

Central Intelligence Agency



Washington, D.C. 20505

1 June 2005

**VIA FACSIMILE AND
CERTIFIED MAIL**

John H. Clarke, Esquire
1717 K Street, N.W., Suite 600
Washington, D.C. 20036

Reference: F-2005-01217 (Civil Action No. 04-00814)

Dear Mr. Clarke:

We received your letter of April 26, 2005 on May 3, 2005. You requested on behalf of your client, Accuracy in the Media, Inc. (AIM) all records pertaining to:

1. Southeast Asia POW/MIAs (civilian or military) and detainees, who have not returned, or whose remains have not been returned to the United States, regardless of whether they are currently held in prisoner status, and regardless of whether they were sent out of Southeast Asia.
2. POW/MIAs sent out of Southeast Asia (for example, to China, Cuba, North Korea, or Russia).
3. Prepared by and/or assembled by the CIA between January 1, 1960 and December 31, 2002, relating to the status of any United States POWs or MIAs in Laos, including but not limited to any reports, memoranda, letters, notes or other documents prepared by Mr. Horgan or any other officer, agent or employee of the CIA for the Joint Chiefs of Staff, the President, or any federal agency.
4. Records of the Senate Select Committee on POW/MIA Affairs which were withdrawn from the collection at the National Archives and returned to the CIA for processing.

5. Records relating to 44¹ individuals who allegedly are Vietnam era POW/MIAs, and whose next-of-kin have provided privacy waivers to Roger Hall, attachment 1, and records relating to those persons who are named on attachment 2, 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.
6. All records on or pertaining to any search conducted for documents responsive to Roger Hall's requests dated January 5, 1994, February 7, 1994, and April 23, 1998, including but not limited to all instructions and descriptions of searches to be undertaken by any component of the CIA and all responses thereto, and all records pertaining to the assessment of fees in connection therewith, including but not limited to any itemizations or other records reflecting the time spent on each search, the rate charged for the search, the date and duration and kind of search performed, etc.
7. 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.
8. All records of whatever nature pertaining to the estimates of fees made in response to the February 7, 2003 Freedom of Information Act request of Mr. Roger hall and Studies Solutions Research, Inc., and how each estimate was made.

On 7 February 2003, James Lesar and Joe Jablonski submitted a FOIA request on behalf of their clients, Roger Hall and AIM respectively, in which Mr. Hall and AIM requested records pertaining to seven different items. Items 1 through 7 of your 26 April 2005 request are identical to items 1 through 7 of your 7 February 2003 request. The seven items contained in the 7 February 2003 FOIA request are the subject of the current litigation (04-0814). For that reason, we will not accept these items as part of this request.

With regard to item 8, which requests information on fee estimates related to your 7 February 2003 request, this issue is also before the Court in the pending litigation, and we will therefore not accept it as part of this request.

¹ Attachment 1 to Item 5 of the 7 February 2003 request purports to request information on 47 individuals, but the number of individuals listed in the attachment is actually 44-two of the names appear more than once in the attachment.

Pursuant to 32 C.F.R. Part 1900.42(c), because the information you are seeking is the subject of pending litigation in the federal courts, no right of administrative appeal exists from our decision not to accept items 1 through 8 of this request.

Sincerely,

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

Scott Koch
Information and Privacy Coordinator