

12 *Id.* note 4 at 4:

*See Affidavit of Carol Hrdlicka ("Hrdlicka Aff.")* ¶¶ 37, 46: "There are numerous intelligence reports showing live POWs all over Laos after Homecoming 1973. Before operation homecoming, in 1971, there were at least 50 POWs in Laos. *See, e.g.*, Exhibit 38, Intelligence Report of 50 to 100 POWs in Laos, at Bates 107-09:

DIA is collaborating closely where appropriate with CIA in regard to the current situation in Laos... At present there are proximately 350 US military and civilians listed as missing in action in Laos. Of this total, approximately 215 were lost under such circumstances that the Patriotic Laotian Front (PLP) probably has information regarding their fate...

*Plaintiff's Statement of Material Facts*, ECF 258-5 ¶ 66:

"MACVSOG was the Military Assistance Command, Vietnam-Special Operations Group... provided intelligence information... The government denied for years the existence of MACVSOG.... Yet, another family member received a letter from DPMO stating that MACVSOG daily summaries are being reviewed for declassification. There was information on POWs in the daily summaries." *Hrdlicka Aff.* ¶ 60.

*Id.* ¶ 132:

"[I]n 1986... the National Security Council... confirm[ed] that we did indeed still have living American POWs in Southeast Asia." *McDaniel Aff.* ¶ 10.

*Id.* ¶ 49:

"A DIA document dated December 30, 1980 refers to a meeting held that same day at which representatives of the DIA, the CIA, and the NSA were present.... It also related that a Vietnamese source had informed the CIA of a

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North Vietnamese POW camp, with coordinates, photography, and Americans, in August 1980. Although the CIA was present at this meeting concerning POWs, I have received no CIA records regarding this meeting, including the referenced 'overhead photography.'" *Hall Aff.* ¶ 72.

13 *Sanders Aff.*, ECF 258-3 ¶ 23:

CIA analysis and support of the effort in 1984-5 (detailed by the US Senate Select Committee on POW/MIA Affairs, declassified State Department records and other sources) to respond to an alleged Vietnamese offer to sell American POW/MIA remains and, potentially, living POWs to the United States. Assistant Secretary of State Paul Wolfowitz informed Secretary of State George Shultz of a plan to pay for remains and "possible live POWs" (also called "breathers", according, the Senate noted, to a January 1985 memo marked "super-sensitive.") NSC staffer Richard Childress, with the concurrence of the National Security Advisor, traveled to Vietnam and "intended to fund the initiative with either CIA or private funds," according to the Senate, which reported "the Committee could not conclusively determine whether individuals in the government of North Vietnam discussed the possibility of there being live POWs in 1984; the Select Committee does find that the sale of remains was discussed." In my experience, such a sensitive foreign policy initiative could not have occurred without CIA documentation being produced, especially as the White House was considering the use of "CIA funds" for the transaction.

14 *Sanders Aff.*, ECF 258-2 ¶ 12:

"The United States did not receive the list of Americans POWs whom North Vietnamese admitted they were holding in captivity until after the peace accords were signed." Report at 64. "[I]t was widely known that the Pathet Lao were holding many other U.S. POWs. The absence of names on the U.S. POW list handed over by the North Vietnamese of Americans captured in Laos and held by the Pathet Lao was one of the great blunders of the Paris Peace Accord negotiations and caused great confusion and emotional duress among family members of missing and captured personnel." *Ibid.*

*Plaintiff's Motion for Summary Judgment*, ECF 258, at 13:

"[A]ll live sighting reports that came into the [US] embassy [in Laos] went directly to the CIA Station Chief." *LeBoutillier Aff.* Docket 83-15 ¶ 12.

"Witnesses before the Select Committee testified repeatedly to the involvement of CIA field stations in Vietnam, Laos, Cambodia, and Thailand, in the gathering of information about POW/MIAs." *Hall Aff.* ¶ 122.

*Smith Aff.*, ECF 258-4 ¶ 5:

Secretary Laird went into even more detail saying that the Pentagon had "solid information, such as letters or direct contacts, with about 20 airmen who survived in Laos after their planes were shot down."

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15 *Plaintiff's Statement of Material Facts*, ECF 258-5 ¶ 131:

"Exhibit 141 (2015) is a Memorandum regarding ten POWs held, February 1989, at Bates 412-14. It states, in part: '[Redacted] worked at the prison where ten Americans were reportedly being held. \*\*\* [Redacted] learned that the American had been in [unintelligible] Dang prison since about March 1984.'" The CIA withholds additional records regarding these POWs, including their probable identities, and fates." *Hall Aff.* ¶ 110.

*Id.* ¶ 134:

Exhibit 127 (2015) is a CIA Intelligence Report regarding a 1986 sighting of POW in Laos, December 23, 1986... The CIA has failed to provide any further information on this POW." *Hall Aff.* ¶ 89.

*Id.* ¶ 128:

Exhibit 126 (2015) is a CIA Memorandum re six POWs held in Laos, 1983, at Bates 387-88... 'On 25 February 1983, [redacted] information [redacted] that there were four U.S. POW's being held at the Nadeng Prison in the LPDR.'" The CIA has failed to provide any information regarding these live POWs held in Laos. *Hall Aff.* ¶ 86.

*Id.* ¶ 129:

Exhibit 124 (2015) is a Memorandum re six POWs held in Laos, undated, at Bates 381-83: 'Circa March 1983, [redacted] a militia chief claimed that there is a Prisoner of War (POW) camp located at the foot of Ngoua Mountain (NCA), approximately 25 kilometers south of Kadon Village. According to [redacted] there were 23 American prisoners of war (POW's) detained in the camp.' The CIA has failed to provide any information regarding these 23 live POWs held in Laos." *Hall Aff.* ¶ 84.

*Id.* ¶ 130:

Exhibit 125 (2015) is a CIA Memorandum re six POWs held in Laos, undated, November 2, 1983, at Bates 384-86: 'In late April 1982, [redacted] saw a total of six alleged U.S. prisoners of war (POW's) at a detention camp in a small valley of Thao La Hamlet, Houa Phan Province, in northern Laos (grid coordinates 20 degrees north latitude, 104 degrees east meridian). ... He said the camp held about 50 such POW's who had recently been transferred to the camp from an unknown location.' The CIA has failed to provide any information regarding these live POWs held in Laos." *Hall Aff.* ¶ 85.

*Plaintiff's Motion for Summary Judgment*, ECF 258, Note 14 at 7:

*See Affidavit of Lynn O'Shea* Docket 182-6 ¶¶ 1, 3, 5: "The Central Intelligence Agency (CIA) holds never released documents relating to... at least one camp believed to hold these servicemen... [In] 1981, the CIA gathered intelligence, including human intelligence reporting, and imagery of a prison camp located in... Laos [where] 18-30 American Prisoner of War were held... from September 1980-May 1981 and perhaps beyond.... [T]he CIA dispatched a

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least one reconnaissance team to the camp location to photograph the inmates and gather intelligence. The CIA continues to withhold information on the preparation for the mission, team progress reports, photographs taken at the camp and the debriefing of reconnaissance team members... 'The CIA can neither confirm or deny' ... [Attached is] a document confirming CIA holds at minimum 20 documents relating to their effort to confirm the presence of American POWs at the Nhom Marrott camp."

*Plaintiff's Statement of Material Facts*, ECF 258-5 ¶ 133:

Exhibit 38(a) at Bates 177 is a March 1983 CIA Cable regarding Identification of Possible U.S. Prisoner of War camp in Saravanc Province, Lao People's Democratic Republic, reporting that there were '23 American prisoner of war (POWs) detained in the camp....' Exhibit 38(b) at Bates 178 is an undated CIA Cable, which states, in part, 'Identification of Possible U.S. Prisoner of War camp in Saravanc Province, Lao People's Democratic Republic' ... The CIA has provided no records regarding the referenced '23 American prisoner of war (POWs)' in Saravanc Province, Laos." *Hall Aff.* ¶ 87.

16 *Plaintiff's Motion for Summary Judgment*, ECF 258 at 4:

Of the 50 or so POWs known to be held in Laos, only nine were repatriated. The Laotians themselves admitted that they were holding American POWs.

*Sanders Aff.*, ECF 258-2 ¶ 18:

Dr. Kissinger sent a cable to Le Duc Tho on March 20, 1973 saying in part that the U.S. side had become increasingly disturbed about the question of American prisoners how old or missing in Laos. The U.S. side made it clear on many occasions that the list of only nine American prisoners presently presented belatedly by the Pathet Lao is clearly incomplete. During the first 60 days while the American troop withdrawal was underway, the Nixon administration contacted North Vietnamese officials repeatedly to express concern about the incomplete nature of the prisoner lists that had been received. Soon thereafter, Dr. Kissinger presented DRV officials with 19 case folders of Americans who should have been accounted for, but who were not.

*Plaintiff's Motion for Summary Judgment*, ECF 258 note 5, at 4:

See *Hrdlicka Aff.* ¶ 48: "Lao officials admitted that there were "that some tens of prisoners were held" by Pathet Lao. See, e.g., Exhibit 51, an undated Working Papers of Dr. Kissinger..."

*Sanders Aff.*, ECF 258-2 ¶ 17:

Leaders of the Pathet Lao claimed throughout the war that they were holding American prisoners in Laos. U.S. defense and intelligence officials hoped that 40 servicemen captured in Laos would be released at operation homecoming, instead of the less than a dozen who were actually repatriated.

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17 *Plaintiff's Motion for Summary Judgment*, ECF 258, at 24:

The CIA's long-standing policy is to withhold post Operation Homecoming POW records, such as satellite imagery and photographs, live sighting reports, radio intercepts, correspondence, communist broadcasts, analysis, studies, memoranda, briefings, and testimony. As Vice Chairman of the Senate Select Committee on POW/MIA Affairs wrote, he has "personally seen hundreds of classified documents that could and should be released as they pose no national security risk. What is really at risk are the reputations and careers of the intelligence officials who participated in and perpetrated this sorry chapter in American history." *Smith Aff.* ¶ 8.

*Id.* at 14:

Former Congressman John LeBoutillier has "personal knowledge of several POW-related incidents where the CIA has had documents that have not been publicly acknowledged or released." *LeBoutillier Aff.* Docket 83-15 ¶ 7. Former Congressman Billy Hendon has "personal knowledge of several incidents where the CIA has had intelligence on living POWs that has not been publicly acknowledged and/or released." *Hendon Aff.* Docket 95-45 ¶ 4. Senator Smith has "personally have seen hundreds of classified documents that could and should be released as they pose no national security risk.... I can state without any equivocation that they are still holding documents that should be declassified." *Smith Aff.* ¶¶ 8, 20.

18 *Plaintiff's Motion for Summary Judgment*, ECF 312 at 11, under heading, No description of database:

Nor has the government provided any description of the organization of the records said to have been reviewed *five* times, most recently in 2015, for possible declassification. The sum total of information provided is that these records are organized into an unknown number of categories—neither named nor described—and that the categorized records are further divided into an unknown number of subcategories, also unidentified and undescribed. The CIA avers that it "cannot provide additional detail about the designated file series in an unclassified setting, [but] I can assure the Court that they are carefully and tightly defined to ensure that they serve the specific operational purposes." *CIA Motion for Summary Judgment*, Jan. 30, 2017, ECF 271 at 4, citing *Shiner Decl.*, ECF 271-1 ¶ 17. A description of any search here would not be complete absent some description of the organization of the databases.

19 *Plaintiffs' Statement of Material Facts*, ECF 258-5 ¶ 173: Ambassador to Laos William Sullivan testified:

The CIA was in charge of the war [in Laos], not the military. The military helped out a little bit on the side, particularly through the provisions of air assets, but the military had very few people on the ground except for forward air controllers, which were very good, and some air attaches, whereas the

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Central Intelligence Agency had several hundred people on the ground in Laos.

- 20 Status hearing transcript August 21, 2017, ECF 292 at 8-9:  
MR. CLARKE: Your Honor, briefly. Other than what's been discussed, I would just ask, is the Government going to be required to file an affidavit regarding the search for the 1,400 live sighting reports? I think that their affidavit was deficient in that area.  
MR. TAAFFE: I think this falls into the category of the things Your Honor wanted clarification on. So to the extent we're filing a declaration with respect to other things, it would also deal with those in some manner.

Status hearing transcript Sept. 26, 2017, ECF 293 at 8:  
MR. CLARKE: Yes, Your Honor. I would just suggest that the Government's affidavits include its search regarding the imagery that was mentioned in the Court's order and also the 1,400 live sighting reports. We've gotten none of those. So I would just hope that the affidavits would include those.  
THE COURT: Okay.

*See also Plaintiffs' Statement of Material Facts*, Oct. 21, 2016, ECF 258-5 ¶ 122:  
The CIA has not stated that it searched any overseas field stations for responsive records. Witnesses before the Select Committee testified repeatedly to the involvement of CIA field stations in Vietnam, Laos, Cambodia, and Thailand, in the gathering of information about POW/MIAs...

- 21 *See, e.g., Plaintiff's Motion for Summary Judgment*, ECF 312 note 6, at 14:  
The only visit to Laos from an American president was Barak Obama, on September 6, 2016, at the Lao National Cultural Hall, Vientiane, Laos. His remarks included:

I realize that having a U.S. president in Laos would have once been unimaginable. Six decades ago... the U.S. government did not acknowledge America's role. It was a secret war, and for years, the American people did not know. Even now, many Americans are not fully aware of this chapter in our history, and it's important that we remember today. Over nine years—from 1964 to 1973—the United States dropped more than two million tons of bombs here in Laos—more than we dropped on Germany and Japan combined during all of World War II. It made Laos, per person, the most heavily bombed country in history.

\* \* \*

I thank the government and the people of Laos for your humanitarian cooperation as we've worked together to account for Americans missing in action. And I'm pleased that, as a result of this visit, we will increase our efforts and bring more of our missing home to their families in America.

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22 The Senate Select Committee's 1993 Report states that the CIA had not adhered to E.O. 13526:

When the Committee started its work, there was little evidence that... any government agency or department was systematically reviewing classified POW/MIA related information... This apparent government-wide failure to even consider declassifying POW/MIA information was inconsistent with the requirements of Executive Order 13526, in effect since 1982.

This failure to declassify was the catalyst for the next Executive Order, 12812, memorialized in Senate Resolution 324. E.O. 12812—*Declassification and Release of Materials Pertaining to Prisoners of War and Missing in Action*, issued on July 22, 1992 recites that the Senate had by Resolution asked for 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," with the exception of where (1) "release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs," or (2) release could constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs or (3) release "would impair the deliberative processes of the executive branch."

The CIA did not comply, again. On June 10, 1993 President Clinton directed the CIA, among other departments and agencies:

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.

The CIA did not comply, again.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

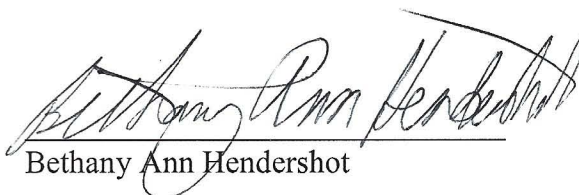
ROGER HALL, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 04-814 (RCL)  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

AFFIDAVIT OF BETHANY ANN HENDERSHOT

1. My name is Bethany Ann Hendershot. In connection with my employment as researcher for Mr. Clarke, I have reviewed the CIA's August 20, 2019 production, which can be found here <http://johnhclarkelaw.com/pdf/Hall-CIA/CIA-Production-2019-2012-pages.pdf>.
2. The production is 392 documents, totaling 2,012 pages.
3. I composed the attached chart. It contains five columns: Page, Description, Date, Regarding Laos, and Regarding Countries.
4. At least forty-nine of the 392 records regard Laos.
5. Several hundred pages are redacted with the notation "(b)(3) CIA Act."
6. Following the chart is a tally of the number of documents generated by year, spanning through 1962 through 2011. 152 records are from the sixties, and 149 are from the seventies. (Some records where dates were not apparent may not have been counted, and some records with similar material may have been consolidated.)

I hereby certify and affirm that the forgoing is true to the best of my information, knowledge, and belief.

Date: April 20, 2021.

  
Bethany Ann Hendershot



Page	Description	Date	Regarding Laos	Regarding Countries
1-2	List of intelligence materials indicating reports of POW/MIA sightings	Sometime after August 8, 1990 (newest intelligence listed is from that date)	Y	Cambodia, Vietnam
3	Report regarding live sightings of POWs as well as American remains	June 1988		Vietnam
4	Report regarding Lao resistance members who produced a report, "Biography of Prisoner," which was "reportedly written by a live American POW in Laos."	N/A	Y	
5-8	CIA Memorandum sent to the Director of the DIA	June 13, 1972		Vietnam
9-153	FOIA Request Listing. List including the names of the requesters as well as their identified topics.	January 2, 1992	Y	Vietnam, Cambodia, Thailand, China, USSR, North Korea, Southeast Asia
154-166	Memorandum regarding a scheduled Board of Review meeting regarding the death of servicemen. Includes data check sheets.	September 20, 1967		
167-193	Memorandum regarding the return of missing employees and how they will be treated upon return. Includes names and missing	May 29, 1973		

	employee materials.			
194-195	Meeting of the board of review regarding one missing Clarence N. Driver.	March 23, 1973		
196-210	Memorandum to SVP-OCA. Includes personnel files/paperwork processing return of air employees who had gone missing.	April 16, 1973		
211-212	Letter from Air America to Radio of Free Asia requesting that information regarding an aircraft crew missing in action in Laos be broadcast on RFA.	October 4, 1972	Y	
213	Teletype to Chief Executive Officer of WAS with the subject of "Air America Personnel MIA"	N/A	Y	
214-217	Letter to Select Committee on POW/MIA Affairs from Deputy Director for Senate Affairs with classified report on number killed, wounded and Missing in Action in Laos since 1961.	November 16, 1992	Y	Southeast Asia
218-223	US Department of Labor provides a list of names of persons classified	October 16, 1980	Y	

	as MIA from the Vietnam War			
224-226	A report detailing what sources have stated regarding the shootdowns of aircraft during the Vietnam Conflict	March 1996	Y	
227-234	A report detailing findings from a translated Vietnamese document, "Report of unilateral investigation of the 10 <sup>th</sup> Anti-Aircraft Battalion, Group 559." It gives details about casualties and burials.	1999	Y	Vietnam
235-240	A typed note indicating that the Army had visited with kin of W.O. Varnado. A report follows detailing his demise in Cambodia. Several sections are crossed out.	March 6, 1975		Cambodia
241-250	An analysis of two letters from 1970 signed by an MIA, with a handwriting analysis.	October 28, 1970		Vietnam
251-280	Memorandum regarding missing NBC Correspondent Welles Hangen. Contains several letters of differing dates. Contains letters with George Bush.	April 30, 1976 (various dates)		
281-289	Report regarding Air American crews	N/A	Y	Vietnam

	missing, as well as detailed charts regarding fatalities and locations.			
290-291	Letter to Radio Free Asia requesting that RFA broadcast information about missing Air America employees.	September 26, 1972	Y	
292-302	Air America Inc. Investigation of Missing Aircraft in Laos on March 7, 1973	N/A	Y	
<b>303-348</b>	Routing and Record Sheets as well as letter to Trumbull County Vietnam Veterans Association. Regards a White House and Congressional request that the CIA provide that Association with information on the "location of live Americans in Southeast Asia." Includes handwritten letters. Intelligence information reports start on page 336, with a list of how many possible prisoners are at each location on pages 340-341. See pages 343-348, list of missing persons.	August 11, 1986 (various dates)	Y	Southeast Asia, Vietnam
349-359	Letter to CIA from Patricia Rowley Edwards about potential POW father. Letter from	March 30, 1988	Y	

	Sen. Bob Smith to Edwards and news magazine article.			
360-446 430-	Routing and Record Sheet stating that Congressional request is a "FOIA request for material in CIA files, in the guise of a constituent request." Regards POW request by Ann Holland. Contains <i>many</i> redacted/blank pages.	January 21, 1988 (various dates)	Y	
447-454	Congressional request from Senator Jim Webb regarding documents pertaining to the Vietnam/POW issue. Refers to the McCain bill on page 450. Includes letter from Senator Bob Smith.	December 2, 2011		
455-456	Redacted response to request for information on POW/MIA Vietnam issue. Sent with letter to Select Committee on Intelligence.	Letter is dated April 3, 1997.		
457	Memorandum regarding phone call between SSCI and the CIA, who referred the staffer to the Defense POW/MIA office.	March 25, 1997		
458-460	HAC/S&I Staff Briefing (redacted) and a	January 26, 1998		

	Memorandum for the Record.			
461-465	Assistant General Council. Note for: redacted. Subject: "Ltr. to Rep. Vento." <b>Important.</b> Regards CIA review for declassification of 40,000 pages of POW/MIA materials referred to CIA by NARA, under Mandatory Declassification Review.	June 16, 1999		
466-467	Memorandum for the Record discussing material given to Senator Bob Smith.	September 18, 1992		
468-470	Senate Select Committee letter requesting information on Lao refugee identified as source 2402, and another letter regarding "the sightings in Laos in 1986 by sources 5343 and 5991."	September 1, 1992	Y	
471-599	Letters to Sen. Bob Smith and Sen. John Kerry regarding POW/MIA intelligence. See live sighting reports on pages 477-598.	February 11, 1992	Y	
600	Reply to Part IV of the John Kerry/Bob Smith letter requesting information on decisions made by Vietnamese toward	February 7, 1992	Y	Vietnam

	POW's. Original packet contains four attached documents, including assessments, a National Intelligence Estimate and a memorandum which are not included in this release.			
601-602	Congressional letter to CIA asking for "COMINT information pertaining to U.S. POWs in Southeast Asia" reported as Human Intelligence.	June 10, 1992		
603	Letter to CIA requesting information on a "Laotian individual" with information about POWs.	June 8, 1992	Y	
604-606	Memorandum regarding correspondence and a redacted page.	May 21, 1992		
607-609	Handwritten letter to CIA regarding a man's intention to launch a "covert operation" to bring home POWs, which he calls "Come Back Home."	September 26, 1984		Vietnam
610-612	Description of meeting with Senator Bob Smith. "Sen. Smith indicated that he was aware of some	June 20, 1997		Russia, Afghanistan, Vietnam

	300 NSA reports relating to Afghanistan and Russian POW/MIA matters.”			
613-624	Chief Counsel writes the National Security Council demanding the declassification of documents which should be disseminated to the public. See page 624 for request to declassify photographs of possible POW/MIA messages/symbols in Laos.	July 9, 1992	Y	Vietnam
625-933	Declassification of CIA documents for Senate Select Committee on POW/MIA Affairs. Raw intelligence follows, as well as memoranda	August 11, 1992		Various Countries
934-937	Letter regarding how many records there were related to the Senate Select Committee on POW/MIA affairs. There is only “the equivalent” of one full-time employee engaged in declassifying approximately 40,000 pages of records.	June 3, 1999		
938	Memorandum to Senator Bob Smith regarding POW/MIA National	January 22, 1999		



	Intelligence Estimate.			
939-942	Two letters and a "Clarifying Comment" report regarding the unclassified version of the Joint Report reviewing the 1998 NIE on POW/MIA issues.	September 27, 2000		Russia
943-949	Correspondence between CIA and U.S. Select Committee on Intelligence. Information on S.J. Res 28.	June 25, 1999		Vietnam
950	Memorandum by the Senate Select Committee on POW/MIA Affairs to CIA regarding documents received from the National Security Council which contain "CIA equities."	August 21, 1992		
951-952	CIA response to Senate Select Committee stating that it has reviewed the documents and that it would work with Senate Select Committee using "agreed-upon procedures."	August 27, 1992		
953-957	A routing slip that states Sen. Smith has been "obsessed with the [redacted] report. Time has not lessened his ardor, either." Includes a	June 28, 1993		

	memorandum which describes Bob Smith and John Rowland as “angry, confrontational, and frustrated....”			
958	Letter to the CIA which requests information be given to Congress regarding Jack Williamson.	October 1, 1992	Y	
959-961	Letter to Select Committee on POW/MIA Affairs regarding Maung Ngoy sightings and a Lao refugee.	October 2, 1992	Y	
962-964	Indochina Operations Group memorandum to Office of Congressional Affairs regarding Senate Select Committee document requests.	September 23, 1992	Y	
965-996	Letters to the Select Committee on Intelligence and completely redacted POW/MIA documents.	October 2, 2000		
997	A letter to Senator John Kerry requesting that Congress investigate why the CIA say they need not pay back pay to agents.	June 17, 1994		
998-999	A Senate letter to the CIA requesting files from the National Indications Center and it	October 20, 1992		

	successor Strategic Warning Staff ranging from 1948-1975.			
1000-1004	A memorandum to the Office of Congressional Affairs by the Chief of the Indochina Operations Group indicating that staff plans to brief the Select Committee orally, and not in writing.	November 3, 1992		
1005-1006	Congressional request for information on Robert Egan and Le Quang Khai.	October 30, 1992		
1007-1008	Memorandum regarding meeting with Sen. Bob Smith regarding a security clearance for staff.	March 6, 1992	Y	Cambodia, Vietnam, Thailand, Soviet Union, China
1009-1085	Memorandum to prepare Richard J. Kerr for appearance before Select Committee on POW/MIA Affairs. Includes remarks, testimony, and talking points. See page 1029 regarding Soviet Union and China. See pages 1031 and 1042 for Laos POWs. 119 "Vessey cases" at pages 1048-1049. Page 1068 states that "NSA currently holds approximately 2000	November 25, 1991		

	SIGINT Reports...relating to the loss, capture, and status of U.S. personnel in Southeast Asia." Foreign intelligence Report from 1982: Petr Ivanovich... POWs number 2,000 in Soviet Union (Pages 1082-1085)			
1086	Congressional letter requesting declassification of files related to Clarence Driver.	October 22, 1992	Y	
1087	Congressional letter asking for lists of U.S. POWs "still alive and in captivity in Southeast Asia."	October 20, 1992		
1088-1097	Indochina Operations Group memorandum regarding Select Committee's request for "Copies of CIA documents found in NSC files." Descriptions of documents sanitized on pages 1095-1097.	October 19, 1992		Vietnam
1098-1099	Letter to Select Committee regarding the release and withholding of information.	November 2, 1992		
1100-1101	Memorandum by Indochina Operations Group regarding depositions which	October 20, 1992		

	would remain classified.			
1102-1103	Chief Counsel letter to the CIA requesting more information regarding potential storage facility named "Rosebud."	October 22, 1992		
1104-1107	Memorandum detailing meeting with Senate Select Committee on POW/MIA regarding POW imagery in Laos, and the CIA's understanding of POW signals.	May 5, 1992	Y	
1108-1113	Draft letter in response to Senator John Kerry. Refers to completely redacted list of former Chiefs of Station.	December 11, 1991		
1114-1115	Memorandum of meeting between Senate Select Committee investigator and Chip Beck. The investigator, LeGro "made it very clear that he believed that there were as many as 60 POWs held by the Vietnamese after 1973, that they were interrogated by the Soviets and did not return to the United States" (page 1114).	January 24, 1992		Vietnam, Soviet Union

1116-1118	Indochina Operations Group memorandum discussing, among other things, a list of Air America employees who did not return from Laos (page 1117).	N/A	Y	
1119-1160	Memoranda for Deputy Director of Central Intelligence and other intelligence community staff regarding upcoming hearing with House Task Force on American POW/MIAs in Southeast Asia. See table of contents on page 1126 for details on intelligence available. The intelligence is heavily redacted. Draft testimony starts on page 1151.	December 4, 1981	Y	Vietnam
1161-1178	Jesse Helms writes William Casey about phone call. A summary from Franklin Graham regarding a possible source to discuss the fate of POWs in Vietnam starts on page 1163. The narrative with the source starts on page 1166.	April 9, 1981		Vietnam
1179-1180	Congressional letter to CIA Director asking for	January 3, 1991		

	more information in response to newspaper article and constituent request.			
1181-1183	Memorandum describing meeting with Congressman Jack Fields, who had questions about whether POWs had been transported from Vietnam to the Soviet Union.	September 13, 1991		Soviet Union, Vietnam
1184-1189	Memorandum of meeting with staff director of Select Committee POW/MIA. Discusses how the staff director requested that investigators be permitted to view classified files, un-sanitized, and on site. Guidelines for redaction are explained on pages 1187-1189.	N/A		
1190-1195	Memorandum regarding briefing of SSCI staffers regarding POW/MIA Affairs and the Vietnam conflict.	October 31, 1991		Vietnam
1196-1484	Letter to Office of Senate Security regarding 141 classified documents on loan to the Senate Select Committee with restricted access. These documents were	January 7, 1993	Y	Cambodia, Vietnam, Thailand

	<p>not to be included in the final report, or reproduced. Raw intelligence starting on page 1199. I <b>have included excerpts; this section should be read fully, in my opinion.</b> "There 50-60 POWs confined Citadel as of Aug 69." See page 1218 for raw intelligence that Vietnamese intended to use POWs as bargaining tool with U.S. Volume 2 begins on page 1254. Page 1255: "The movement of the POWs was supervised by Soviet Advisors." Volume 3 begins on page 1302. Volume 4 begins on page 1308. Volume 5 begins on page 1354. Volume 6 begins on page 1380. "...however, it was her general knowledge that American prisoners were still being held there in August 1982" (page 1405). Volume 7 begins on page 1415. Volume 8 begins on page 1436. Volume 9 begins on page 1452. Volume 10 begins on page 1475.</p>			
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1485-1522	Memorandum regarding possible call from Senator John Kerry. Gates letters to Kerry and Smith, respectively. The summary of intelligence included with the letter is redacted (1496-1501). Letters between Congress and the CIA. On page 1510 a memo discusses how many files on POWs the CIA has. (The data is redacted.) Pages 1514-1515 have a report, the subject of which is "U.S. Prisoners Being Held by the SRV for Use in Negotiations on Aid from the U.S. for the SRV."	October 29, 1992	Y	
1523-1524	Memorandum to the National Security Council regarding "possible covert action in connection with POW/MIA issues."	November 4, 1992	Y	Southeast Asia
1525-1526	Letter to Senate Select Committee.	December 2, 1992	Y	Vietnam
1527-1528	Memorandum from Indochina Operations Group, with the subject, "Information on Whether Civilian Pilots in Indochina Used Distress Symbols."	November 23, 1992	Y	Vietnam
1529-1534	CIA fax to Senate Select Committee, with information	December 4, 1992		Vietnam

	regarding debriefing of defector General Jan Sejna.			
1535-1546	Memorandum regarding Senate Select Committee Investigator's visit. On page 1537, "I told him that last fall we had reviewed 400 CIA intelligence disseminations on live sightings, and in every case the actual information can be declassified..." (second half redacted).	May 15, 1992	Y	Vietnam
1547-1550	Memorandum by the Indochina Operations Group regarding "Items Requested by Senate Investigator..."	May 19, 1992		
1551-1556	Letters from Senate to CIA. Pages 1555-1556 contains names of missing, "all Arkansas unaccounted for in Southeast Asia."	July 22, 1981		
1557	Memorandum for the Director of Central Intelligence about plans for a meeting with Senator DeConcini.	September 14, 1981		
1558	Memorandum indicating that there were no vacancies for applicants.	January 26, 1968		

1559	Memorandum regarding air freight specialist applications.	January 25, 1968		
1560	Attached applications for air freight specialist candidates.	January 17, 1968		
1561	Personnel file for Edward James Weissenback.	N/A		
1562	Cover Sheet regarding Weissenback.	June 21, 1968		
1563	Personnel file regarding Weissenback's character.	November 16, 1967		
1564	Personnel file regarding Weissenback's character.	November 16, 1967		
1565	Personnel file regarding Weissenback's character.	November 16, 1967		
1566	Personnel file regarding Weissenback's character.	November 16, 1967		
1567	Personnel file regarding Weissenback's character.	November 16, 1967		
1568	Request for Personnel Action.	October 22, 1974		
1569	Request for Personnel Action.	September 18, 1970		
1570	Letter to National Broadcasting, regarding Welles Hangen: "Leng stated that Welles Hangen was captured alive and was last seen alive on Monday, June 1,	May 6, 1975		

	the day after capture.”			
1571	DIA sent photos to “Bob” to identify if they are of a man listed as MIA	August 13, 1987		
1572-1580	Analysis of photos indicates “it is unlikely that the photographs are of the same individual.” Photos are included.	September 29, 1987		
1581	Letter or telegraph by “Crundy”	August 5, 1967		
1582	Request for personnel action regarding Weissenback.	September 26, 1970		
1583	Letter or telegraph by “Crundy”	October 7, 1967		
1584	Request for personnel action regarding Weissenback.	September 26, 1970		
1585	Request for personnel action regarding Weissenback	Effective date of March 31, 1969		
1586-1593	Article regarding remains of CIA employee killed in 1975 plane crash in Vietnam.	March 17, 1994		Vietnam
1594	Cable from “grundy Taipei.”	August 6, 1967	Y	
1595-1599	Department of State fax transmission to Patsy Hollings regarding identification of remains of James A. Rawlings.	February 7, 1994		
1600-1607	Department of State Fax Transmission to	February 4, 1994		

	Patsy Hollings with "DOD/PA's Proposed Press Release." Includes talking points.			
1608-1610	Letter from the Office of Vietnam, Laos, and Cambodia Affairs to CIA regarding James Rawlings.	March 4, 1991		
1611	Memorandum regarding the death of three individuals.	September 15, 1967		
1612	Message regarding "Casualty Problem RE James Rawlings."	April 17, 1989		
1613	Aeronautical message draft.	N/A		
1614	Letter to Army Central Identification Laboratory regarding remains of James A. Rawlings.	August 28, 1985		Vietnam
1615	Memorandum to State Department regarding "recovery of remains—Mr. James A. Rawlings."	N/A		
1616-1617	Draft Memorandum for Director of Personnel regarding James Rawlings.	N/A		Vietnam
1618	Two Cables. Date obscured.	N/A		
1619	Cables regarding downed aircraft.	August 12, 1967		
1620	Aeronautical message draft. States, "repeat opinion here is that Pirkle perished in	N/A		

	the aircraft which was destroyed by fire. “			
1621	Handwritten note regarding the “presumed death” of Pirkle.	N/A		
1623-1627	Memorandum to Director of Personnel regarding Rawlings, missing person status. Includes declaration of presumption of death and minutes from committee meeting regarding that conclusion.	January 13, 1976		Vietnam
1628	Aircraft Accident Review regarding loss of aircraft. The surviving crew members returned to Udorn.	September 15, 1967	Y	
1629-1630	Memorandum from Air America personnel manager regarding the presumed death of Pirkle.	August 24, 1967		
1631-1633	Letter to U.S. Department of Labor regarding presumed death of Pirkle as well as additional forms.	August 12, 1967	Y	
1634	Letter to U.S. Embassy from Air America regarding Pirkle.	August 24, 1967		

1635	Report of assumed death of American Citizen issued by American Foreign Service, regarding Pirkle.	September 12, 1967		
1636-1637	Employee Accident Report regarding Pirkle.	N/A		
1638	Base/Station Clearance Slip regarding Pirkle.	August 22, 1967		
1639-1642	Message which states Rawlings was in an aircraft that crashed into a mountain. Says there's no chance of finding survivors and that there's little chance anyone could have survived.	042351Z		
1643-1644	Message regarding downed aircraft and search and rescue.	January 13, 1975		
1645-1648	Board of review document regarding presumed death of Pirkle.	N/A		
1649	Personnel clearance slip regarding Pirkle.	August 9, 1967		

1650	Cable that wreckage was spotted but "darkness prevented positive identification..."	September 8, 1963		
1651-1655	Cable indicating problems with search and rescue due to weather and inability to locate the beeper. "Wreckage was never located."	January 1975		Vietnam
1656	Cable regarding Eugene Henry Debruin.	September 6, 1963		
1657	Two American Cable & Radio System cables regarding "aircraft overdue and presumed missing search results negative..."	September 5, 1963		
1658	American Cable & Radio System cable regarding wreckage of aircraft.	September 10, 1963		
1659	Cable regarding search and rescue.	January 1975		Vietnam
1660-1661	Cable regarding search and rescue. "Aircraft records do not indicate that aircraft has emergency beeper installed."	January 1975		Vietnam



1662-1665	Cable saying it may take "as long as 15 days" for the crash site to cool off. Requirement that there be a secure landing zone. Regards Rawlings.	January 15, 1975		Vietnam
1666-1668	Cable describing planned effort for investigation of plane crash.	January 19, 1975		
1669-1670	Cable regarding Air America flight with Rawlings.	January 1975		
1671	Cable indicating "latest report wreckage positively identified...inside accuracy prior report one remains now questionable..."	September 9, 1963		
1672	Cable indicating that source claims crew members captive, "unable to confirm accuracy..."	October 19, 1963		
1673	Pathet Lao Ministers sent letter "advising that the families of the Air America crew members could write to the crew members if they wished and that the Communists would deliver this mail."	October 15, 1963	Y	

1674	Memorandum regarding a Board of Review Meeting stating "information is incomplete...as to whether the individuals survived the accident..."	September 16, 1963		
1675-1676	Letters to Air America.	May 20, 1964	Y	
1677	Memorandum regarding death certificates for Cheney and Herrick.	December 14, 1963		
1678	Cable stating Cheney and Herrick are likely dead and other crew members prisoner, but "reluctant make public statement until more positive evidence available."	October 24, 1963		
1679	Memorandum for death certificates for Cheney and Herrick asking for a reviewed Report of Death.	November 22, 1963		
1680-1681	Department of Labor document regarding Joseph Cheney's aircraft crash in Laos.	June 12, 1964	Y	

1682-1683	Department of Labor document regarding Charles Grant Herrick's aircraft crash in Laos.	June 12, 1964	Y	
1684	Cable regarding wreckage found on mountain.	January 1975		
1685	Proficiency Training document regarding Clarence Driver.	December 8, 1967		
1686	Cable stating that station medical file holdings for Rawlings would "be useless for identification purposes" and requests headquarters provide this data.	January 1975		
1687-1689	Cable regarding weather hindrance of crash site investigation.	January 1975		
1690	Cable regarding investigation of crash site.	January 20, 1975		
1691-1695	Proficiency Training documents for C.N. Driver.	December 13, 1967 (various dates)		

1696-1698	Cable describing low to moderate threat over suspected crash site.	January 21, 1975		
1699-1709	Proficiency Training documents for C.N. Driver.	September 11, 1969		
1710	Cable indicating that formal request for recovery mission be submitted soonest.	January 29, 1975		Vietnam
1711-1715	Synthetic instrument training certification for C.N. Driver.	February 26, 1973 (various dates)		
1716-1717	Certificates of Ground Training for C.N. Driver.	November 12, 1972 (various dates)		
1718-1720	Cable stating Col. Fontaine will lead overall recovery team in Nha Trang	February 1, 1975		Vietnam
1721-1723	Completion of training records for a number of individuals including C.N. Driver.	July 25, 1971 (various dates)		

1724-1725	Cable indicating JCRC standing down until threat assessment resolved. Medical records of Rawlings turned over.	February 3, 1975		
1726-1727	Cable indicating that DAO had not reviewed its threat assessment back up to moderate/high, "...unable to determine how this misinformation reached JCRC Hqs."	February 4, 1975		Vietnam
1728-1729	Completion of training records for a number of individuals including C.N. Driver.	May 30, 1968		
1730	Cable regarding JCRC recovery mission.	February 13, 1975		Vietnam
1731	Completion of training record for a number of individuals including C.N. Driver.	October 12, 1967		
1732-1734	Cable regarding JCRC recovery mission.	February 12, 1975		
1735-1736	Personnel files for Clarence Nesbit Driver.	N/A		

1737	Request for personnel action administratively transferring American missing employees from BKK to WAS.	October 22, 1974		
1738-1739	Cable indicating there may be a ten day delay in mission "due to other needs for its equipment, presumably for possible evacuation from Phnom Penh."	March 3, 1975		Vietnam
1740-1741	Cable indicating "Embassy has learned unofficially that ASSAG is uneasy about implementing JCRC recovery plan...and will probably pass proposal to CINCPAC for approval. Such a move would probably result in additional delay of several days at best."	March 1975		Vietnam
1742-1743	Cable, "CONGEN Spear then comments that the delay and late notification put a strain on our relations with the Khanh Hoa authorities and we was "baffled" at the delay."	March 1975		

1744	Request for Personnel Action for C.N. Driver.	July 1, 1974		
1745-1746	Cable, indicating that the C-123 recovery operation has a feasible (potential) planned "initiation date on/about 19 March."	March 7, 1975		Vietnam
1747-1751	Request for Personnel Action for C.N. Driver. Administratively transferring file of driver to UTH "due to closing of VTE base."	May 30, 1974		
1752-1754	Cable, recover mission delayed until as least "20 March."	March 4, 1975		Vietnam
1755-1758	Request for Personnel Action forms for C.N. Driver.	September 13, 1968. (Various dates.)		
1759	Memorandum regarding C.N. Driver receiving an unsatisfactory grade on route/line checks.	November 5, 1969		
1760	Message calling for clarification of garbled message.	January 14, 1975		

1761	Note regarding Driver: "the final approach was two high and too fast...I had to take over the aircraft and make the landing." (sic)	N/A		
1762	Department of Labor document regarding James Rawlings.	Date unintelligible		
1763	Memorandum regarding employees to be administratively transferred VTE/UTH. Includes C.N. Driver	May 15, 1974		
1764	Advance notice of personnel action regarding missing employees C.N. Driver and J.H. Ackley.	March 15, 1973		
1765	A list of names including C.N. Driver.	N/A		
1766	List of Missing Personnel	N/A		
1767	C.N. Driver personnel information.	N/A		



1768	Air America letter to JCRC indicating "No photograph of the crash site is available and there has been no ground party into the site to provide positive identification."	November 21, 1973	Y	
1769-1777	Cable recommending going forward with investigation but that "it is virtually certain that there are no survivors."	January 19, 1975		Vietnam
1778-1781	Initial report of missing aircraft.	030825Z		Vietnam
1782	Air America letter to Department of Labor regarding Ackley, Boyles, Cavill and Driver, which lists them as "captured."	September 24, 1973		
1783	Air Force letter to Air America asking to verify the date C.N. Driver went missing and whether he was a "civilian officer" or employee of the government.	August 21, 1975		
	Letter indicating that C.N. Driver is an Air Asia employee.	October 22, 1969		

1785	Chart which is faded and unintelligible.	January 14, 1970		
1786	Document stating that exam results will be available Monday.	N/A		
1787	Letter to Clarence Driver.	September 8, 1970		
1788	Letter to Clarence Driver nominating him to serve as block warden.	August 20, 1970		
1789-1790	Personnel files C.N. Driver	December 31, 1965 (various dates)		
1791-1793	Area Familiarization Training Records	October 1971 (various dates)		
1794-1801	Letter to Air America by Clarence N. Driver with resume, cover letter, and other documents.	December 23, 1965		

1802 -1804	Area Familiarization Training Record for C.N. Driver.	September 1971		
1805-1807	Letter of offer of employment for Clarence N. Driver.	February 16, 1966		
1808	Area Familiarization Training Record for C.N. Driver.	September 13, 1971		
1809-1810	Pilot Flight Check Records, C.N. Driver.	October 14, 1970		
1811	Letter from Clarence Driver to Air Asia Company regarding documentation and compensation questions.	February 22, 1966		
1813-1815	Pilot Flight Check Record, C.N. Driver. Attachment to OPS 373 recommending Link Training.	September 17, 1969		
1816	Letter to U.S. Officers' Open Mess regarding Clarence Driver.			

1817	Pilot Flight Check Record, C.N. Driver	September 1972		
1818	Personnel Division orientation slip for C.N. Driver.	May 18, 1966		
1819 – 1820	Pilot Flight Check Record, C.N. Driver	December 2, 1971		
1821	Letter successfully completing probationary period, for C.N. Driver.	August 22, 1966		
1822-1826	Pilot Flight Check Records, C.N. Driver	September 10, 1971		
1827-1845	Personnel files for C.N. Driver, including Pilot Flight Check Records and evaluation reports.	Various dates. December 2, 1972		
1846-1847	Board of Review meeting regarding Clarence N. Driver, determining that he is considered "Missing."	March 23, 1973		

1848-1873	Personnel files for C.N. Driver, including Pilot Data and Flight Times Reports and evaluation reports, as well as area familiarization training records and completion of training records.	July 4, 1969. Various dates.		
1874-1883	Flight incident reports involving C.N. Driver. Recommended to reduce Captain Driver to First Officer status (Page 1883).	September 25, 1969 (Various dates and investigations)		
1884-1894	Travel order, arrival checksheet, proficiency training, and other documents etc. for C.N. Driver.	February 19, 1973		
1895-1897	Statement, which is unintelligible, signed by C.N. Driver.	June 20, 1996		
1898	Memorandum detailing the selection of Charles G. Herrick "over 11 other candidates."	August 3, 1962		
1899	Cable.	August 3, 1962		

1900-1902	References for Chuck Herrick.	August 2, 1962		
1903-1911	Personnel files for Chuck Herrick. Letter in which Herrick indicates that he would consider a co-pilot position.	January 1962 (various dates)		
1912-1913	C.N. Driver's time off flight schedule.	December 27, 1971 and October 6, 19762		
1914	Cable that aircraft is overdue.	N/A		
1915-1919	Cables regarding Aircraft reported missing after departing from Luang Prabang. Relatives notified.	March 8, 1973		
1920-1921	Cable indicating search and rescue ongoing with no further results at that time.	March 10, 1973		
1922	Cable stating that wreckage was found and that SAR aircraft encountered ground fire.	March 14, 1973		

1923	Letter from Aviation Safety Division requesting L.W. Bowman and C.G. Herrick take a written examination.	September 21, 1962		
1924	Cable indicates that wreckage was located, and "destroyed by impact and fire" with "no apparent survivors" or parachutes.	March 15, 1973		
1925	Cable indicates that search was impeded by weather.	March 9, 1973		
1926-1928	Personnel files for C.G. Herrick, including a travel order and orientation slip.	September 11, 1962 (various dates)		
1929	Air America letter to C.N. Driver regarding Far East Pilots Association strike attempt.	January 25, 1973		
1930-1931	Personnel files for C.N. Driver.	January 1, 1973 (various dates)		
1932	A memorandum regarding missing Air America employees.	May 29, 1973		

1933	A travel order for Herrick.	August 27, 1962		
1934-1937	A data check sheet for Clarence N. Driver.	N/A		
1938-1939	An employee accident report for C.N. Driver.	March 21, 1973		
1940	A cable from Taipei.	August 24, 1962		
1941	Letter from Charles Herrick to G. W. Gilmer.	(received) August 10, 1962		
1942	A personnel document for Charles G. Herrick.	August 7, 1962		
1943	A cable.	N/A		



1944	A Department of Labor letter to Air America regarding the death of two American pilots.	May 20, 1964	Y	
1945-1949	A preliminary report of an aircraft accident.	November 8, 1963	Y	
1950-1952	Several personnel files for Charles G. Herrick.	November 27, 1962		
1953	Letter stating that three U.S. nationals were killed in an aircraft accident, including Herrick.	September 14, 1963		
1954-1955	Memorandum regarding the presumptive report of death for Charles G. Herrick.	November 2, 1963		
1956-1957	Bastian requests revised Report of Death for Cheney and Herrick. This letter is repeated in an additional memorandum.	November 22, 1963	Y	
1958	A letter describing a revised presumptive report of death for Cheney and Herrick.	December 14, 1963		

1959	Cable indicating a lack of photographs for Herrick and other personnel.	July 18 (remainder unintelligible)	Y	
1960-1963	Five cables regarding a missing aircraft.	September 5, 1963 (various dates)		
1964	A letter describes how the communists have offered to let thee family of the Air America crew members write to the lost crew.	October 15, 1963		
1965	A cable which is unintelligible.	N/A		
1966	Cables.	August 12, 1966		
1967-1971	References for Clarence N. Driver.	January 4, 1966		
1972	Two cables.	May 4, 1966		

1973	Letter to Air Asia company from Clarence Driver complaining about his current employer.	March 18, 1966		
1974	Western Union cables to and from Clarence Driver regarding Air Asia job.	March 21, 1966		
1975	Memorandum containing names of missing employees.	February 25, 1974		
1976	An American Foreign Service report of death of American citizen regarding Joseph C. Cheney II.	October 22, 1963	Y	
1977-1978	Newspaper articles, "Air America calls off search" and "CIA Airliner is Lost over Northern Laos."	January 7, 1972 and December 29, 1971	Y	
1979	A routing slip regarding Air America's reward offer for its missing crewmembers, as published in a Lao newspaper.	July 27, 1972	Y	
1980	Newspaper article.	December 31, 1971	Y	

1981-1982	Cable.	December 27, 1971		
1983	A cable regarding destroyed aircraft.	December 24, 1971		
1984	A memorandum indicates that the JCRC has forwarded a copy of a requested report.	May 16, 1974		
1985-1986	A State Department letter including a copy of the State Department report for the death of Edward J. Weissenback.	January 13, 1975		
1987-1998	Personnel files for Weissenback.	September 25, 1970 (various dates)		
1999-2001	Cables regarding reemployment status of Weissenback. Handwritten note with contact information.	July 13, 1970 (various dates)		
2002	Letter requesting to lay off five air freight specialists.	March 6, 1969		

2003-2011	Personnel files for Weissenback.	October 30, 1968 (various dates)		
2012	Cable requesting photographs for personnel including Cheney and Herrick			

YEAR OF INTELLIGENCE\*

2011: 1 record  
 2000: 2 records  
 1999: 5 records  
 1998: 2 records  
 1997: 2 records  
 1996: 1 record  
 1994: 3 records  
 1993: 2 records  
 1992: 33 records  
 1991: 7 records  
 1989: 1 record  
 1988: 2 records  
 1987: 2 records  
 1986: 1 record  
 1985: 1 record  
 1981: 3 records  
 1980: 1 record  
 1976: 3 records  
 1975: 32 records  
 1974: 9 records  
 1973: 27 records  
 1972: 12 records  
 1971: 42 records  
 1970: 22 records  
 1969: 24 records  
 1968: 18 records  
 1967: 37 records  
 1966: 23 records  
 1965: 2 records  
 1964: 3 records  
 1963: 25 records  
 1962: 20 records

\* Records may contain multiple pages from differing dates. Some of the records from the 1990s also contained underlying intelligence from the 1960s, 1970s, and 1980s.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,

*Plaintiffs,*

v.

CENTRAL INTELLIGENCE AGENCY,

*Defendant.*

Case No. 1:04-cv-814-RCL

**ORDER AND JUDGMENT**

The defendant agency has reported (ECF No. 352) on October 30, 2020, that it has completed its search of operational files as ordered by this Court and that it located no responsive records in this Freedom of Information Act case. After sixteen years, the Court is now willing to grant the government's motion for summary judgment and order this case dismissed with prejudice.

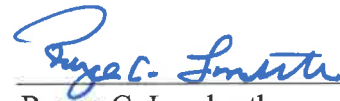
Judgment is hereby entered for the defendant.

The parties shall meet and confer regarding attorneys' fees in accordance with Local Civil Rule 54.2 and shall file a status report by January 29, 2021 addressing the potential for settlement and proposing a schedule for any fee litigation that may be required.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

11/30/20



Royce C. Lamberth  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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

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**STATUS REPORT**

Pursuant to the Court’s Order dated, April 24, 2020, Defendant, the Central Intelligence Agency (“CIA” or “Agency”), respectfully submits this status report to apprise the Court of the status of the CIA’s supplemental search of its operational files in this Freedom of Information Act (“FOIA”) matter. Accordingly, the Agency states as follows:

The CIA conducted a supplemental search of its operational files and located no responsive records with respect to “1400 live sighting reports that were reportedly displayed at Congressional briefings attended by CIA employees, as well as records of imagery and reconnaissance and rescue operations.” Order dated March 31, 2020. The CIA has now completed the supplemental search of its operational files.

Dated: October 30, 2020

Respectfully submitted,

MICHAEL R. SHERWIN  
Acting United States Attorney

DANIEL F. VAN HORN  
Chief, Civil Division  
D.C. Bar No. 924092

By: */s/ Kathleene Molen*

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*Counsel for Defendant*



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
ROGER HALL et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Case No. 04-814
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

MEMORANDUM & ORDER

When this long-running Freedom of Information Act (FOIA) case left off, the Central Intelligence Agency (CIA) had three tasks: (1) disclose previously redacted names of non-CIA employees; (2) provide more specificity on document destruction protocols; and (3) confirm whether additional records allegedly shown to Congress exist. CIA did the first two, but not the third. Accordingly, the Court will grant-in-part and deny-in-part the pending summary judgment cross-motions.

*First*, the Court previously ruled FOIA’s personal privacy protection could not shield names of non-CIA employees. Though CIA briefly considered appealing that decision, it “now intends to release the names . . . as soon as possible[,] . . . and is now reviewing and processing its prior productions consistent with the Court’s prior order[.]” Def.’s Suppl. Mot. Summ. J. 7, ECF No. 335. That’s good news, and the Court looks forward to hearing when this process is complete.

*Second*, when CIA searched its nonoperational files for records responsive to plaintiffs’ request, it identified 569 physical file folders with potentially responsive documents but claimed 114 were destroyed in accordance with CIA’s record control schedules. To substantiate this

claim, the Court “direct[ed] the CIA to provide further specificity as to the regulations and schedules applied to its decision to destroy the files.” Mem. Op. 14, ECF No. 291. CIA recently made those schedules—which are classified—available for ex parte and in camera review, *see* ECF No. 334, and that review convinced the Court that additional searching will not recover the 114 files. Consequently, the Court concludes CIA adequately searched its nonoperational files and will award summary judgment accordingly. *See SafeCard Servs., Inc. v. S.E.C.*, 926 F.2d 1197, 1201 (D.C. Cir. 1991).

*Third*, plaintiffs contest the adequacy of CIA’s search with evidence of additional documents that should have been—but weren’t—disclosed. Specifically, plaintiffs marshal affidavits from former congressmen and senators testifying CIA showed them aerial images of prisoner-of-war camps. *See, e.g.*, Decl. Bill Hendon ¶¶ 8–24, ECF No. 95-45; Decl. John LeBoutillier ¶¶ 8–9, ECF No. 83-15. These images would clearly fall within plaintiffs’ request for information about prisoners-of-war or soldiers missing-in-action during the Vietnam War. But CIA will neither confirm nor deny the existence of these images, saying only that if they exist, they must be “operational” and thus excepted from FOIA under 50 U.S.C. § 3141. *See* Def.’s Suppl. Mot. Summ. J. 5-7.

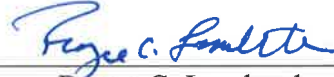
Yet given these “positive indications of overlooked materials,” the Court needs more from CIA to feel confident the search was “reasonably calculated to uncover all relevant documents.” *Aguiar v. Drug Enf’t Admin.*, 865 F.3d 730, 738 (D.C. Cir. 2017) (internal quotation marks omitted). That’s especially true given the age of these alleged records, and the Court’s corresponding difficulty imagining why they would still be operational. But CIA spurns any explanation at all, since to even confirm or deny the records’ existence, CIA must search its operational records. And CIA maintains § 3141 barricades its operational records from FOIA.

But § 3141 does not categorically absolve CIA from searching its operational records. When a FOIA requester “disputes” the adequacy of CIA’s search “with a sworn written submission based on personal knowledge or otherwise admissible evidence” suggesting “improper exemption of operational files,” a court can order CIA “to review the content of any exempted operational file or files” and to submit a “sworn written submission” supporting the claimed exemption. § 3141(f)(2), (f)(4)(A)–(B); *accord, e.g., Judicial Watch, Inc. v. Cent. Intelligence Agency*, 310 F. Supp. 3d 34, 41-42 (D.D.C. 2018) (Jackson, K.B., J.). Plaintiffs do so here with—among other things—an affidavit by former Congressman Bob Smith swearing “without any equivocation that [CIA is] still holding documents that should be declassified” and that “could and should be released as they pose no national security risk.” Aff. Bob Smith ¶¶ 8, 20, ECF No. 258-4. Yet CIA never comes close to explaining why the files remain operational, offering only generalized explanations of § 3141 and its mandatory decennial review. *See, e.g., Decl. Antoinette B. Shiner*, ECF No. 335-1. That’s not enough. To satisfy § 3141, CIA must review its operational files and explain with specificity whether any additional responsive records exist and, if so, why they must be exempt from FOIA.

Therefore the Court **DISCHARGES** its order [333] to show cause. The Court further **GRANTS-IN-PART** and **DENIES-IN-PART** CIA’s cross-motion [295] for summary judgment, and conversely **GRANTS-IN-PART** and **DENIES-IN-PART** the plaintiffs’ cross-motions [312, 319]. In short, the Court holds that CIA adequately searched its nonoperational files, but that it must now search its operational files and explain whether any additional responsive records exist and, if so, why they remain operational. If CIA cannot do so in a public filing, it should move to file under seal or for ex parte, in camera review. Finally, the Court **ORDERS** the parties to meet and confer within ten days—and to update the Court within ten

days thereafter—on a plan for that search and for further briefing. These deadlines shall not be further extended.

August 2, 2019



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Royce C. Lamberth  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action 04-00814 (RCL)  
 )  
 Central Intelligence Agency, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**DECLARATION OF ANTOINETTE B. SHINER**  
**INFORMATION REVIEW OFFICER**  
**FOR THE LITIGATION INFORMATION REVIEW OFFICE**  
**CENTRAL INTELLIGENCE AGENCY**

I, ANTOINETTE B. SHINER, hereby declare and state:

1. I am the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). Through the exercise of my official duties, as detailed in the declarations filed in this case on 13 July 2016 and 27 January 2017, which I incorporate by reference, I have become familiar with this civil action and the underlying FOIA request at issue.

2. The purpose of this supplemental declaration is to address the outstanding issues set forth in the Court's 2 August 2017 Order; specifically, the Court's questions regarding dates on several denied-in-full documents, the Agency's records control schedules in relation to certain destroyed records, and the adequacy of CIA's search for "Items 5 and 7" of Plaintiffs' request.

## **I. CIA's Denied-in-Full Vaughn Index**

3. In its recent Order, the Court directs the Agency to provide the latest date it can discern for three entries on the denied-in-full *Vaughn* index provided to Plaintiffs that cite to Exemption 1: documents 2, 3 and 15. The dates can be ascertained from the content, recipients, and dates noted within the text. Document 2, C05999027, is dated 2000; Document 3, C05999550, is dated 2003 and Document 15, C06002421, is dated 1991.

## **II. Adequacy of CIA's Searches**

### **A. "Item 5" Searches**

4. The Court had two additional questions regarding the Agency's search for responsive documents to "Item 5"<sup>1</sup>: first, the Court directed the CIA to provide additional details regarding the regulations and records control schedules governing the destruction of 114 folders that may have contained potentially responsive records; second, the Court asked for a fuller explanation as to why any potentially responsive "Item 5" records residing in the Agency's operational files, given the age of subject matter, would continue to be considered exempt from search and review from FOIA pursuant to the "operational files" exemption.

#### **1. Records Retention Schedules**

5. In my 13 July 2016 declaration, I described the search for Item 5 documents in the Archives and Records Center (AARC), noting that: "From this initial search, the response was narrowed to 569 hard copy folders associated with 204 individuals. It was later

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<sup>1</sup> "Item 5" requests records on over 1,700 persons reporting to be prisoners of war or missing-in-action during the Vietnam War.

determined that 114 of those folders had been properly destroyed in accordance with CIA's records control schedule."

6. Chapter 33 of United States Code Title 44 provides the framework for federal records management. The National Archives and Records Administration (NARA), through the Code of Federal Regulations, provides detailed guidance for records and information management for all federal agencies. The Agency has promulgated internal policies and regulations in accordance with NARA's framework to govern the management and retention of the Agency's records. The CIA's retention rules are captured in its Records Control Schedules, which were coordinated in conjunction with NARA and formally approved by the Archivist of the United States. These schedules control the disposition of all records under that schedule, including their destruction. Each records control schedule sets forth required retention dates, based on the nature and contents of the record.

7. Here, part of the CIA's search for "Item 5" records consisted of a search of temporary records files in the Agency archives. Specifically, the Agency conducted searches for the 1700 names of POW/MIAs provided by plaintiffs. As a result of these searches, the Agency uncovered a number of "hits," which indicated that potentially responsive records may have been held in 114 files that had been destroyed. Those files were largely administrative in nature and contained documents related to routine administrative support, working papers, films of no intelligence value, and the correspondence and reference documents associated with certain FOIA/Privacy Act and declassification files. Based on the nature of the records contained

in the files, these documents were designated as "temporary" and only required to be kept for a designated period of time (from one to 10 years, depending on the file type). By the time the searches were conducted, these files had been properly destroyed in connection with the relevant record control schedule. Separately, I note that given the volume and the commonness of the names requested, although the Agency encountered "hits" during its searches, there is no indication that these records were truly responsive to plaintiff's request.

## **2. Operational Files**

8. The Court notes that plaintiff have "present[ed] evidence of imagery of suspected prison camps, up to 1,400 live-sighting reports, and named reconnaissance and rescue operations alleged to have taken place" and finds that "the Court cannot be left to speculate about whether such records if they exist, are among those that the CIA Director has designated as operational files pursuant to his statutory authority." The Court directs the CIA to demonstrate how dated records about American prisoners of war can "reasonably be considered operational under the statute."

9. In my supplemental declaration filed in January 2017, I described the decennial review process required under 50 U.S.C. § 3141, generally. Additional details about the review may assist the Court with its question about how even dated or older records may remain within the operational files.

10. During a decennial review a validation team ensures the following: categories and subcategories of designated files series fall within the boundaries of the CIA Information Act of 1984; the



actual records in the file categories are appropriately filed; and the information in those records cannot be declassified and released if subject to the FOIA line-by-line review and release process. Public comment is solicited through a Federal Register notice. In addition, CIA sends letters to organizations and individuals known to have views about historical and other public interest disclosures requesting their input.<sup>2</sup> Indeed, the CIA Information Act requires that the decennial review, "include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein."

11. While the age of documents designated as exempt operational files is a factor considered during a decennial review, there is not a specific age limit on how long files may be held in operational files. Some records, although over 60 years old in some cases, may still contain detailed, still viable sources and methods information which remains very sensitive today. For example, certain operational files, even old ones, may reveal a particular collection technique that remains viable or which has never been detected. Disclosure would reveal not only the technique, but the Agency's use of the technique and the particular target against whom it was deployed. In its most recent decennial review, the validation team determined which records, including those containing imagery, held in designated operational files should continue to have that designation.

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<sup>2</sup> The latest Federal Register notice is dated April 15, 2015 at Fed. Reg. Vol. 80, No. 75.

12. In addition to the thorough decennial review, in this case, the Agency searched for and released to Plaintiffs any records that had been removed from operational files and therefore had lost that designation. Moreover, as explained in further detail addressing the search for "Item 7" responsive documents, below, most of the Agency's documents on POWs/MIAs have been permanently accessioned to NARA in association with mandated declassification, although CIA has also searched its records to ensure Plaintiffs received all responsive, non-exempt material in the Agency's possession.<sup>3</sup>

**B. "Item 7" Searches**

13. The Court found the search in response to "Item 7"<sup>4</sup> inadequate, holding that the Agency has not directly addressed Plaintiffs' claim that there are responsive documents that were shared with congressional committees but not produced in this litigation. However, the Court expressly states the Agency is not required to search its operational files even if underlying records were shared with other government agencies or with Congress.

14. I note that the CIA has provided Congress with documents concerning American POWs and MIAs and that searches conducted in response to "Item 7" have included those records. In the early 1990s, the Senate created a select committee on the POW/MIA issue with then-

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<sup>3</sup> Plaintiffs have been referred to NARA several times throughout this litigation. It should also be noted that the Defense Intelligence Agency (DIA) has been the lead agency on resolution of POW/MIA issues since 1985 (noted in document C06002422 released-in-full to Plaintiffs) and may have records of the type requested here.

<sup>4</sup> "Item 7" refers to plaintiff's request for "all 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."

Senators Kerry and Smith (the latter submitted a declaration on behalf of Plaintiffs) as leads. As part of this effort, CIA, and several other government agencies, sent thousands of documents to Congress, including some classified records. The committee also conducted closed hearings in which classified testimony was presented. In early 1993, the committee's records were sent to NARA for declassification. In turn, NARA sent CIA original records and records from other government agencies containing CIA equities for review.<sup>5</sup>

15. The select committee's records were exempt from FOIA search and release. When "Item 4"<sup>6</sup> of Plaintiffs' request was still being litigated, the Court determined that CIA was not required to re-review the documents sent from NARA in response to the committee's declassification directive as the Agency had held the documents in a read, review, and return status.<sup>7</sup> Nevertheless, in the interest of resolving the litigation, CIA searched for these documents in response to "Item 4" of Plaintiffs' request and released over 1,000 records during the 2010-2011 timeframe. The Court upheld the search for "Item 4" records in its 2012 order.

16. For the documents, including imagery, photographs, and the like, shared with Congress that were not part of the NARA project, CIA has treated all responsive documents in its possession and produced

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<sup>5</sup> Separately, Executive Order 12812 also directed Executive Branch agencies to review and declassify records on POWs/MIAs. Pursuant to the E.O., declassified versions of all classified records in the committee's possession were made.

<sup>6</sup> "Item 4" of plaintiff's request asked for: All records of the Senate Select Committee on POW/MIA Affairs which were withdrawn from the collection at the National Archives and returned to CIA for processing.

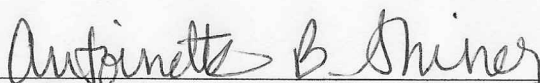
<sup>7</sup> These documents have been permanently accessioned to NARA.

any non-exempt portions to Plaintiffs throughout this litigation (with the exception of any records that might be maintained in operational files, a search of which the Court has consistently held is not required).

17. There are documents that remain currently and properly classified as their release could reveal intelligence sources, methods and activities, as described in the denied-in-full *Vaughn* index (containing only 45 entries). If the Court requires a sample of such documents, CIA can provide it, *in camera*, for review.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 29<sup>th</sup> day of November 2017.

  
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Antoinette B. Shiner  
Information Review Officer  
Central Intelligence Agency

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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ROGER HALL, et al., )  
 )  
Plaintiffs, )  
 )  
v. ) Civil Action No. 04-814 (RCL)  
 )  
CENTRAL INTELLIGENCE AGENCY, )  
 )  
Defendant. )  
\_\_\_\_\_

MEMORANDUM OPINION

**I. Background**

Although this case is not breaking any records at merely thirteen years old, *Cf. DiBacco v. U.S. Army*, 795 F.3d 178 (D.C. Cir. 2015) (FOIA litigation lasting more than thirty years), this matter will continue to live on past today’s decision.

Plaintiffs Roger Hall (“Hall”), Studies Solutions Results, Inc. (“SSRI”), and Accuracy in Media (“AIM”) filed this action against defendant Central Intelligence Agency (“CIA” or “agency”) under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, seeking records concerning prisoners of war and Service-members missing in action from the Vietnam War era. Before the Court is the CIA's renewed motion for summary judgment and plaintiffs' cross-motions for summary judgment, as well as plaintiffs' request for discovery, *in camera* review, and appointment of a special master. Upon consideration of the motions, the oppositions and responses thereto, the associated replies, the attachments and affidavits filed in support of each party’s arguments; and the entire record of this case; the Court grants in-part and denies-in part the parties’ motions. The Court explains its reasoning in the analysis below.

In February 2003, Hall made a FOIA request to the CIA on behalf of himself, SSRI, and AIM, seeking assorted records pertaining to POW/MIAs from the Vietnam War era. Hall Amd. Compl. [45] ¶ 6. Having received no substantive response, Hall and AIM filed this action in May, 2004. The procedural history of this case, leading up to November 12, 2009, is set forth comprehensively in Judge Kennedy's 2009 Order. *Hall v. CIA*, 668 F.Supp.2d 172, 175-78 (D.D.C.2009). Likewise, the subsequent history up through August 3, 2012 is provided in an Opinion by this Court issued on that date. 881 F.Supp.2d 38, 50 (D.D.C. 2012).

In its 2012 opinion, this Court ruled that the following issues remained outstanding: 1) the adequacy of the search with respect to Item 5 of plaintiffs' request; 2) the adequacy of the search with respect to Item 7 of the plaintiffs' request; 3) the disposition of referred documents with respect to Item 5; and 4) the agency's application of Exemptions 3 and 6 on the already produced documents.

This most recent round of litigation was kicked off by the CIA's renewed motion for summary judgment. [248] It is the CIA's position that it has resolved the outstanding issues related to production, and all that remains to be decided by the Court is the adequacy of the searches with respect to Items 5 and 7. *See* [248] at \*3 ¶ 1. Item 5 of Hall's request included all records relating to a) 47 individuals alleged to be Vietnam-era POW/MIAs, whose next-of-kin have provided privacy waivers to Roger Hall, and b) 1,711 persons on the Prisoner of War/Missing Personnel Office's list of persons whose primary next-of-kin (PNOK) have authorized the release of information concerning them. Item 7 requests "[a]ll 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." Specifics as to the status of production for each of these

requests will be addressed in the analysis below. So, too, is the plaintiffs' contention that CIA's production and conduct up to now leaves outstanding the other matters specified in the Court's 2012 order (the Item 5 referral documents, and application of Exemptions 3 and 6) and the adequacy of the *Vaughn* indices produced pursuant to that Order. For now, it will suffice to say that plaintiffs are so underwhelmed with the agency's progress that they are requesting discovery, *in camera* review of unredacted documents, and/or the appointment of a special master.

## II. Legal Standards

### A. Summary Judgment

Summary judgment is appropriate where “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. PRO. 56(a). It is “appropriate only in circumstances where ‘the evidence is such that a reasonable jury could not return a verdict for the nonmoving party.’” *Washington Post Co. v. U.S. Dep't of Health & Human Servs.*, 865 F.2d 320, 325 (D.C. Cir. 1989) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). The Court must view all evidence “in the light most favorable to the nonmoving party” and, if a genuine dispute exists, “parties should be given the opportunity to present direct evidence and cross-examine the evidence of their opponents in an adversarial setting.” *Id.*

As applied in a FOIA case, an agency defendant may be entitled to summary judgment if it demonstrates that 1) no material facts are in dispute, 2) it has conducted an adequate search for responsive records, and 3) each responsive record that it has located has either been produced to the plaintiff or is exempt from disclosure. *Miller v. U.S. Dep't of Justice*, 872 F. Supp. 2d 12, 18 (D.D.C. 2012) (citing *Weisberg v. DOJ*, 627 F.2d 365, 368 (D.C. Cir. 1980)).

B. Adequacy of a Search

When an agency receives a FOIA request it is obligated to “conduct a search reasonably calculated to uncover all relevant documents,” *Truitt v. Dep’t of State*, 897 F.2d 540, 541 (D.C. Cir. 1990) (internal quotation marks omitted), among those sources of information not otherwise exempted by law. *See, e.g.*, 50 U.S.C. § 3141. The adequacy of a search, therefore, depends not on “whether any further documents might conceivably exist,” *id.*, but on the search’s design and scope. An agency must accordingly show that it made “a good faith effort to conduct a search for the requested records, using methods [that] can be reasonably expected to produce the information requested.” *Oglesby v. U.S. Dep’t of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).<sup>1</sup> An agency need not, however, “search every record system,” or conduct a perfect search. *See id.*; *SafeCard Servs., Inc. v. SEC*, 926 F.2d 1197, 1201 (D.C. Cir. 1991).

At the summary judgment stage, the agency bears the burden of showing that it complied with FOIA and it may meet this burden “by providing ‘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.’” *Iturralde v. Comptroller of Currency*, 315 F.3d 311, 313–14 (D.C. Cir. 2003). The plaintiff may then “provide ‘countervailing evidence’ as to the adequacy of the agency’s search.” *Id.* at 314. If a review of the record created by these affidavits

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<sup>1</sup> In various filings and supporting declarations, the CIA and its affiants frequently repeat that the Court’s earlier holdings about the CIA’s searches being inadequate are “because . . . the CIA had erroneously stated that it had searched the systems ‘most likely’ to contain responsive documents rather than ‘all systems that are likely to produce responsive records.’” To the extent the CIA is implying that the Court in its 2012 Order accepted the CIA’s subsequent assertion that the CIA had “erroneously” stated where it searched, the Court rejects such a characterization. Giving the CIA the benefit of the doubt, its repeated invocation of erroneousness refers to its own legally significant error; the Court did not then and does not now treat the CIA’s prior representations as merely a (repeated) rhetorical slip. In fact, the word “erroneous” appears nowhere in the Court’s 2012 opinion. The CIA’s decision to “reconsider the matter” of where responsive records are likely to be found, *see* [248-1] at \*8; [248-2] at \*9, implicitly acknowledges this to be so.



“raises substantial doubt,” as to a search’s adequacy, “particularly in view of ‘well defined requests and positive indications of overlooked materials.’” summary judgment would not be appropriate. *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 326 (D.C. Cir. 1999) (quoting *Founding Church of Scientology v. Nat’l. Sec. Agency*, 610 F.2d 824, 837 (D.C. Cir. 1979)).

“Agency affidavits are accorded a presumption of good faith, which cannot be rebutted by ‘purely speculative claims about the existence and discoverability of other documents.’” *SafeCard*, 926 F.2d at 1200. They may, however, be rebutted by evidence of bad faith. *Id.*

### C. Production and Exemptions

This Court determines *de novo* whether an agency has properly withheld information under a claimed FOIA exemption. *See Mead Data Cent., Inc. v. Dep’t of Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977). “The underlying facts are viewed in the light most favorable to the [FOIA] requester,” *Weisberg*, 705 F.2d at 1350, and the exemptions must be narrowly construed. *FBI v. Abramson*, 456 U.S. 615, 630, 102 S.Ct. 2054, 72 L.Ed.2d 376 (1982). An agency claiming an exemption to FOIA bears the burden of establishing that the exemption applies. *Fed. Open Mkt. Comm. of Fed. Reserve Sys. v. Merrill*, 443 U.S. 340, 352 (1979). And FOIA requires that “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt.” 5 U.S.C.A. § 552(b).

Especially in national security matters, however, courts generally defer to agency expertise. *See, e.g., Taylor v. Dep’t of the Army*, 684 F.2d 99, 109 (D.C. Cir. 1982) (accorded “utmost deference” to classification affidavits); *Krikorian v. Dep’t of State*, 984 F.2d 461, 464–65 (D.C. Cir. 1993) (acknowledging “unique insights” of executive agencies responsible for national defense and foreign relations). Because of that deference and the peculiarities of FOIA litigation,

agencies regularly submit affidavits setting forth the bases for withholding otherwise responsive information, just as they do to establish the adequacy of their searches, in support of their motions for summary judgment. These submissions usually also include so-called *Vaughn* indices. See *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). The agency's submissions "must show, with reasonable specificity, why the documents fall within the exemption." *Judicial Watch, Inc. v. U.S. Dep't of Health & Human Servs.*, 27 F. Supp. 2d 240, 242 (D.D.C. 1998). Again, they are presumed to be submitted in good faith. *Ground Saucer Watch, Inc. v. CIA*, 692 F.2d 770, 771 (D.C. Cir. 1981). The D.C. Circuit has explained the importance of these submissions in evaluating FOIA exemption claims:

As, ordinarily, the agency alone possesses knowledge of the precise content of documents withheld, the FOIA requester and the court both must rely upon its representations for an understanding of the material sought to be protected. . . . Affidavits submitted by a governmental agency in justification for its exemption claims must therefore strive to correct, however, imperfectly, the asymmetrical distribution of knowledge that characterizes FOIA litigation. The detailed public index which in *Vaughn* we required of withholding agencies is intended to do just that: to permit adequate adversary testing of the agency's claimed right to an exemption, and enable the District Court to make a rational decision whether the withheld material must be produced without actually viewing the documents themselves, as well as to produce a record that will render the District Court's decision capable of meaningful review on appeal.

*King v. U.S. Dep't of Justice*, 830 F.2d 210, 218–19 (D.C. Cir. 1987) (quotations omitted).

To accomplish that goal, the agency must supply "a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply." *Mead Data Cent.*, 566 F.2d at 251. The requisite specificity "imposes on the agency the burden of demonstrating applicability of the exemptions invoked *as to each document or segment withheld.*" *King*, 830 F.2d at 224 (emphasis original). Though the affidavits need not contain factual descriptions the

public disclosure of which would endanger the agency's mission, *Vaughn*, 484 F.2d at 826–27, they must feature “the kind of detailed, scrupulous description [of the withheld documents] that enables a District Court judge to perform a de novo review.” *Church of Scientology of Cal., Inc. v. Turner*, 662 F.2d 784, 786 (D.C. Cir. 1980).

*a. Exemption 1*

Exemption 1 protects matters that are: “(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order[.]” 5 U.S.C. § 552(b)(1). Pursuant to Executive Order 13526, 75 Fed.Reg. 707 (Jan. 5, 2010), information may be classified only if all of the following conditions are met:

- (1) an original classification authority is classifying the information;
- (2) the information is owned by, produced by or for, or is under the control of the United States Government;
- (3) the information falls within one of more [specified categories];<sup>2</sup> and
- (4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security, which includes defense against transnational terrorism, and the original classification authority is able to identify or describe the damage.

Exec. Order No. 13526 § 1.1(a). The phrase “damage to the national security” means “harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.” Exec. Order. No. 13526 § 6.1(l). *See also Military*

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<sup>2</sup> The Executive Order limits the government’s ability to classify information to that which falls within the following enumerated categories: (a) military plans, weapons systems, or operations; (b) foreign government information; (c) intelligence activities (including covert action), intelligence sources or methods, or cryptology; (d) foreign relations or foreign activities of the United States, including confidential sources; (e) scientific, technological, or economic matters relating to the national security; (f) United States Government programs for safeguarding nuclear materials or facilities; (g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or (h) the development, production, or use of weapons of mass destruction. Exec. Order No. 13526 § 1.4.

*Audit Project v. Casey*, 656 F.2d 724, 748 (D.C. Cir. 1981) (deferring to agency affidavits as to the proper classification of information).

*b. Exemption 3*

Exemption 3 covers records that are specifically exempted from disclosure by statute under conditions dictated by the FOIA. 5 U.S.C. § 552(b)(3). Certain provisions of the Central Intelligence Agency Act and the National Security Act that require the protection from unauthorized disclosure of intelligence sources and methods, and certain information regarding the organization and personnel of the CIA, are such statutes. *See* 50 U.S.C. §§ 3024, 3507. In cases involving national security equities, such as this one, there is therefore generally significant overlap between the information covered by Exemption 1 and that covered by Exemption 3. *See also Military Audit Project*, 656 F.2d at 737 n. 39 (citing *Phillippi v. CIA*, 546 F.2d 1009 (D.C. Cir. 1976)). With respect to Exemption 3 claims, as with the other exemptions, this Court seeks to balance the inherent tension between the public's interest in government goings-on with the protection of an agency's legitimate, and statutorily recognized need for secrecy in certain matters. *See Miller*, 872 F. Supp. 2d at 22.

*c. Exemption 5*

FOIA Exemption 5 applies to “inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.” 5 U.S.C. § 552(b)(5).<sup>3</sup> As relevant here, Exemption 5 has been applied as an exercise of the

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<sup>3</sup> Plaintiffs argue that the Court should apply in this case the FOIA Improvement Act of 2016’s sunset provision to deliberative process privilege claims. That statute states that the privilege, “shall not apply to records created 25 years or more before the date on which the records were requested.” 5 USC § 552(b)(5) (2016). According to its *Vaughn* indices, the CIA has claimed Exemption 5 with respect to 20 documents – three that were released-in-part, and seventeen that were denied-in-full. Only one document is denied-in-full solely on the basis of Exemption 5; it is undated, but apparently bears hallmarks as to its age.

The Senate report accompanying the legislation explains, in part:

deliberative process privilege. See Shiner decl. [248-2] at ¶ 61.<sup>4</sup> “[T]he ultimate purpose of this long-recognized privilege is to prevent injury to the quality of agency decisions.” *N.L.R.B. v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975). Three policy bases underlie this privilege:

First, it protects creative debate and candid consideration of alternatives within an agency, and, thereby, improves the quality of agency policy decisions. Second, it protects the public from the confusion that would result from premature exposure to discussions occurring before the policies affecting it had actually been settled upon. And third, it protects the integrity of the decision-making process itself by confirming that “officials should be judged by what they decided[,] not for matters they considered before making up their minds.”

*Russell v. Dep’t of the Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982) (quoting *Jordan v. U.S. Dep’t of Justice*, 591 F.2d 753, 772–73 (D.C. Cir. 1978)). Therefore, Exemption 5 “protects not only communications which are themselves deliberative in nature, but all communications which, if revealed, would expose to public view the deliberative process of an agency.” *Id.* at 1048.

For material to qualify for withholding or redaction under Exemption 5, it “must be both ‘predecisional’ and part of the ‘deliberative process.’” *McKinley v. Bd. of Governors of Fed. Reserve Sys.*, 647 F.3d 331, 339 (D.C. Cir. 2011) (internal quotation marks omitted). A document

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The [sunset] provision ensures government records be made available to the public for their educational and historic value, while providing sufficient time for agencies to protect against the disclosure of their deliberative processes. The world can change significantly over the span of 25 years, and the public benefits derived from access to historical records should continue to be given special consideration when weighted against the government's interest in withholding information. . . . The amendment to Exemption 5 is consistent with the unique relationship that government employees have with executive branch agencies, as well as the duty imposed on government employees to act in the public interest. . . .

S. REP. NO. 114-4 (2016).

The Act, however, also provides that its amendments to the FOIA “shall apply to any request for records . . . made after the date of enactment of this Act.” Thus, the only way for the Act to be applicable to the present litigation is if the plaintiff’s filings after the date of enactment (June 30, 2016) can properly be construed as FOIA requests in and of themselves; if so, that would materially alter the CIA’s ability to apply Exemption 5 to materials produced pursuant to those requests. The plaintiffs have not alleged they have sent a FOIA request to the CIA after June 30, 2016, and the Court declines to treat its filings as such; a motion for summary judgment is a motion to a court, not a request to an agency. The Court therefore applies Exemption 5 as codified prior to the enactment of the FOIA Improvement Act.

<sup>4</sup> CIA’s claims of material covered by the attorney-client and work product privileges were disposed of in the Court’s 2012 order. 881 F.Supp.2d at 69-70.

is predecisional if it is prepared “to assist an agency decisionmaker in arriving at his decision, and may include recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinions of the writer rather than the policy of the agency.” *Formaldehyde Inst. v. Dep’t of Health & Human Servs.*, 889 F.2d 1118, 1122 (D.C. Cir. 1989) (internal citations and quotation marks omitted). A document is predecisional only if a court can “pinpoint an agency decision or policy to which the document contributed.” *Senate of the Com. of Puerto Rico on Behalf of Judiciary Comm. v. U.S. Dep’t of Justice*, 823 F.2d 574, 585 (D.C. Cir. 1987). If that document is, in fact, later adopted as an agency decision, however, it may lose its ‘predecisional’ status. *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Furthermore, although draft documents may properly be withheld under Exemption 5, an agency’s mere “designation of a document as a ‘draft’ does not automatically trigger proper withholding under Exemption 5.” *Def. Of Wildlife v. U.S. Dep’t of Agric.*, 311 F. Supp.2d 44, 58 (D.D.C. 2004).

A document is part of the deliberative process “if the disclosure of [the] materials would expose an agency’s decisionmaking process in such a way as to discourage candid discussion within the agency and thereby undermine the agency’s ability to perform its functions.” *Formaldehyde Inst.*, 889 F.2d at 1122 (internal quotation marks omitted). In addition, “[f]actual material is not protected under the deliberative process privilege unless it is ‘inextricably intertwined’ with the deliberative material.” *Judicial Watch, Inc. v. Dep’t of Justice*, 432 F.3d 366, 372 (D.C. Cir. 2005).

*d. Exemption 6*

Exemption 6 protects disclosure under the FOIA of “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C § 552(b)(6). Exemption 6 thus has two prongs, and requires an agency to prove both the nature of the files and that the files’ disclosure “would constitute a clearly unwarranted invasion of personal privacy.” *Dep't of State v. Washington Post Co.*, 456 U.S. 595, 599-603, 102 S.Ct. 1957, 72 L.Ed.2d 358 (1982)). The first criterion does not require that the information be contained in a specifically designated “personnel” file. *Id.* at 601. It is met if the information “appl[ies] to a particular individual” and is “personal” in nature. *New York Times Co. v. NASA*, 852 F.2d 602, 606 (D.C. Cir. 1988). The second step of an Exemption 6 analysis is to strike a “balance between the protection of an individual's right to privacy and the preservation of the public's right to government information.” *Washington Post Co.*, 456 U.S. at 599. The “public interest” in the analysis is limited to the “core purpose” for which Congress enacted the FOIA, i.e., to “shed ... light on an agency's performance of its statutory duties.” *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773, 109 S.Ct. 1468, 103 L.Ed.2d 774 (1989).

Information about federal employees therefore generally does not qualify for protection. *See Arieff v. Dep't of the Navy*, 712 F.2d 1462, 1467–68 (D.C. Cir. 1983) (declining to protect information about a large group of individuals); *Aguirre v. SEC*, 551 F.Supp.2d 33, 54 (D.D.C. 2008) (“Correspondence does not become personal solely because it identifies government employees.”). There must be some personal information that relates to a particular individual for exemption 6 protection to be warranted. Typical personal information protected under exemption 6 includes “place of birth, date of birth, date of marriage, employment history, and comparable

data.” *Nat'l Ass'n of Retired Fed. Emps. v. Horner*, 879 F.2d 873, 875 (D.C. Cir. 1989). In examining an exemption 6 withholding, the court must balance the privacy interest at stake against the public's interest in disclosure. *Fund for Constitutional Gov't v. National Archives and Records Serv.*, 656 F.2d 856, 862 (D.C. Cir. 1981). “Under exemption 6, the presumption in favor of disclosure is as strong as can be found anywhere in the Act.” *Nat'l Ass'n of Home Builders v. Norton*, 309 F.3d 26, 32 (D.C. Cir. 2002).

### III. Analysis

Over the years of this litigation, Hall’s FOIA request has resulted in the release of more than 4,000 documents tending to shed light on the fates of prisoners of war and those men otherwise reported as missing in action during the Vietnam conflict. *See Hall v. CIA*, 115 F.Supp.3d 24, 29 (D.D.C. 2015). Since the Court’s 2012 order alone, the CIA has processed and released (in-full or in-part) over 750 additional responsive documents. Shiner decl. ¶ 29. The years of back-and-forth in this litigation, characterized by numerous motions, cross-motions and oppositions, as well as declarations and iterative supplements thereto, tends to obscure that the Court’s two-fold task here is theoretically fairly straightforward: to determine the reasonableness of the CIA’s search for and production of documents responsive to plaintiffs’ 2003 FOIA request. Although we are getting closer to a final resolution, the Court finds some daylight remains to be shed on both prongs of this judicial inquiry.

#### A. Adequacy of the Search(es)

The “genuine issue of fact” relevant to a FOIA summary judgment motion is not the existence of any particular document, but rather the reasonableness of the agency's search. *See SafeCard*, 926 F.2d at 1201. The question before the Court therefore is not whether there were or



are still American POWs remaining in Southeast Asia contrary to the government's representations, but whether the searches conducted by the CIA (of its non-exempted files) pursuant to the plaintiffs' FOIA request were adequately likely to yield information related to that request.

The court may rely on an agency's "reasonably detailed affidavit, setting forth the search terms and the type of search performed, and averring that all files likely to contain responsive materials (if such records exist) were searched." *Oglesby*, 920 F.2d at 68. Such affidavits are "accorded a presumption of good faith, which cannot be rebutted by 'purely speculative claims about the existence and discoverability of other documents,'" so long as they are "relatively detailed and non-conclusory." *Mobley v. C.I.A.*, 806 F.3d 568, 580–81 (D.C. Cir. 2015), quoting *SafeCard*, 926 F.2d at 1200. The plaintiff "may nonetheless produce countervailing evidence, and if the sufficiency of the agency's identification or retrieval procedure is genuinely in issue, summary judgment is not in order." *Morley v. C.I.A.*, 508 F.3d 1108, 1116 (D.C. Cir. 2007) (quoting *Founding Church of Scientology*, 610 F.2d at 836).

Here the CIA has submitted declarations from a senior Information Review Officer with original classification authority. Shiner decl. at ¶¶ 1-6; 2d Shiner decl. [272-1]. The declarations describe in great detail the process the CIA has used to search for documents responsive to Items 5 and 7 of plaintiffs' request. Plaintiffs continue to challenge the adequacy of the CIA's searches in this case, using several declarations of their own, complete with numerous exhibits culled from previously disclosed records and other research.

*a. Item 5*

Plaintiffs' Item 5 requests records on over 1,700 persons reported to be prisoners of war or missing-in-action during the Vietnam War. The CIA's declarant details what systems were

searched for records responsive to this request, and how (*i.e.*, which search terms were used). Shiner decl ¶ 22. It details how the agency’s search team “manually reviewed” hard-copy folders, “page-by-page, to determine responsiveness,” and explained the criteria used to determine what would be considered responsive. *Id.* It likewise describes the agency’s searches of its CADRE system ordered by this Court. *Id.* at ¶ 24.

But the CIA’s affidavits are insufficient in certain critical ways. Its declarant states that 114 folders out of the 569 originally identified as potentially responsive “had been properly destroyed in accordance with the CIA’s records control schedule.” *Id.* at ¶ 22. Plaintiffs argue that the CIA “should describe, with particularity” what schedules the agency is referring to that would allow it discretion to destroy records on reported missing persons. *See* [289] at \*29. The Court agrees with the plaintiffs, finding the conclusory assertion that the folders were “properly” destroyed as undermining what otherwise appears to be an adequate search of the sources of files it searched. The Court therefore directs the CIA to provide further specificity as to the regulations and schedules applied to its decision to destroy the files.

Furthermore, although a search may be adequate despite failing to discover “an entire category of records . . . that, according to the requester, was of such importance that records must have been created, *Mobley*, 806 F.3d at 583 (quoting *DiBacco*, 795 F.3d at 190), a search is inadequate when it is “evident from the agency’s disclosed records that a search of another of its records system might uncover the documents sought.” *Valencia-Lucena*, 180 F.3d at 326. While the plaintiffs have littered the record with plenty of speculation that, to paraphrase, insists more records must exist because so many men have been reported missing, they also have pointed to several concrete examples of categories of documents that prior productions strongly suggest do exist. *See, e.g.*, Hall decl. [260].

The CIA has thus far failed to address specific allegations of inadequacy with any particularity, except to reiterate that it has produced the non-exempt material in the places it has searched. For example, in addition to the CIA's failure to turn-up files on 1,700 of the names of reported missing persons that it searched for, plaintiffs present evidence of imagery of suspected prison camps, up to 1,400 live-sighting reports, and named reconnaissance and rescue operations alleged to have taken place. Although specific imagery, intelligence reports, and operations, even those more than 60 years old, may well still be classified, the Court cannot be left to speculate about whether such records, if they exist, are among those the CIA Director has designated as operational files pursuant to his statutory authority. *See* Def. Reply and Opposit'n [272] at \*12 (representing that plaintiffs "have identified only the [a]gency's operational files" in their argument that the CIA's search has been inadequate). And, although the Court is strongly inclined to defer to the CIA's determinations as to classification and Section 3141, the present record fails to demonstrate how such dated records can reasonably be considered operational under the statute. In this particular litigation, that the CIA conducted a decennial review of its operational files in 2015, 2d Shiner decl. at ¶¶ 17-20, is a threshold matter; it is not the end of the inquiry before the Court.

*b. Item 7*

Plaintiffs' Item 7 requests, "All 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." As with respect to Item 5, the CIA's submissions detail how it went about its search for materials responsive to Item 7. It describes its determination as to the offices likely to

contain responsive records sent to Congress, and the universe of terms searched. Shiner decl. ¶ 26. It also explains in detail the CIA's follow-up with respect to certain attachments, enclosures, photographs, and reports of previously produced documents, as ordered by the Court in 2012. Shiner decl. ¶ 28.

As an initial matter, to the extent the plaintiffs now wish to expand the search terms used, *see* AIM MSJ [258] at \*\*15-16; [286] at \*\*7-8, the Court denies their request. First, the search terms used were reasonably calculated to discover the information in plaintiffs' request. Second, the paucity of responsive records itself does not determine whether the search was adequate. Third, the Court is skeptical of plaintiffs' argument that additional searches for the names of specific POW camps or the codenames of reconnaissance operations is likely to yield further responsive records; it is reasonable to accept that (at least most) such records would simultaneously include the terms already searched. At this stage, the Court will not order the CIA to commit its limited resources to searching anew for what is unlikely to yield new responsive materials. *See also Mobley*, 806 F.3d at 583 (failure to discover an entire category of records did not render a search inadequate).

Further, plaintiffs' reliance on a number of affidavits submitted by former congressmen and senators, combined with insistence that "the CIA must search its operational files," [258] at \*10, seems to imply a belief any documents that the CIA may have shared with Congress out of the agency's properly-designated operational files now must be disclosed pursuant to FOIA. That notion is incorrect. Whether compelled or voluntary, the CIA's decision to share its operational information with other government agencies or with Congress, does not sacrifice that information's protection from disclosure under FOIA. The applicable statute does not envision that outcome, 50 U.S.C. § 3141, and to decide otherwise would likely chill both interagency

cooperation and Congress' oversight function. *See also Military Audit Project*, 656 F.2d at 753-54 ("It would be unwise for us to punish flexibility, lest we provide the motivation for intransigence.").

This item, however, is essentially a request for records about prior searches for records. So although the CIA need not disclose to FOIA plaintiffs information from its operational files, the fact that it may have previously disclosed information from its operational files or elsewhere pursuant to the requests of congressional committees is itself within the scope of the FOIA request. For example, the plaintiffs submitted affidavits from certain former congressmen and senators that make it abundantly clear to the Court that, at some point, these individuals were shown imagery of possible POW camps that plaintiffs say has not been produced to them. The CIA has not addressed why that might be. To be clear, as with Item 5, what is troublesome is not necessarily *that* the CIA has not produced in this litigation certain information that may be exempted from disclosure, but that the CIA has failed to squarely address plaintiffs' evidence strongly indicating that the agency does possess the information sought. If the agency cannot confirm or deny the existence of that information in a public filing, so be it, but its inadequate responses thus far makes it impossible for the Court to grant the CIA's motion for summary judgment as to its searches.

## B. Production

### *a. Disposition of Referral Documents Since 2012*

In its 2012 ruling, the Court ordered the CIA to follow-up on the seven documents responsive to Item 5 that had been referred to other agencies for review, but whose disposition had not yet been determined. The CIA considers the issue to be resolved. Shiner decl. at ¶ 16. Plaintiffs, in their oppositions and cross-motions, disagreed, arguing the NSA's response is

insufficient. [259] at \*\*34-36. The CIA subsequently further explained the processing of the document in-question, and the basis for its asserting that the matter is resolved. 2d Shiner decl. at ¶ 16. Plaintiffs do not appear to challenge this more complete account, and the Court agrees with the CIA that this matter is resolved.

*b. Applications of Exemptions Rejected in 2012*

In its 2012 order, this Court determined that questions remained related to the CIA's invoking Exemptions 3 and 6 for names and photographs on certain produced documents. 881 F.Supp.2d at 67, 71-72. With respect to Exemption 3 on the documents then in-question, the Court finds the CIA has adequately addressed the Court's concern with its submissions filed shortly after entry of the order. *See* Tisdale decl. [188-2] at ¶ 3(b).

With respect to Exemption 6, the Court determined in 2012 that “the CIA has not overcome the heavy presumption in favor of disclosure found in exemption 6 in regard to the names” contained in the already produced documents, as “the names . . . themselves appear to be the subject of substantial public interest.” 881 F.Supp.2d at 71. The Court observes that the public interest in POW/MIA issues has not waned in the past five years – indeed, the POW/MIA flag flew just below our nation's flag over the dome of the Capitol on Independence Day just last month, and a Sunday edition of the Washington Post that same week featured a front-page story on a Vietnam Veteran who had been missing in action and presumed dead.<sup>5</sup> The Court reiterates its holding that the public interest in this matter is high, and the CIA's speculation about potential “harassment, intimidation, or unwanted contact,” 2d Shiner decl. at ¶ 14, does not overcome the strong presumption of disclosure. *See Nat'l Ass'n of Home Builders*, 309 F.3d at 32 (“Under

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<sup>5</sup> Michael E. Ruane, *Marked Dead in Vietnam, a Long Journey Back to Life*, Wash. Post (July 9, 2017) at A1.

exemption 6, the presumption in favor of disclosure is as strong as can be found anywhere in the [FOIA.]); *Nat'l Ass'n of Retired Fed. Emps.*, 879 F.2d at 875 (declining to include individuals' names among the types of information normally withheld under Exemption 6). Although the Court understands the government's interest in protecting lower-level employees, 2d Shiner decl. at ¶ 14, or at least persons who were lower-level employees at the time of the relevant document's creation, the weight of that interest fades considerably as decades pass. Therefore, as to the non-CIA employees' names redacted under Exemption 6, the Court once again denies summary judgment to the CIA and grants summary judgment to plaintiffs.

*c. Post-2012 Document Release and Accompanying Vaughn Indices*

Since its 2012 order, the CIA has released an additional 750 documents in whole or in-part that are responsive to the plaintiffs' request. For the responsive documents located for which release was denied in full, and for those documents released-in-part that plaintiffs selected for a sample *Vaughn* index, the CIA asserted various combinations of Exemptions 1, 3, 5, and 6.

It is clear to the Court that the CIA has sufficiently detailed its classification review and declassification analysis concerning its applications of Exemption 1. Shiner decl. at ¶ 34-56; 2d Shiner decl. at ¶ 11. It has described in great detail the conditions under which information is properly classified, and how it has determined the continued applicability of those conditions to the relevant responsive documents in this case. It also has articulated the standards by which classification determinations are reviewed for the downgrading and eventual public release of information, and why certain information in the documents now at issue cannot be yet be released.

However, the CIA's Denied-in-Full *Vaughn* index, [248-2] at \*\*70-96, lists three undated documents that cite to Exemption 1 (documents 2, 3, and 15). Because the CIA's declassification

standard of review is, in part, a function of the age of the documents, the CIA must discern and disclose the latest date on which these document can reasonably be considered to have been created. This date should be indicated by a designation such as “no later than,” “NLT,” or similar, and should be based on hallmarks of the age of the document, determined first by looking at the features and content of the document itself (*e.g.*, comparing the name and position of the author and recipient to the times during which those persons held the positions they were in at the time, or observations of then-current events), and then, if the document itself somehow bears no such hallmarks as to its age, by looking to the context in which the document was found (*e.g.*, whether documents stored alongside the one in question are themselves dated or bear hallmarks as to their age which the document in question does not).<sup>6</sup>

Regarding Exemption 3, the CIA has explained its grounds for withholding information based on provisions of the Central Intelligence Agency Act and the National Security Act. As to the former, plaintiffs argue that a plain reading of the CIA Act’s exemption of information concerning “personnel employed by the Agency,” 50 U.S.C. § 3507, is limited to current employees, and that it certainly cannot be applied to deceased former employees. [286] at \*\*13-14. The Court disagrees. No profound logical stretch is necessary to read that language as encompassing persons currently or previously employed by the CIA, especially when considering the text and purpose of the statute as a whole. At the extreme, plaintiffs’ preferred interpretation would suggest that there is no Exemption 3 protection even over the names of officers killed in a recent covert operation. That reading would be profoundly likely to cause damage to the national security of the United States of exactly the sort that the CIA Act is meant to prevent.

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<sup>6</sup> The Court notes that, prospectively, the CIA’s ability to rely on Exemption 5 is also going to depend on the age of the documents in question. *See n. 3, supra*. Here, undated denied-in-full documents citing to (b)(5) include documents 2, 14, and 35. The Court believes that the same diligence can and should be applied to those documents.



As for the CIA's exercise of Exemption 3 under the NSA Act, 50 U.S.C. § 3024, one of the plaintiffs argues:

some intelligence sources and methods are so commonly known by the news media, the public at large, and hostile intelligence agencies that it is generally pointless to protect them in the name of national security, particularly when there have been vast disclosures related to the topic by congressional committees and the press.

[286] at \*15; [259] at \*\*23-24. That argument has been roundly and consistently rejected. *See, e.g., Military Audit Project*, 656 F.2d at 741-45, 752-53 (press reports and published congressional studies concerning a national security operation have no bearing on whether that operation is properly classified). The relative successes or failures at protecting intelligence sources and methods does not impact the continuing statutory duty to do so. *See id.* at 745 (musing that the details of a sensitive operation may one day be disclosed "when the story is safe to tell.").

Regarding the CIA's application of Exemption 5, noting that a future FOIA request for the information the CIA has redacted pursuant to this exemption would likely be subject to the sunset provision in the amended statute, the Court finds the CIA has met its burden under the pre-FOIA Improvement Act standard. The CIA's affidavits and accompanying *Vaughn* indices adequately establish the context for properly applying the deliberative process privilege, and also attest to the non-segregable nature of the information underlying the redactions.<sup>7</sup> The plaintiffs allege that extensive government misconduct vitiates the privilege asserted here; the Court disagrees. It is extremely unlikely that deliberate and wanton misconduct on the scale suggested by plaintiffs

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<sup>7</sup> The plaintiffs' reliance on *Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Homeland Sec.*, 648 F.Supp.2d 152 (D.D.C. 2009), for the proposition that information such as specific documents' authors or recipients is necessary to perform a proper analysis under Exemption 5, is misplaced. *See* [259] at \*\*11-12. Although each FOIA exemption must generally be analyzed on its own merit, the plaintiffs cannot use Exemption 5 to get around the statutory protections against disclosure of information related to the CIA's personnel and organization that happen also to be grounds for some of its Exemption 3 assertions. There is simply no analogy here to the cited case's treatment of the United States Customs and Border Patrol documents.

exists to the extent that the Court would find the privilege inapplicable. Plaintiffs' conspiracy theory would require the complicity of eight presidential administrations of both parties, dozens of congressmen and senators (including Vietnam veterans), and hundreds of other public servants. Though the CIA is not an unblemished agency, and the government as a whole is not without its share of poorly considered or executed policies, the Court will not pierce the veil of the government's privilege here.

Finally, the Court denies the CIA's motion for summary judgment as to Exemption 6. The CIA's speculation that disclosure of certain names in decades-old documents might bring "unwanted attention from the media . . . especially in the social media age," Shiner decl. at ¶ 65, is insufficient to overcome the strong presumption favoring disclosure. *See Nat'l Ass'n of Home Builders*, 309 F.3d at 32. The CIA shall therefore reexamine its application of Exemption 6 in accordance with the Court's analysis and direction in section III(B)(b) of this opinion.

### C. Plaintiffs' Additional Requests

#### a. *Discovery*

"Discovery is not favored in lawsuits under the FOIA. Instead, when an agency's affidavits or declarations are deficient regarding the adequacy of its search ... the courts generally will request that the agency supplement its supporting declarations." *Judicial Watch, Inc. v. U.S. Dep't of Justice*, 185 F.Supp.2d 54, 65 (D.D.C. 2002) (citing *Nation Magazine, Wash. Bureau v. U.S. Customs Service*, 71 F.3d 885, 892 (D.C. Cir. 1995); *Oglesby*, 920 F.2d at 68). Courts may permit discovery in FOIA cases where a "plaintiff has made a sufficient showing that the agency acted in bad faith." *Voinche v. FBI*, 412 F.Supp.2d 60, 71 (D.D.C. 2006) (citing *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 812 (2d Cir. 1994)).

In each of the several previous instances where plaintiffs have alleged bad faith in this matter, both this Court and Judge Kennedy earlier have not found that to be so. 668 F.Supp.2d at 196 (2009 order); 881 F.Supp.2d at 74-75 (2012 order). Likewise here, though its conduct in this litigation has at times been unreasonable, *see* 115 F.Supp.3d at 30-31 (2015 order), the CIA has not acted so badly as to merit discovery at this stage.

*b. In camera Review*

FOIA gives district courts the discretion to examine the contents of requested agency records *in camera* “to determine whether such records or any part thereof shall be withheld.” *See* 5 U.S.C. § 552(a)(4)(B). “The decision whether to perform *in camera* inspection is left to the ‘broad discretion of the trial court judge.’” *Lam Lek Chong v. DEA*, 929 F.2d 729, 735 (D.C. Cir. 1991) (quoting *Carter v. U.S. Dep’t of Commerce*, 830 F.2d 388, 392 (D.C. Cir. 1987)). Agency affidavits are sufficient to justify summary judgment without *in camera* inspection when they:

must show, with reasonable specificity, why the documents fall within the exemption. . . . If the affidavits provide specific information sufficient to place the documents within the exemption category, if this information is not contradicted in the record, and if there is no evidence in the record of agency bad faith, then summary judgment is appropriate without *in camera* review of the documents.

*Hayden v. Nat’l Sec. Agency*, 608 F.2d 1381, 1387 (D.C. Cir. 1979), *cert. denied*, 446 U.S. 937, 100 S.Ct. 2156, 64 L.Ed.2d 790 (1980). “[W]hen the agency meets its burden [under FOIA] by means of affidavits, *in camera* review is neither necessary nor appropriate.” *Weissman v. CIA*, 565 F.2d 692, 696–97 (D.C. Cir. 1977). However, “*in camera* inspection may be particularly appropriate when either the agency affidavits are insufficiently detailed to permit meaningful review of exemption claims or there is evidence of bad faith on the part of the agency,” when the number of withheld documents is relatively small, or “when the dispute turns on the contents of

the withheld documents, and not the parties' interpretations of those documents.” *Quinon v. FBI*, 86 F.3d 1222, 1228 (D.C. Cir. 1996).

While FOIA provides the Court the option to conduct *in camera* review, 5 U.S.C. § 552(a)(4)(B), it by no means compels the exercise of that option. *See NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 224, 98 S.Ct. 2311, 57 L.Ed.2d 159 (1978). It is within the Court's “broad discretion” to decline to conduct *in camera* review where, as here, the Court determines that *in camera* inspection is unnecessary “to make a responsible de novo determination on the claims of exemption.” *Carter*, 830 F.2d at 392.

The Court declines to order *in camera* review at this time. As already discussed above, the Court has been able to make reasoned judgments concerning the CIA's production based on the information already in the record, and is satisfied that any deficiencies in the CIA's production will be cured by its full compliance with the Court's present order.

*c. Appointment of a Special Master*

Federal Rule of Procedure 53 vests district courts with discretion to appoint masters to, *inter alia*, “address pretrial and posttrial matters that cannot be effectively and timely addressed by an available district judge or magistrate judge of the district.” Fed. R. Civ. Pro. 53(a)(1)(C). Because the Court has already found that *in camera* review is unwarranted, the plaintiffs' motion to appoint a master is moot.

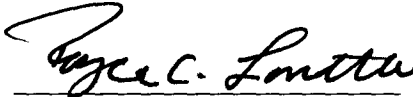
**IV. Conclusion**

For the foregoing reasons, each of the parties' motions for summary judgment, [248], [258], [259], is GRANTED-IN-PART and DENIED-IN-PART, in accordance with the order

accompanying this opinion, and the plaintiffs' motions for discovery, in camera inspection, and appointment of a special master are DENIED.

Date:

8/2/17

  
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Royce C. Lamberth  
United States District Judge

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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ROGER HALL, et al., )  
 )  
Plaintiffs, )  
 )  
v. ) Civil Action No.: 04-814 (RCL)  
 )  
CENTRAL INTELLIGENCE AGENCY, )  
 )  
Defendant. )

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**DEFENDANT’S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT  
AND OPPOSITION TO PLAINTIFFS’ CROSS-MOTIONS**

The Agency’s renewed motion for summary judgment (ECF No. 248) explained in detail that, after twelve years of litigation, this third round of dispositive motions should be the last. The Court previously granted summary judgment in the Agency’s favor regarding five of the seven Items at issue (ECF No. 187), and the Agency has now met its FOIA obligations with respect to the remaining two, *i.e.*, Items Five and Seven.

Plaintiffs see things differently. In their oppositions and cross-motions for summary judgment (ECF Nos. 258 and 259), they seek not only to keep the case alive, but also to expand its scope by asking the Court to order discovery and appoint a special master. Indeed, plaintiffs would have this Court revisit long-resolved issues including the sufficiency of the Agency’s search terms based largely on unsupported, speculative declarations amounting to the proposition that plaintiffs subjectively *believe* additional responsive records exist. That, of course, is not the test – the question is whether the Agency has conducted a search reasonably calculated to identify all responsive records and released all segregable information not subject to an Exemption. Because it has done so, summary judgment is warranted in its favor.

## I. THE AGENCY'S SEARCH MET FOIA REQUIREMENTS

The Agency's motion explained that a search for records is adequate if it was "reasonably calculated to uncover all relevant documents." *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999) (internal quotation marks omitted); *see Oglesby*, 920 F.2d at 68 ("[T]he 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."). A search is not inadequate merely because it failed to "uncover every document extant." *SafeCard Servs., Inc. v. S.E.C.*, 926 F.2d 1197, 1201 (D.C. Cir. 1991). It explained its search in detail (ECF No. 248 at 7-11), and it will not repeat those points here; instead, the Agency limits its discussion to addressing plaintiffs' criticisms of its efforts.

### A. This Court Has Held That The Agency's Search Terms Were Adequate

Although certain issues remain undecided regarding the Agency's search, the search terms' adequacy is not among them – it has been resolved conclusively. In its 2012 Opinion, the Court "[f]ound] that the original CIA search terms were 'reasonably calculated to uncover all relevant documents,' and it therefore held that 'a further search with . . . new terms is not required under FOIA.'" (ECF No. 187 at 21.) Plaintiffs appear to miss this point, as they now assert that "the Agency is well aware that other search terms are appropriate," and suggest that, "[f]or example, it could search using the names of facilities known to house American POWs." (ECF No. 258 at 15.) The Court should reject this argument, which amounts to a motion for reconsideration of the 2012 Opinion more than four years after the fact. *See Fed. R. Civ. P.* 60(c) (establishing that a motion for reconsideration under Rule 60(b) must be made "no more

than a year after entry of the . . . order”). The Agency’s search terms were reasonably calculated to uncover all relevant documents and thus satisfied its FOIA obligations.

**B. The Agency correctly declined to search its operational files**

Although the Agency searched all files likely to contain responsive records, including the Agency Archives and Records Center (“AARC”) and CIA Automatic Declassification and Release Environment (“CADRE”), its motion noted a specific exception – it did not search its operational files, which, it explained, are exempt from search and review pursuant to the CIA Information Act of 1984, 50 U.S.C. § 431(a). Plaintiffs challenge that assertion, arguing that the Agency has not shown that it conducted a “decennial review” of its operational files to determine whether they should be declassified, and also that Executive Order 12812 and Presidential Decision Directive NSC 8 required agencies to declassify and release records pertaining to POWs and MIAs files to the extent compatible with national security. (ECF No. 158 at 10-12.) Each argument lacks merit.

As for the question whether the Agency conducted the required decennial review of its operational files, the answer is clear – it did, and plaintiffs offer no evidence to the contrary. In a supplemental declaration, Shiner explains that the Agency undertook a decennial review of the exempt operational files designations in 2015, and she explains the process by which it did so.

*See* Supp. Decl. of Antoinette B. Shiner at ¶ 17 (Ex. 1 hereto).<sup>1</sup> Under 50 U.S.C. § 3141(a), the

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<sup>1</sup> Despite the considerable detail in its 69 paragraphs spanning 35 pages, plaintiffs dismiss the Shiner Declaration on the implausible notion that it is “largely based on CIA boilerplate.” Hall Opp. at 1 (ECF No. 259). They also criticize her statement that she makes her declaration “based on personal knowledge” while also stating that it is based on “information made available to me in my official capacity.” *Id.* Finally, plaintiffs complain that it is not clear which facts she personally knows and which are based on “hearsay received from others.” *Id.* These criticisms are misplaced. The D.C. Circuit “long ago recognized the validity of the affidavit of an individual who supervised a search for records even though the affiant has not conducted the search himself.” *Pinson v. DOJ*, 160 F. Supp. 3d 285, 294 (D.D.C. 2016) (citing *Meeropol v. Meese*, 790 F.2d 92,



Director of the Central Intelligence Agency (DCIA) “may exempt operational files of the CIA” from the search and review requirements of the FOIA. Operational files are defined, in turn, to include certain files of the Directorate of Operations, the Directorate of Science & Technology, and the Office of Personnel Security that contain sensitive information about CIA sources and methods. *Id.* at ¶ 18. The DCIA implements his authority under 50 U.S.C. § 3141(a) by designating specific file series as exempt. In identifying the exempt file series, the DCIA and his advisers carefully consider whether files falling within each proposed series would perform the functions set forth in the statute. If a proposed file series would not perform one of the statutory functions, it would not be designated as exempt. The scope of each designated file series is defined in classified internal regulations and policies. *Id.* at ¶ 19. Shiner states under oath that, although she cannot provide additional details about the designated file series in an unclassified setting, they have been carefully and tightly defined to ensure that they serve the specific operational purposes. *Id.* Her sworn statement is presumed to be in good faith. *See* 2012 Mem. Op. at 5 (ECF No. 187) (citing *Ground Saucer Watch, Inc. v. CIA*, 692 F.2d 770, 771 (D.C. Cir. 1981)). Plaintiffs have adduced no evidence that she is incorrect about the timing, scope, or thoroughness of the decennial review.<sup>2</sup> Consequently, the Agency correctly declined to search its operational files, which remain exempt.

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951 (D.C. Cir. 1986). For the same reason, “hearsay in FOIA declarations is often permissible.” *Id.*; *see also Cunningham v. DOJ*, 40 F. Supp. 3d 71, 84 (D.D.C. 2014) (“[D]eclarations that contain hearsay in recounting searches for documents are generally acceptable.”).

<sup>2</sup> To maintain the integrity of the Agency’s exempted operational files, the CIA has an Agency-wide regulation that details procedures for designating or eliminating the designation of operational files. This regulation provides that at any time, the Deputy Director of CIA for Operations, the Deputy Director of CIA for Science and Technology, and the Director of Security may recommend to the DCIA that the DCIA add categories of operational files under their jurisdiction for designation as exempt from search, review, publication or disclosure under FOIA. The regulation also allows for eliminating previously designated categories of operational files. Such written recommendations must explain how the files meet the standards

Plaintiffs' argument about Executive Order 12812 is equally misconceived. They note that, in that Executive Order, President George H. W. Bush ordered that certain materials about POWs and MIAs be declassified where that could be done "without compromising United States national security." As plaintiffs further indicate, former CIA Director James Woolsey noted that review conducted pursuant to Executive Order 12812 had "included a thorough, exhaustive search of operational files, finished intelligence reports, memoranda, background studies and open source files." From here, however, their argument is not clear. To the extent that they are arguing that material made publicly available pursuant to this Order was omitted by the Agency, Shiner states that the CIA's search included the records. Supp. Shiner Decl. ¶ 21. If plaintiffs are instead claiming that Executive Order 12812 gives them a right of access independent of or in addition to FOIA, the text of the Order itself states otherwise – it provides that the 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."

## **II. THE AGENCY'S WITHHOLDINGS MET FOIA REQUIREMENTS**

### **A. Plaintiffs' complaints about "packaging" records are overstated and readily addressed.**

Plaintiffs argue that several of the denied-in-full entries in the *Vaughn* index reference compilations or "packages" of documents that, plaintiffs assert, do not permit them to determine the dates of the individual records that are part of combined documents. Plaintiffs speculate that some of these individual records are older than 50 years, which could affect their current

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for designation (or elimination) and must be approved by the DCIA. The regulation further provides that the Agency will notify Congress of all categories of files designated and any subsequent additions to or changes in those categories. Supp Shiner Decl. at ¶ 20.

classification. However, as explained below, none of the records at issue is older than 50 years and the Agency properly considered the appropriate procedural and substantive requirements of Executive Order 13526, which governs classification. *See* Supp. Shiner Decl. ¶ 3. Specific clarifications follow.

**Item 6** on the index consists of a cover letter dated October 6, 1992, with 22 enclosures. The dates of the enclosures are 1992, 1980 and 1981. The Agency properly evaluated the proper classification in light of the fact that the documents are over 25 years old, and, as indicated in the initial declaration and *Vaughn* index, determined that certain information remains currently and properly classified. Whenever possible, the Agency attempted to maintain the integrity of the original documents located in the course of the searches for responsive records. Accordingly, the *Vaughn* index entries reflected the date of the final document, not each separate attachment. *Id.* at ¶ 4.

**Item 20** on the *Vaughn* index is a memorandum and background material used by a senior Agency official to prepare for a briefing to a Senate committee. The document and the accompanying background material are dated 1991. The exemptions noted on the *Vaughn* index for this entry apply to the entire document. *Id.* at ¶ 5.

**Item 21** is similar to Item 20 in that it is background material compiled in preparation for a Senate committee briefing. All pages are dated 1991. Again, all of the noted exemptions in the *Vaughn* index apply to the entire document. *Id.* at ¶ 6.

**Item 23** is a draft statement an Agency official made to a Senate committee. This draft document is dated 1991 and all exemptions noted in the *Vaughn* index apply to each page of the document. *Id.* at ¶ 7.

*Item 29* is the Agency's response to a Congressional request. The document consists of the Agency's responses to the request and certain enclosures that were included as part of those responses. All exemptions noted in the *Vaughn* index apply to the letters and enclosures. The enclosures are dated 1991 and 1979, respectively. The Agency's responses to Congress are dated February 11, 1992. *Id.* at ¶ 8.

*Item 31* is similar to *Item 29* in that it consists of letters to Congressional members in response to a request and enclosures referenced in the letters that were part of the Agency's response. This material is dated 1992 and the exemptions noted in the *Vaughn* index apply throughout. *Id.* at ¶ 9.

*Item 36* is as described on the initial *Vaughn* index; detailed written responses to questions posed to the Agency by the Senate. The exemptions noted in the *Vaughn* index apply throughout the document, which is dated 1992. *Id.* at ¶ 10.

**B. Plaintiffs fail to raise a genuine dispute of material fact concerning the Agency's applications of FOIA Exemptions 1, 3, 5, and 6.**

The Agency's motion (at 14-31) explained in detail the legal standards and factual justifications for its withholdings under FOIA Exemptions 1, 3, and 6. It also stated the bases for its rigorous segregation analysis of each record at issue. The Agency incorporates those arguments here, and limits its discussion to plaintiffs' arguments against its approach.

**1. The Agency correctly applied Exemption 1**

Plaintiffs argue that the Agency incorrectly applied the Executive Order's standard for documents older than 25 years, rather than the correct provision for documents older than 50 years. However, as noted above, none of the documents for which the Agency claimed

Exemption 1 are 50 years or older.<sup>3</sup> Additionally, plaintiffs' claim that the Agency relied upon a "mosaic theory" for the classified information at issue is incorrect. In fact, Shiner is familiar with all of the information in this case and determined that the specific details for which Exemption 1 was asserted remain currently and properly classified standing alone – not based on a mosaic theory. Her initial declaration sets forth the rationale underlying these classification determinations. *See* Supp. Shiner Decl. ¶ 11.

## 2. The Agency correctly applied Exemption 3

Plaintiffs argue that the Agency broadly asserted Exemption 3 in conjunction with Section 6 of the CIA Act. However, Exemption 3 was applied narrowly and only asserted to withhold the names, official titles, and offices of CIA employees. Notably, the language of Section 6 of the CIA Act does not restrict its application to current Agency personnel. *Id.* at ¶ 12.

Plaintiffs also argue that the intelligence sources and methods protected by the National Security Act, 50 U.S.C. § 3024(i)(1), should no longer apply to information contained in the documents because the records and the events discussed therein are older. However, the National Security Act recognizes the inherent sensitivity of revealing sources and methods of intelligence collection and, consequently, does not place temporal limitations on their protection. Shiner states that, to the extent that Exemption 1 was asserted for the same material withheld pursuant to the National Security Act, the information remains currently and properly classified for the reasons discussed in her initial declaration. *Id.* at ¶ 13.

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<sup>3</sup> Document No. C00005776 (Released-in-Part *Vaughn* index, No. 1) is dated 1961, but the Agency did not apply Exemption 1 to any information in this record.

**3. The Agency correctly applied Exemption 5**

**a. The FOIA Improvement Act of 2016 is inapplicable.**

Plaintiffs allege that the Agency incorrectly applied Exemption 5 because Section 2(2) of the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538, 540 (enacted June 30, 2016), provides that Exemption 5 “shall not apply to records created 25 years or more before the date on which the records were requested.” *See* AIM Opp. at 18 (ECF No. 258). But they miss a critical point: the FOIA Improvement Act applies only to requests filed after the Act’s effective date, *i.e.*, after June 30, 2016. *See* § 6, 130 Stat. 538, 545 (“This Act, and the Amendments made by this Act, . . . shall apply to any request for records . . . made after the date of enactment of this Act.”). Because plaintiffs’ request was filed in 2003, the FOIA Improvement Act is inapplicable and the Agency’s analysis is correct.

**b. Plaintiffs’ accusations of “extreme wrongdoing” are misplaced.**

Plaintiffs fare no better by accusing the Agency of “extreme wrongdoing,” a claim that, they urge, should vitiate any claim to deliberative privilege over the records in question. They attempt to support this hyperbolic position, *inter alia*, through declarations. One, by James Sanders, contains virtually nothing that Mr. Sanders himself observed; instead, it describes and extensively quotes a 1991 Report by the Senate Committee on Foreign Relations, news media reports, and statements from Henry Kissinger, all of which purport to describe the geopolitics of the 1970s as applied to POWs. Mr. Sanders’s personal observations appear to be limited to an isolated statement that he “agree[s] with the Report’s observations about the government’s motivations to declare POWs dead.” Sanders Decl. at ¶ 11 (ECF No. 258-2). This basis of knowledge violates the rule that “[a]n affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and

show that the affiant or declarant is competent to testify on the matters stated.” Fed. R. Civ. P. 56(c)(4).

Another declaration, by Mark Sauter, is hopelessly riddled with speculation. He relates that his “research indicates the CIA has failed to produce POW/MIA documents falling into four categories.” Sauter Decl. at ¶ 2 (ECF No. 258-3). He buttresses this claim by asserting that the Agency informed the U.S. Senate Select Committee on POW/MIA Affairs in 1992 that it had “no information” indicating that U.S. POWs were sent to the Soviet Union during the Korean War, but it later declassified documents pertaining to that subject. *Id.* at ¶ 4. He opines that “it appears likely others like them remain secret to this day” (*id.*), and that “[t]he CIA apparently continues to withhold POW/MIA documents, including some more than 60-years-old.” *Id.* at ¶ 6. Sauter then describes records relating to defector Dr. Dang Tan that he “believe[s] exist.” (*id.* at ¶ 9), and states that, “[b]ased on reported sightings released by DoD and other U.S. agencies, including some still listed as classified, I believe there is a strong possibility CIA has reports from before 1975 and after 1982 concerning alleged American POWs in North Korea” (*id.* at 11). It continues in a similar vein, describing his view that, based on what he has learned during his career, there are other records that “almost certainly exist” but have not been produced.

Finally, there is the Declaration of Bob Smith, a former United States Congressman and Senator from New Hampshire who served on the Senate Select Committee on POW/MIA Affairs. He describes the Senate Select Committee’s investigations and asserts that, as part of those investigations, he “personally h[as] seen hundreds of classified documents that could and should be released as they pose no national security risk.” Smith Decl. at ¶ 8 (ECF No. 258-4). His view apparently was not shared by the “bureaucrats” or Senators McCain and Kerry, with

whom Smith “fought . . . to the point of exhaustion.” *Id.* at ¶ 9. Smith states that he “spoke to a high ranking former member of the KGB” about one of the documents released by the Agency in this case, and that the former KGB member “told [Smith] point blank that the document is real” although he “would never state this publicly, for obvious reasons.” *Id.* at ¶ 17. He concludes with a blanket assertion that “[the Agency is] still holding documents that should be declassified.” *Id.* at ¶ 20.

These declarations are insufficient to prove that the Agency either has acted in bad faith or failed to meet its FOIA obligation, which is to conduct a reasonable search of all locations likely to contain responsive records and to release all segregable portions of those records that do not fall within a listed Exemption. In words directly applicable here, the D.C. Circuit has instructed that “[a]gency affidavits are accorded a presumption of good faith, *which cannot be rebutted by purely speculative claims about the existence and discoverability of other documents.*” *SafeCard Servs., Inc. v. SEC*, 926 F.3d 1197, 1200 (D.C. Cir. 1991) (emphasis added) (internal quotation marks omitted). Such speculative claims are all that the declarants offer. Even Senator Smith’s statements that he has seen documents that – in his apparently unshared view – “should be declassified” is far short of identifying specific documents that (i) the Agency has located and (ii) currently are subject to release to the public.

The flaw in plaintiffs’ position is that “FOIA is not a wishing well; it only requires a reasonable search for records an agency actually has.” *DiBacco v. U.S. Army*, 795 F.3d 178, 191 (D.C. Cir. 2015) (rejecting challenge to search that “did not produce certain materials [plaintiff] believes exist and had hoped to find”). Consequently, “[m]ere speculation that as yet uncovered documents may exist does not undermine the finding that the agency conducted a reasonable search.” *SafeCard*, 926 F.2d at 1201. Indeed, even if plaintiffs were to identify a specific



document or documents that they believe a reasonable search would have found, that alone likely would be insufficient to withstand summary judgment. *See Iturralde v. Comptroller of Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003) (“[I]t is long settled that the failure of an agency to turn up one specific document in its search does not alone render a search inadequate.”). That is because “particular documents may have been accidentally lost or destroyed, or a reasonable and thorough search may have missed them.” *Id.* (citation omitted).

As always, “the adequacy of a FOIA search is generally determined not by the fruits of the search, but by the appropriateness of the methods used to carry out the search.” *Id.* (citing *Steinberg v. Dep’t of Justice*, 23 F.3d 548, 551 (D.C. Cir. 1994)). Here, the Agency has described its search in exacting detail; thus, “the burden is on [plaintiff] to identify specific additional places the agency should now search.” *Hodge*, 703 F.3d 575, 580 (D.C. Cir. 2013); *see also Iturralde*, 315 F.3d at 315 (affirming grant of summary judgment for the agency where the appellant/plaintiff failed to identify particular offices or files where an allegedly missing document might have been found). Plaintiffs have not carried that burden – beyond the locations searched, they have identified only the Agency’s operational files, which, as discussed above, are exempt from the FOIA. Consequently, it is insufficient merely to offer speculative declarations opining that additional documents likely exist. Even if they did – a proposition as to which there is no evidence – it would not mean the search was unreasonable. In fact, in its 2012 Opinion (ECF No. 187), the Court held that the Agency’s search *was* reasonable as to Items 3, 4, 6, and 8, and that the search terms were sufficient as to the two Items that remain. In that context, it is clear that the Agency’s search has involved reasonable efforts and good faith, even if the results might not have met plaintiffs’ wishes.

Notably, the cases plaintiffs cite regarding bad faith do not support their argument that the Agency has somehow waived its Exemption 5 privilege. *See, e.g., In re Sealed Case*, 121 F.3d 729, 746 (D.C. Cir. 1997); *Alexander v. FBI*, 186 F.R.D. 154 (D.D.C. 1999); *ICM Registry, LLC v. U.S. Department of Commerce*, 538 F. Supp. 2d 133 (D.D.C. 2008). Those cases establish that where there is concrete, specific evidence of extreme government misconduct, the deliberative process privilege does not shield predecisional communications. However, as the *ICM* court observed, “this exception to the (b)(5) exemption has never been applied in a holding at the Circuit level, nor has the scope of ‘misconduct’ been clearly defined.” 538 F. Supp. 2d at 133. In *Alexander*, 186 F.R.D. at 164, this Court held that there was no privilege where documents related to misuse of a government personnel file to discredit a witness in an ongoing investigation of the Clinton administration – clearly an illegal use of a government record. Similarly, in *Tax Reform Research Group v. IRS*, 419 F. Supp. 415, 426 (D.D.C. 1976), the Court held that there was no privilege where documents concerned recommendation to use the IRS’s powers in a discriminatory fashion against enemies of the Nixon administration.

Plaintiffs’ allegations here would not amount to illegal acts of the sort recognized in case law regarding bad-faith vitiating of privilege. Plaintiffs “aver that the CIA is covering up its participation in knowingly leaving POWs in Southeast Asia post-1973 Operation Homecoming.” AIM Opp at 27 (ECF No. 258). Notably, however, they fail to identify any crime allegedly committed or law allegedly violated, much less any concrete reason to believe that the documents at issue here would reveal that criminality. It is relatively commonplace for FOIA requesters to believe subjectively that the documents they seek will reveal agency wrongdoing, at least if “wrongdoing” is defined broadly to include unpublicized acts that the requester considers distasteful. Nevertheless, cases vitiating the Exemption 5 privilege on grounds of government

misconduct are vanishingly rare, and plaintiffs have not met the standard here. Their only concrete argument is that the Agency may have incorrectly asserted the privilege over documents that are impermissibly old, an assertion refuted *supra*.

#### **4. The Agency correctly applied Exemption 6**

As a general matter, the Agency used Exemption 6 sparingly and applied it only to protect names of low-level government employees, congressional staffers, and military personnel. Shiner reasonably determined that these individuals have a privacy interest in this information. For example, release of this information could subject them to harassment, intimidation, or unwanted contact. Conversely, Shiner was unable to ascertain, and plaintiffs have failed to identify, any countervailing qualifying public interest in disclosure of this information. Specifically, the disclosure of these names would not contribute to the public's understanding of government operations or activities. Shiner further notes that the CIA did not assert Exemption 6 to redact information about deceased individuals or individuals presumed to be deceased because of their inclusion on the U.S. Department of Defense's Primary Next of Kin (PNOK) list of POW/MIAs. *Id.* at ¶ 14.

Plaintiffs claim that in two documents, Items 6 and 69 of the released-in-part *Vaughn* index, the Agency redacted the name of a deceased individual and the signature of a U.S. Senator. For Item 6, plaintiffs incorrectly allege that the signature of Sandy Berger, who died during the pendency of this case, was redacted – it was not. In contrast, for Item 69, the Agency agrees with plaintiffs' observation regarding the signature; it has removed the redaction and re-released the document to plaintiffs.

### **III. REFERRALS TO NSA**

In its 2012 Order, the Court directed the CIA to follow up on seven responsive documents it had referred to other agencies – one of which was referred to the National Security Agency (NSA). The Agency has confirmed with NSA that this referred record, Document No. C00800075, was processed and sent to plaintiffs. Plaintiffs do not contest receiving this record, but now claim that CIA has not adequately justified the NSA’s redactions to the document. In fact, however, this NSA document was already addressed in NSA’s *Vaughn* index filed in support of CIA's last motion for summary judgment. *See* Declaration of Diane M. Janosek, Deputy Associate Director for Policy and Records for the NSA (ECF No. 185-1 at 10). The justification for the redactions to Document No. C00800075 are discussed on page six of the inventory, which accompanies NSA’s declaration. *See* Supp. Shiner Decl. ¶ 16.

### **CONCLUSION**

For the reasons set forth above, summary judgment should be granted in favor of the CIA, and plaintiffs’ cross-motions should be denied. There is no cause for discovery or appointment of a special master; to the contrary, this case should be at an end. As always, the Agency will produce any records for *in camera* inspection that the Court requests, as it stands by its application of the Exemptions.

Respectfully Submitted,

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United States Attorney

DANIEL F. VAN HORN, D.C. Bar # 924092  
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# EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., )  
)  
Plaintiffs, )  
)  
v. ) Civil Action 04-00814 (RCL)  
)  
Central Intelligence Agency, )  
)  
Defendant. )  
\_\_\_\_\_ )

DECLARATION OF ANTOINETTE B. SHINER  
INFORMATION REVIEW OFFICER  
FOR THE LITIGATION INFORMATION REVIEW OFFICE  
CENTRAL INTELLIGENCE AGENCY

I, ANTOINETTE B. SHINER, hereby declare and state:

1. I am the Information Review Officer ("IRO") for the Litigation Information Review Office ("LIRO") at the Central Intelligence Agency ("CIA" or "Agency"). Through the exercise of my official duties, as detailed in my declaration filed in this case on 13 July 2016, which I incorporate by reference, I have become familiar with this civil action and the underlying FOIA requests at issue.

2. The purpose of this supplemental declaration is to address certain arguments in the two separate cross motions for summary judgement filed by Plaintiffs on 21 October 2016. Specifically, this declaration explains certain details about the Agency's initial *Vaughn* indices, assertion of FOIA

exemptions, one of the referred documents, and CIA's operational files.

### I. CIA Vaughn Indices

3. Plaintiffs argue that several of the denied-in-full entries in the *Vaughn* index reference compilations or "packages" of documents that, in effect, do not allow plaintiffs to determine the date of the individual records that are part of combined documents.<sup>1</sup> Plaintiffs speculate that some of these individual records are older than 50 years, which could affect their current classification. However, as explained below, none of the records at issue are older than 50 years and the Agency properly considered the appropriate procedural and substantive requirements of Executive Order 13526, which governs classification. I will discuss each of the *Vaughn* index entries identified by plaintiffs in turn.

4. Item 6 on the index consists of a cover letter dated 6 October 1992 with 22 enclosures. The dates of the enclosures are 1992, 1980 and 1981. The Agency properly evaluated the proper classification in light of the fact that the documents are over 25 years old and, as indicated in the initial declaration and *Vaughn* index, that certain information remains currently and properly classified.

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<sup>1</sup> I note that whenever possible the CIA attempted to maintain the integrity of the original documents located in the course of the searches for responsive records. Accordingly, the *Vaughn* index entries reflected the date of the final document, not each separate attachment.



5. Item 20 on the *Vaughn* index is a memorandum and background material used by a senior Agency official to prepare for a briefing to a Senate committee. The document and the accompanying background material are dated 1991. The exemptions noted on the *Vaughn* index for this entry apply to the entire document.

6. Item 21 is similar to Item 20 in that it is background material compiled in preparation for a Senate committee briefing. All pages are dated 1991. Again, all of the noted exemptions in the *Vaughn* index apply to the entire document.

7. Item 23 is a draft statement an Agency official made to a Senate committee. This draft document is dated 1991 and all exemptions noted in the *Vaughn* index apply to each page of the document.

8. Item 29 is the Agency's response to a Congressional request. The document consists of the Agency's responses to the request and certain enclosures that were included as part of those responses. All exemptions noted in the *Vaughn* index apply to the letters and enclosures. The enclosures are dated 1991 and 1979 respectively. The Agency's responses to Congress are dated 11 February 1992.

9. Item 31 is similar to Item 29 in that it consists of letters to Congressional members in response to a request and enclosures referenced in the letters that were part of the

Agency's response. This material is dated 1992 and the exemptions noted in the *Vaughn* index apply throughout.

10. Item 36 is as described on the initial *Vaughn* index; detailed written responses to questions posed to the Agency by the Senate. The exemptions noted in the *Vaughn* index apply throughout the document, which is dated 1992.

## II. Application of Exemptions

### A. Exemption 1

11. Plaintiffs argue that the Agency incorrectly applied the Executive Order's standard for documents older than 25 years, rather than the correct provision for documents older than 50 years. However, as noted above, none of the documents for which the Agency claimed Exemption 1 are 50 years or older.<sup>2</sup> Additionally, plaintiffs' claim that the Agency relied upon a "mosaic theory" for the classified information at issue is incorrect. In fact, I am familiar with all the information in this case and determined that these specific details for which Exemption 1 was asserted remain currently and properly classified standing alone - not based on a mosaic theory. My initial declaration sets forth the rationale underlying these classification determinations.

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<sup>2</sup> Document No. C00005776 (Released-in-Part *Vaughn* index, No. 1) is dated 1961, but the Agency did not apply Exemption 1 to any information in this record.

**B. Exemption 3**

12. Plaintiffs argue that the Agency broadly asserted Exemption 3 in conjunction with Section 6 of the CIA Act. However, Exemption 3 was applied narrowly and only asserted to withhold the names, official titles, and offices of CIA employees. I note that language of the Section 6 of the CIA Act does not restrict its application to current Agency personnel.

13. Plaintiffs also argue that the intelligence sources and methods protected by the National Security Act, 50 U.S.C. § 3024(i)(1), should no longer apply to information contained in the documents because the records and the events discussed therein are older. However, the National Security Act recognizes the inherent sensitivity of revealing sources and methods of intelligence collection and, consequently, does not place temporal limitations on their protection. I note that, to the extent that Exemption 1 was asserted for the same material withheld pursuant to the National Security Act, this information remains currently and properly classified for the reasons discussed in my initial declaration.

**C. Exemption 6**

14. As a general matter, the CIA used Exemption 6 sparingly and applied it only to protect names of low-level government employees, congressional staffers, and military personnel. I determined that these individuals have a privacy

interest in this information. For example, release of this information could subject them to harassment, intimidation, or unwanted contact. Conversely, I was unable to ascertain, and plaintiffs have failed to identify, any countervailing qualifying public interest in disclosure of this information. Specifically, the disclosure of these names would not contribute to the public's understanding of government operations or activities. I further note that the CIA did not assert Exemption 6 to redact information about deceased individuals or individuals presumed to be deceased because of their inclusion on the U.S. Department of Defense's Primary Next of Kin (PNOK) list of POW/MIAs.

15. Plaintiffs claim that in two documents, Item 6 and 69 of the released-in-part *Vaughn* index, the Agency redacted the name of a deceased individual and the signature of a U.S. Senator. For Item 6, Plaintiffs incorrectly allege that Sandy Berger's signature, who died during the pendency of this case, was redacted - it was not. For Item 69, we removed the redaction for the signature and have re-released the document to Plaintiffs.

### **III. Referral Documents**

16. In its 2012 Order, the Court directed the CIA to follow up on seven responsive documents it had referred to other agencies - one of which was referred to the National Security

Agency (NSA). CIA has confirmed with NSA that this referred record, Document No. C00800075, was processed and sent to plaintiffs. Plaintiffs do not contest receiving this record, but now claim that CIA has not adequately justified the NSA's redactions to the document. However, this NSA document was, in fact, already addressed in NSA's *Vaughn* index filed in support of CIA's last motion for summary judgment. Declaration of Diane M. Janosek, Deputy Associate Director for Policy and Records for the NSA, 10 July 2012, Dckt. No. 185-1, page 10. The justification for the redactions to Document No. C00800075 are discussed on page six of the inventory, which accompanies NSA's declaration.

#### IV. Operational Files

17. Plaintiffs question whether the decennial review of operational files, required by the National Security Act, has been conducted. The Agency undertook a decennial review of the exempt operational files designations in 2015 and has completed the review in accordance with the process described below.

18. Under 50 U.S.C. § 3141(a), the Director of the Central Intelligence Agency (DCIA) "may exempt operational files of the CIA" from the search and review requirements of the FOIA. Operational files are defined, in turn, to include certain files of the Directorate of Operations, the Directorate of Science &

Technology, and the Office of Personnel Security that contain sensitive information about CIA sources and methods.

19. The DCIA implements his authority under 50 U.S.C. § 3141(a) by designating specific file series as exempt. In identifying the exempt file series, the DCIA and his advisers carefully consider whether files falling within each proposed series would perform the functions set forth in the statute. If a proposed file series would not perform one of the statutory functions, it would not be designated as exempt. The scope of each designated file series is defined in classified internal regulations and policies. Although I cannot provide additional detail about the designated file series in an unclassified setting, I can assure the Court that they are carefully and tightly defined to ensure that they serve the specific operational purposes.

20. To maintain the integrity of the Agency's exempted operational files, the CIA has an Agency-wide regulation that details procedures for designating or eliminating the designation of operational files. This regulation provides that at any time, the Deputy Director of CIA for Operations, the Deputy Director of CIA for Science and Technology, and the Director of Security may recommend to the DCIA that the DCIA add categories of operational files under their jurisdiction for designation as exempt from search, review, publication or


disclosure under FOIA. The regulation also allows for eliminating previously designated categories of operational files. Such written recommendations must explain how the files meet the standards for designation (or elimination) and must be approved by the DCIA. The regulation further provides that the Agency will notify Congress of all categories of files designated and any subsequent additions to or changes in those categories.

21. As plaintiffs point out, certain materials about POWs and MIAs were made available in response to an Executive Order 12812. This Order signed by President George H.W. Bush required government agencies to declassify and publicly release certain information "without compromising United States national security." As plaintiffs further indicate, former CIA Director James Woolsey noted that review conducted pursuant to Executive Order 12812 had "included a thorough, exhaustive search of operational files, finished intelligence reports, memoranda, background studies and open source files." To the extent that plaintiffs are arguing that material made publicly available pursuant to this Order was omitted by the Agency here, I note that the CIA's search in this case included these records. If plaintiffs are instead claiming that Executive Order 12812 gives them another right of access, as the text of the Order indicates, it "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."

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 27<sup>th</sup> day of January 2017.

  
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Antoinette B. Shiner  
Information Review Officer  
Central Intelligence Agency



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 04-814 (RCL)  
 )  
 CENTRAL INTELLIGENCE AGENCY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**AFFIDAVIT OF CAROL HRDLICKA**

I, Carol Hrdlicka, declare and swear:

1. David L. Hrdlicka and I were married on November 3, 1956. We had three children together. Below is the timeline of David's captivity, in Laos, along with a recitation of the government's various positions on David's status.

**1965**

2. David was shot down, and captured, on May 18, 1965. He was alive, in captivity, in Sam Neua, Laos, at the Pathet Lao Headquarters. This is well documented.



Exhibit 1 Capture Photograph of David Hrdlicka, May, 1965.

Exhibit 2, a December 28, 1965 *CIA Intelligence Information Cable*, at Bates 2-4, reports on David's first night in captivity:

...Pathet Lao [redaction] who was stationed in Houa Phan (Sam Neua) province until 1965[,] claimed David L. Hrdlicka spent the first night of his captivity at PL headquarters...

## 1966

3. On May 22, 1966, reports were received from the Pathet Lao on David's capture. Two tape recordings were made by him. David wrote a letter to Prince Souphanouvong, asking to be released. Exhibit 3 at Bates 5 is an undated *Intelligence Memo re David Hrdlicka letter*. It relates that David's words:

When I piloted a plane on a bombing mission, I was unable to see the contradictions in the realities. The Johnson administration lied to me, saying that I was sent to bomb the communication lines from Northern to southern Laos. This proves that the US imperialists have deliberately invaded Laos by force I see that the Laotian problem must be solved peacefully by the Laotians themselves without US intervention....

The letter ended with these words: your highness, if you send me back to rejoin my small family, I will never forget your goodwill....

See also Exhibit 4, *Intelligence Memo re voice recording*, including transcript, undated, at Bates 6-9:

...For the past year I have always met with good treatment from your people, your nurses I've taken care of me and save my life. They have given me medicine and special foods. When I was a child I wanted to be a pilot, and when I grow up I became a pilot. Now I regret that I used my strength to wage and aggressive and destructive war. What makes me very sad is that I am very far from my dear wife and my three little children....

4. On July 22, 1966, a Hanoi publication, *Quan Doi Nhan Dan*, printed the capture photograph. Another article also identified the POW as David Hrdlicka. The article is Exhibit 5, at Bates 10.

5. On August 31, 1966 another photograph of the capture appeared in Pravda, in Russia.

## 1967

6. On May 5, 1967, a Laotian representative advised The International Committee of the Red Cross in Geneva, Switzerland, that David had been captured.

Exhibit 7, *State Department memo re Red Cross report re POWs Hrdlicka and Brace, 1967*, at Bates 20: "Laos advises Geneva of capture of 2 Americans Hrdlicka and Brace."

### 1977

7. In November of 1977, the US Air Force Casualty Office made a "presumptive finding of death." At the hearing, there was no evidence presented. Exhibit 9, at Bates 22-24 is the 1977 *DOD Finding of KIA*.

However, the likelihood that he is still alive may no longer reasonably be considered since he has not been repatriated, sufficient time has elapsed during which it is believed some word would have been received if he had survived, and he cannot otherwise be accounted for.

8. In its November 1977 *Air Force Casualty Report*, Exhibit 10 at Bates 25, the Air Force gave as its reason for presumptive finding of death, to "terminate pay and allowance:"

[T]he date death is presumed to have occurred for the purpose of termination of pay and allowances, settlement of accounts, and payment of death gratuities as stated in Section 555, Title 37, USC.

### 1982

9. In a 1982 letter to the National League of Families, the DIA admitted knowledge of POWs, but justified the withholding the information on the grounds that disclosure would be "counterproductive to our intelligence efforts in this vital area." Exhibit 11, *DOD letter to National League of Families*, April 14, 1982, Bates 26.

### 1990

10. I regularly received newsletters from Air Force Casualty, assuring me that they were continuing efforts to find out what happened to David. Twenty-five years after David's capture, in 1990, I realized that the Air Force had not been investigating. Rather, it was dismissing, and debunking, all reports indicating David's survival. In 30 years, the DIA has made no effort to contact the Russian correspondent, Ivan Shchedrov, who had actually talked to David, in captivity, in Sam Neua. See, e.g., Exhibit 48, Letter from Ivan Shchedrov, in 1968, where he wrote, "I have met David Hrdlick had an opportunity to talk to him and I think he is really Hrdlick [sic]..." I would like to know whether the CIA has intelligence on this interview.

11. In June of 1990, the DIA received a report, which states, in part:

I am talking to Col Chaeng (Brig Gen) PL Commander of the 11<sup>th</sup> Regiment at Kham Keut, Kham Moname province suspected of holding D. Hrdlicka and friends. The outcome of my conversation will be relayed to you soon.

See also Affidavit of Roger Hall, Exhibit 100.

12. In 1990, upon receipt of this DIA Report, I requested from the DIA, by telephone, the "outcome of conversation." To this day, I have received no answer, or information.

13. In February of 1990, I received a letter from DIA, discussing a 1989 Report that David had escaped, and had been recaptured. The letter went on to disparage the report. I have requested the reports and analysis on which this letter was based, but to date have not received that information. The government claims it has provided all information on David's case. The DIA did not send the 1989 information until 1990. Exhibit 13 is the February 1990 *DIA Report of Hrdlicka escape*, at Bates 30-31:

Late last year an analyst in this office received a telephone call from an American citizen who described himself as a carrier for the U.S. Postal Service. He said he was in frequent contact with a "Frenchman" in Bangkok who allegedly has a source (not identified) who claims that American pilot David Hrdlicka recently escaped, only to be recaptured.

#### **1991**

14. In May of 1991, I began sending Freedom of Information requests for information concerning David's case. On July 2, 1992, I sent another request for reports that I had not received. I made a specific request for the "code number" or similar identifier carried by David, for identification in case of shoot-down and capture. There was a serial number identifying David, which was referenced in a government report. See Exhibit 14, *Intelligence Cable*, May, 1966, at Bates 32-34:

Name used [was] almost certainly that of David Louis Hrdlicka US Pilot whose F-105 shot down Southeast of Sam Neua on May 18, 1965. The names, dates, and serial numbers used in letter correspond very close to those we carry for Capt. Hrdlicka.

No US government agency has told me what they used for David's identification number.

15. Each "Blood Chit" had a number on it, correlated to the individual carrier. No government agency will tell me what the number was on David's "Blood Chit." Later casualties were assigned authenticator codes, which could be identified by satellite imagery. When men are offered to the US government, the Blood Chit is not honored, or even mentioned. The US government defaults on their contract with the men by denying payment. Exhibit 16 is the *Blood Chit Explanation*, at Bates 37-38:

In the Victorian sense, Blood means friendship, and in military terms, a Chit is a voucher. Hence, the term blood chit or "Friendship Voucher." Our aircrew members carried a blood chit on their person while flying missions during the

Southeast Asian conflict. The request for assistance, in the event they were shot down, is written in English and various languages common to the area. The blood chit is credited with saving many lives.

Exhibit 34 is a 1990 *DOD Cable re Joint Staff denying reward for POWs*, at Bates 100, relating that "RO further 4 advised [Redacted] there would be no rewards..."

## 1992

16. On July 2, 1992, during the Senate Select Committee Hearings, I sent a letter to the head of the Defense Intelligence Agency, Mr. Robert Sheets, requesting information on documents that the agency should have had concerning David's case. Being an Intelligence Agency, they should have access to David's "code number" in case of capture. Exhibit 17 *Carol Hrdlicka letter re reported information*, July, 1992, at Bates 39.

17. In 1992, US News & World Report published an article on 1988 satellite imagery, USA walking "K," taken in the Sam Neua area, where David was held. The government should have notified me. But I had to read about it in the magazine. I requested the information concerning that report.

18. Exhibit 18 is the 1988 "*Walking K*" areal image, at Bates 40. It was picked up by satellite in the Sam Neua area. It is called a "Walking K" because pilots were trained to use this "K" as a distress signal if captured. In 1992, when the DPMO (Department of POW/MIA Office) analysts were asked what investigation they had done on this imagery, they testified at Senate Select Committee Hearing they were still analyzing it. The government made no attempt to rescue, or immediately go to the location, to investigate this distress signal. Four years later they were still "analyzing" it. Exhibit 53 lists *Escape and Evasion Codes*.

19. In 1992, I then called Lorenzo Burroughs, a government satellite imagery expert, about this imagery. I asked him whether any authenticator codes were picked up with it. He responded that there were around ten. The government claimed that the families were being notified of any information concerning their family member.

20. On July 29, 1992, I again requested specific information on a rescue attempt code-named "Duck Soup." On Sept 21, 1992, I received a letter from Charles Trowbridge, stating that there was no such operation associated with the Vietnam Era. In 1995, I received documents showing that there was such an operation, called "Duck Soup," that mentioned David. I am still getting information on "Duck Soup." It was a CIA run operation. General Secord testified before the Senate Select Committee Hearings to attempts to rescue David, and that there was a "raft of cables" in the CIA on the rescue attempts. See Affidavit of Roger Hall Exhibit 8. The DPMO (Department of POW/MIA Office) was tasked to investigate David's case. It never asked the CIA, or DIA, for any information regarding these rescue attempts. Exhibit 19, at Bates 41, is my July 29, 1992 FOIA Request for "Duck Soup" records.

21. The Department of Defense POW/MIA's October 1992 fact book contains statements indicating that David had died in captivity. Upon request for those documents, I was told I had all the information. But I have no report concluding that David had died. A July 1991 JCRC (Joint Casualty Recovery Center) report states there is no evidence of Hrdlicka's fate. I asked the Defense Intelligence Agency to show me the reports that stated that Hrdlicka had died. Finally, the DIA admitted that they have no reports of David's death. Exhibit 20, at Bates 42-59, is a 1991 *JCRC Report*. It states:

Although the information obtained is generally consistent with previous reports correlated to this case, the team located no evidence indicating Captain Hrdlicka's fate.

22. The government continues to misinform all inquiries about David's case. See, e.g., Exhibit 21, *DOD POW/MIA Fact Book*, October 1992, at Bates 60-61.

23. On December 2, 1993, the DOD wrote a letter to me, claiming that it had provided all information on David's case. This *DOD letter*, Bates 62-63, is Exhibit 22.

Dated copies of each of these replies are placed in your husband's file for historical purposes. Each response has been as thorough as our knowledge of the known facts in his case has permitted. Apart from this, all other information in our possession that relates to Colonel Hrdlicka has been provided to you. I regret that you feel this is inadequate.

### 1993

24. In June of 1993, my eldest son, David, and I, traveled to Russia, where we met with the wife of the Russian correspondent, Ivan Shchedrov, who had interviewed David in captivity. Mrs. Shchedrov told us that, in 1969, Mr. Shchedrov had interviewed David at a press conference in Sam Neua, Laos. Mrs. Shchedrov gave me an article that Mr. Shchedrov wrote. It reports on the 1969 press conference, where David was present. It was a dedication of the underground city named "Hotel Friendship." This city was designed to keep the people safe from the US bombings. It has recently been opened to the public, as a tourist attraction in Laos. Exhibit 23, the *Shchedrov article re 1969 interview* of David Hrdlicka, is at Bates 64-70. The article recounts David's introduction:

In a few minutes we will hear from an American pilot shot down in this region. His name is Dehvid Luis Khrdlika. He is a Captain in the United States Air Force. He flew from the American base in Tahkli in neighboring Thailand. He was the lead aircraft in a group of three jet-powered F-105 fighter bombers.

In all the years since David was captured, there were no attempts by the US government to interview Ivan Shchedrov. Finally, after our trip to Russia, the DIA interviewed Mrs. Shchedrov.

25. Over the years, there have been reports that a POW had died. When this occurred, the government correlated those reports to David. Later, the government was forced to admit that none of these reports correlated to David. For example, Exhibit 24 is an August 1993 *DOD letter re Hrdlicka and Caswell*, at Bates 71-73:

One of these reports (TDCS- 314/04249-66 of 29 March 1966) which was previously believed to be associated with Col Hrdlicka can no longer be correlated to him because Col Hrdlicka was known to be alive in Vheng Xai area well after the source claims he was transported to Vietnam. The second report does not provide a date of information, but it had to be prior to 5 January 1969, the date of the report.

26. Another time, after a POW had died, the government again claimed that it was David, based on Exhibit 25 (Bates 74), which is a March 1966 *Intelligence Memo* reporting a 1966 death of a POW who had been wearing yellow flight suit. That man was buried at a cemetery in Ban Bac. It was clearly not David, who had been wearing a green flight suit.

27. Another time, based on a JCRC Report of an excavation of a grave site at Ban Bac in August of 1965, the government claimed that it was David. But other reports show that David was alive in late 1966, and early 1967.

28. Later, the government claimed that David was the POW described in an intelligence report on a captured pilot, who had eluded capture, and then died, and was buried at Ban Bac. Here too the government knew that it was not David. David did not try to elude capture.

29. David was in a prison system. He could be tracked through the captor's records. There is no need to continue to excavate grave sites on David's case.

30. Another report claimed to be David was of a pilot who was KIA after being shot down. It was not David. The date June of 1966, and description of the pilot's children did not fit David. See Exhibit 27, *DIA report re 1966 KIA pilot*, father of three sons, at Bates 77-78.

31. There were a number of reports of men who survived their shoot-down, but were never carried as a POW, because their status was wrongfully correlated to David.

32. Exhibit 26 is a *CIA Intelligence Information Cable* regarding the 1968 display of four American Pilots who were being held in Laos for exchange after war's end. Bates 75-76:

A Pathet Lao Propagandist explained to the villagers that the pilots would not be killed but would be held for prisoner exchange after the start of peace negotiation.

33. When men were put in an MIA status, as opposed to POW, it made easier for the government to declare those men KIA, at the end of the war. In Admiral Moorer's 1992 Senate Select Committee Deposition, he states, "God help us if a man is put in a POW status." Exhibit 37 at Bates 105-06 is the 1992 *Testimony of Chairman Joint Chiefs Thomas Moorer* regarding the problems to the government resulting from categorizing Americans as POWs.

34. In August of 1993, the DOD admitted that it had correlated reports to David that were not him. But those reports still remain in David's file. See, e.g., Exhibit 24, *DOD letter re Hrdlicka and Caswell*, at Bates 71-73.

Two reports suggest that an unidentified American pilot was transported from the Vieng Xai area of Laos to Vietnam. One of these reports (TDCS314/04249-66 of 29 March 1966) which was previously believed to be associated with Col Hrdlicka can no longer be correlated to him because was known to be alive in the Vleng Xai area well after the source claimed he was transported to Vietnam. The second report does not provide a date of information, but it had to be prior to 5 January 1969, the date of the report.

35. Colonel Schlatter stated that there were no sightings of pilots in caves after 1966, even though I have a 1968 report that states that American pilots were imprisoned in a cave. Exhibit 29 *Intelligence Information Cable*, April 1968 re "PWs held in cave," at Bates 80-81.

36. Another report dated January, 1970 regards a prison camp in Sam Neua that contained about 20 US pilots. See Affidavit of Roger Hall, Exhibit 64. Another report dated 1973 reflects that seven Caucasian prisoners had an audience with Prince Souphanavong.

37. Over 500 men were lost in Laos. An Intelligence Report confirms 54 enemy POW camps in Laos. See Affidavit of Roger Hall Exhibit 34. The government claims that only two men survived their incident. If the only known POWs to be in the area were Hrdlicka and Shelton, then who are all the other men referred to in the US government's own documents? In 1992, the JTFFA (Joint Task Force for Full Accounting) stated that they were excavating another grave site, purportedly David, again.

38. The government continues to excavate grave sites, even while it has documents showing that there was a highly classified record kept by the Laotians stating that, unless the USG abides by Nixon's 17 points, there will be no information on the missing. Exhibit 31 is a 1977 *Intelligence Information Cable* regarding records maintained by Laos of all POWs, at Bates 87-89:



Maintains in the ministry a central and highly classified record of American pilot captured by Lao and Vietnamese communist forces during the war. This record has been kept from the onset of the war and previously held in safe keeping at Khamai's former military Headquarters in Sam Neua.

## 1994

39. In September of 1994, I requested a US Air Force hearing to reinstate Hrdlicka as a POW, as I had new information. I had come into possession of many documents showing David's survival that I did not possess when the initial presumptive finding of death hearing was held in 1977. The Air Force denied my request for a hearing, or to change the status, even though I had new evidence and intelligence reports. Exhibit 28 is my September of 1994 *letter requesting to reinstate Hrdlicka as a POW*.

40. In 1994 the Air Force sent me a letter stating that David "Hrdlicka was a POW at Homecoming." Exhibit 52 *Air Force Letter*.

41. While searching for records in the Library of Congress, I found a report that the government had been tracking 23 POWs in 1984. Exhibit 45, at Bates 126-133, is the 1984 *Report* that I found in the Library of Congress. It states, "Summary of important facts are as follows: (Brief map attached) Number of persons in custody: 23 American Prisoners of War." Another 1984 report also shows these 23 POWs. This record reflects that the CIA believed the number to be 20, not 23. Exhibit 32, *DIA Cable re 23 POWs*, 1984, at Bates 90-92, with the handwritten note, "CIA/JCRC reporting says 20 POWs."

42. A report dated 1969 states that the only that U.S. POW's known to have been held in the Sam Neua area prior to Homecoming were Hrdlicka & Shelton. Who are all these men?

43. Absent from the Library of Congress document is the identity of the agency that wrote it, as well as the recipient agencies. This hampers the effort of families to make FOIA requests regarding the information. Exhibit 33 is an undated report of *POW movements tracked by aircraft*, at Bates 93-99. I have since received message traffic that corroborates this transporting of POWs.

44. A 1974 CIA report reflects knowledge of eight to ten POW's in the Sam Neua area, until 1973. No POWs returned from this area. National Reconnaissance Office ("NRO") handwritten notes mentions live American POWs, and includes "1967 air shots shows POWs playing volleyball." See Exhibit 43, *National Reconnaissance Office Notes*, at Bates 121.

45. Another aerial photograph, this one dated October, 1969, is attached as Exhibit 44, *National Reconnaissance Office Volleyball photograph*, at Bates 122-24.

46. There are numerous intelligence reports showing live POWs all over Laos after Homecoming 1973. Before operation homecoming, in 1971, there were at least 50

POWs in Laos. See, e.g., Exhibit 38, *Intelligence Report* of 50 to 100 POWs in Laos, at Bates 107-09.

47. None of the 1973 Homecoming POW's were ever held in the caves in Laos. See discussion above. After Operation Homecoming, in 1973, a report states, "The fate of Hrdlicka and Debruin must await the formation of a new coalition government." See Exhibit 39, *Memorandum for Dr. Kissinger*, June 9, 1973, at Bates 110-11. Other records reflect that American officials knew that the Laotians were using POWs as hostages to get repatriations. Yet, the government refuses to pay for POWs, even though each man carried a "Blood Chit," stating in 13 different languages, "See that I am returned to my people. My government will reward you." See Exhibit 34, 1990 *DOD Cable re Joint Staff denying reward* for POWs. This record mentions David, at Bates 100. The US government pays only to excavate grave sites.

48. American officials were told that prisoners held in Laos would not be released through Vietnam. American officials knew that men who were captured and never released. Lao officials admitted that there were "that some tens of prisoners were held" by Pathet Lao. See, e.g., Exhibit 51, an undated *Working Papers of Dr. Kissinger*, at Bates 167-172:

"If the (the prisoners) were captured in Laos, they will be returned in Laos." Moreover on February 1973 Soth was told that at a press conference Dr. Kissinger had stated that the responsibility for the identification and repatriation of all prisoners captured in Indochina had been taken by the DRV. To this statement Soth replied "Whatever the US and North Vietnam agreed to regarding prisoners captured in Laos is not my concern. The question of prisoner taken in Laos is to be resolved by the Lao themselves and cannot be negotiated by outside parties over the heads of the Lao"

49. A 1985 DIA memorandum admits to the government's mishandling of the POW/MIA issue, observing that the government "will not look good under scrutiny." Exhibit 41 *DIA Memorandum*, 1985, at Bates 117-18.

50. There is a 1990 report on David. See Exhibit 34. When the source came forward with this information, he was told there would be no reward. This was misinformation. The informant should have been advised about the "Blood Chit" reward for a live man. The government pays millions of dollars in aid, for permission to excavate crash sites. It pays for remains, while refusing to pay comparable amounts for live men. Exhibit 35 is a 1991 *DOD Cable re Joint Staff denying reward* for ten POWs, at Bates 101-02. Exhibit 36 is the *DOD Blood Chit Policy Statement*, at Bates 103-04.

## 1991

51. In February 1991, Colonel Millard Peck, Chief of the Special Office for Prisoners of War and Missing in Action, resigned. *Colonel Millard Peck's resignation* letter, Exhibit 42 at Bates 119-20, explained the deliberate actions to make sure that no

information on live POWs was disseminated, or followed up on:

[S]urveys of active duty military personnel indicated that a high percentage (83%) believed that there were still live American prisoners in Vietnam. This idea was further promulgated in a number of legitimate veteran's periodicals and professional journals, as well as the media in general...

\* \* \*

My plan was to be totally honest and forthcoming on the entire issue and aggressively pursue innovative actions and concepts to clear up the live sighting business, thereby refurbishing the image and honor of DIA. I became painfully aware, however, that I was not really in charge of my own office, but was merely a figurehead or whipping boy for a larger and totally Machiavellian group of players outside of DIA.

\* \* \*

From my vantage point, I observed that the principal government players were interested primarily in conducting a damage limitation exercise... Rarely has there been any effective, active follow through on any of the sightings, nor is there a responsive "action arm" to routinely and aggressively pursue leads.

\* \* \*

It appears that the entire issue is being manipulated by unscrupulous people in the Government, or associated with the Government. Some are using the issue for personal or political advantage and others use it as a forum to perform and feel important, or worse. The sad fact, however, is that this issue is being controlled and a cover-up may be in progress.\*\*\* The policy people manipulating the affair have maintained their distance and remained hidden in the shadows, while using the Office as a "toxic waste dump" to bury the whole "mess" out of sight and mind to a facility with the limited access to public scrutiny.

\* \* \*

Although assiduously "churning" the account to give a tawdry illusion of progress, she [Director of the National League of Families] is adamantly opposed to any initiative to actually get to the heart of the problem, and, more importantly, interferes in or actively sabotages POW-MIA analyses or investigations.... She apparently has access to top secret, code word message traffic, for which she is supposedly not cleared, and she received it well ahead of the DIA intelligence analysts.... She was brought from the "outside," into the center of the imbroglio, and then, cloaked in a mantle of sanctimony, routinely impedes real progress and insidiously "muddles up" the issue. One wonders who she really is and where she came from.... As the principal actor in the grand show, she is in the perfect position to clamor for "progress," while really intentionally impeding the effort. And there are numerous examples of this.

\* \* \*

I feel strongly that this issue is being manipulated and controlled at a higher level, not with the goal of resolving it, but more to obfuscate the question of

live prisoners, and give the illusion of progress through hyperactivity. From what I have witnessed, it appears that any soldier left in Vietnam, even inadvertently, was, in fact, abandoned years ago, and that the farce that is being played is no more than political legerdemain done with "smoke and mirrors," to stall the issue until it dies a natural death.

\* \* \*

For all of the above, I respectfully request to be relieved of my duties as Chief of the Special Office for Prisoners of War and Missing in Action.... I further request that the Defense Intelligence Agency, which I have attempted to serve loyally and with honor, assist me in being retired immediately from active military service.

52. Over the years, I have been repeatedly told that I have all information on David's case, yet a researcher found a document in the archives concerning David that had never been given to me, by the DOD, or CIA. See Roger Hall Affidavit Exhibit 103 Bates 134-40.

53. During the 1996 House Subcommittee on hearings Military Personnel, I placed a highly classified Lao document in that record. It was a record of capture and dispersal of POWs. A 1982 DIA letter confirms that they knew about the prisoners and their locations. US government agencies have a mountain of evidence of live men, but they act only on grave sites.

54. A researcher found a 1973 memorandum that concerns Hrdlicka. After handing this 1973 memorandum to Mr. Wold, DPMO Chief, I received a letter in November of 1994, admitting that Hrdlicka was a POW at Homecoming. Exhibit 52, 1994 *Air Force letter*, at Bates 168-69. I have been told many times I have all information concerning David's case. Over the years, I have requested any and all documents mentioning Hrdlicka's name. Yet, I am still receiving documents that have not been given to me by the government agencies tasked with investigating David's case.

## **1994**

55. In September of 1994, I started mailing complaints to the Department of Defense Inspector General Office. I sent mailings for the next several months with attachments showing examples of misconduct by government agencies tasked with doing the investigations on the POW/MIA issue. Addressing in seven different criminal violations by these agencies, I sent 24 separate complaints to the Inspector General. Later, I made a FOIA request for actions taken by the DOD Inspector General. In response, the Inspector General sent only copies of my complaints. Exhibit 8 is my then lawyer's list of *Criminal Violations committed by DOD and CIA* agency personnel, at Bates 21.

## **1996 viewing of file**

56. When my son and I viewed the classified file kept by DPMO (Department of POW/MIA) for my husband, it became clear that there had been no investigation. There

were no radio intercepts, or any reports or notes of interviews of individuals. There were no cables from CIA, even though General Secord testified that there were a "mountain of message traffic" on David's case. See Affidavit of Roger Hall. During that review of the file, we asked what training was needed to become an analyst. The analyst responded that he had no special training. The DOD used untrained people to do what it claims is a "high priority" job.

57. The effort was never made by any government agency to interview the Russian reporter, Ivan Shchedrov, who had interviewed David in captivity several times. As my son and I went through the file, it became evident that there was never any follow-up on any information that they had received. The only thing that DPMO continues to do is to excavate grave sites. Mr. Warren Gray of the DPMO told me that they had excavated four grave sites, in David's case, and have found nothing.

58. During the file review, I asked Warren Gray whether the DIA had ever followed up on the La Bounty 1992 live sighting report. Mr. Gray stated there had been no follow-up or investigation—another example of reports that concern live men being ignored. The DPMO has not done the very basic investigation, or tasked the CIA or other agencies to provide the information that those agencies have on David's case. Clearly, the DPMO is not interested in conducting any real investigation of live men.

#### **1981 offer to sell POWs to USG**

59. An investigative reporter found in the National Archives the deposition of Richard Allen, National Security Advisor in the Reagan Administration, and hand written notes regarding an offer to sell to the US 57 men for \$4.5 billion. See Affidavit of Roger Hall Exhibits 23(a) and 23(b).

#### **1996**

60. MACVSOG was the Military Assistance Command, Vietnam-Special Operations Group. It was later renamed the Studies and Observations Group. MACVSOG provided intelligence information to the Pentagon, rescued downed pilots, and destroyed large amounts of enemy material. The government denied for years the existence of MACVSOG. In response to one of my FOIA requests to the DPMO for MACVSOG Daily Summaries, on March 14, 1996, the DPMO wrote that it had no such records. Yet, another family member received a letter from DPMO stating that MACVSOG daily summaries are being reviewed for declassification. There was information on POWs in the daily summaries.

61. June 10, 1996, I received a letter from Ivan Loboda, a Russian correspondent who had accompanied Ivan Shchedrov to Laos in 1969. Mr. Loboda verified that there were American pilots physically present at the 1969 press conference, held in San Neua, for the dedication of the underground city named "Hotel Friendship." Exhibit 49, Letter from Ivan Loboda, at Bates 150.

62. The government has insisted, for over 20 years now, that David is dead. According to the government, David died in 1966. Next, it claimed that he died in 1967. Lastly, according to the government, David died in 1968. It finally settled on 1968 as the date it "believes" that David died. The press conference that displayed David was held in 1969. The government has no evidence that David is dead. The government's "belief" is not based on any evidence. The absence of any evidence cannot be the basis of declaring someone to have died.

63. There has been no credible evidence to date that proves that David L. Hrdlicka has died. Rather, there have been live sighting reports that show him to be alive in the early 1990s.

64. After all the testimony over the years given before Senate and House hearings, showing the misconduct and criminal activity in the government agencies, no one has been held accountable. The POW/MIA families have no one to protect them from these injustices or investigate the possibility of criminal activities in these agencies. Exhibit 50 is the 1992 *DIA Memoranda re Destruction of POW Records* by the CIA, written by Investigator John McCreary, at Bates 151-56. It includes:

The [Select] Committee has the benefit of Intelligence collection during 19 years and **over 1,000 sighting reports of live prisoners**, less than a quarter of which have even received analysis.

(Emphasis supplied)

65. In 1996, the POW/MIA families tried to remedy the government's unjustified declarations of death, by amending the Missing Personnel Act, which had not been updated since 1942. The families worked for 6 months, at our own expense, to get this legislation passed and into law. There were provisions in this legislation that would have required evidence of death before the government could declare a person dead. The Speicher case, from the Gulf War, is an example of the US government's declaring a man dead with no evidence.

66. Another provision would have penalized anyone for lying to service family members about their loved ones. Later, our amendments were repealed, at the behest of Senator John McCain. This legislation would have protected future generations from enduring what the Vietnam Era families have endured. A more recent example of agencies lying to a family is the Pat Tillman case, from the Afghanistan conflict, where the family was lied to right from the beginning of his loss.

67. The CIA's intelligence gathering regarding POWs in Laos was ongoing. See June 1973 *Joint Chief Memorandum re CIA's Intelligence on POWs in Laos*, Exhibit 47 at Bates 141-47, with the subject, "US prisoners of war in Laos." It states:

[R]eference is made to your memorandum... dated 18 May 1973, which discussed the US PW/MIA situation allows and recommended that a CIA briefing on the subject we provided to the JCS....

The following are the facts as they relate to CIA involvement in the current Laotian MIA situation. CIA continue to conduct an active program to acquire intelligence relative to the status of US MIA personnel. The agency accords PW/MIA matters one of the highest priorities in its overall intelligence collection efforts in SE Asia...

CNO indicated that CIA is pursuing a priority effort to determine what happened to US POWs in Laos and suggested a brief...

DIA and J-3 (DOCSA) discussions with CIA points of contact and records of DOCSA a monitoring of Laos activities indicate that CIA has had, and currently conducts, an active program to acquire intelligence related to the status of POW/MIA personnel. This program is among the highest priority PW/MIA intelligence objectives within the overall intelligence collection efforts in SEAsia. It is carried out by assets, and winds in the organizational structure of CIA station in Laos...

DIA is collaborating closely where appropriate with CIA in regard to the current situation in Laos... At present there are proximately 350 US military and civilians listed as missing in action in Laos. Of this total, approximately 215 were lost under such circumstances that the Patriotic Laotian Front (PLP) probably has information regarding their fate...

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DATE: July 19, 2016.

Under penalty of perjury, I declare that the foregoing is true and accurate to the best of my information, knowledge, and belief.

  
Carol Hrdlicka

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