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May 21, 2021

By email foia@nara.gov

National Archives and Records Administration
National Archives at College Park
8601 Adelphi Road
Room 5500
College Park, MD 20740-6001

By email Thomas.duffey@usdoj.gov

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

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

Dear Ladies and Gentlemen:

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

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

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

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

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

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

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

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

Request 1

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

Request 2

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

Request 3

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

Record Group 263

Record Group 457

Record Group 218

Decimal Correspondence Files, 1942-1958

Geographic Correspondence Files, 1942-1958

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

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

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

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

Records Relating to the Korean War, 1951-1953

Record Group 319

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

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

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

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

Intelligence Reports and Files, 1950-1958

Record Group 38

Records Relating to Prisoners of War, 1949-1954

Request 4

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

Request 5

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

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

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

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

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

Sincerely,

/s/
John H. Clarke

Enclosure:
April 20, 2020 FOIA Request

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

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April 20, 2020

Freedom of Information Act Request
National Archives and Records Administration
National Archives at College Park
8601 Adelphi Road
Room 5500
College Park, MD 20740-6001

Re: FOIA requests for records regarding unrepatriated
United States POWs from the Korean War

Dear Ladies and Gentlemen:

This is request under the Freedom of Information Act, 5 USC § 552 *et seq.*, made by seven individuals and a corporation. They are Lois Moore, Robert Moore, Jana Orear, Christianne O'Malley, Michael Driggs, John Zimmerlee, Mark Sauter, and the POW Investigative Project, Inc., a nonprofit entity devoted to investigating the fates of United States POWs and MIAs last reported alive in communist captivity but never returned after the Korean, Cold, and Vietnam Wars. The requests seek records concerning American POWs captured by the communists, not reported to have died, and not returned after the end of the Korean War, as well as after Cold War shoot downs.

Mark Sauter is an investigative journalist and author. The other six individuals are family members of one of three unrepatriated Korean War POWs—Army Master Sergeant Robert Paul Bibb, Air Force Pilot Captain Harry Cecil Moore, and Air Force Captain John Henry Zimmerlee.

On July 20, 1950 Master Sergeant Robert Bibb was captured in the Battle of Taejon, an early fight in South Korea that overwhelmed the 24th Infantry Division, which was outnumbered and lacking communications and weapons.

Captain Harry Moore was taken prisoner on June 1, 1951, after Soviet MiG-15s shot down the F-51 fighter that he was piloting. He was thereafter transferred to the USSR, to Camp No. 18 near Potma, Mordovia, where, in 1952, he was interrogated by the Commander of the Soviet 64th Fighter Aviation Corps.

Air Force 1st Lieutenant John Henry Zimmerlee served as navigator aboard a B26C light bomber. Sometime after 9:00 p.m. on March 21, 1952, it crashed, after three of its five crewmembers successfully parachuted out. They were taken prisoner, and last seen in the custody North Korean and Chinese guards.

The term "POW" in the requests refer to United States military personnel taken prisoner during the Korean War, and the Cold War, who were not repatriated, and includes "MIAs," or missing in action. The term "POW records" should be read to include all intelligence material of whatsoever nature, including all reports, analysis, correspondence, signals intelligence or SIGNET (including transcripts of communist propaganda broadcasts), imagery, and live sighting reports. The term "live sighting reports" should be read to include those based on hearsay, together with the corresponding interview notes.

These requests do not seek information that appears in any record on the CIA website, or on any Department of Defense website, but only if such records were released in full, with no redactions.

Request 1

All records regarding the June 1, 1951 shoot down and capture over North Korea of the American F-51 piloted by U.S. Air Force Captain Harry Cecil Moore, his incarceration, interrogation, transportation from North Korea to the Soviet Union, his locations in the Soviet Union, including all evidence that he "may have been interrogated by Soviet officials." Captain Moore's service number is AO 711850. His date of birth is February 11, 1924.

Request 2

All records regarding the July 20, 1950 capture of Robert Paul Bibb, in Tuejon, South Korea, and his incarceration. He served in the Army Company C, 3rd Engineer Combat Battalion, 24th Infantry Division. His service number is RA-19076631. His date of birth is December 6, 1911.

Request 3

All POW records concerning Air Force 1st Lieutenant John Henry Zimmerlee, Jr. Lieutenant Zimmerlee served as navigator aboard a B26C (No. 44-34417) in the Air Force 730th Bomb Squadron. That aircraft was downed on March 21, 1952. His service number is AO-1998932, and he was born on December 6, 1911.

CIA RecordsRequest 4

All CIA POW records in Record Group 236.

Request 5

All CIA POW records concerning the activities of the Joint Advisory Commission Korea (JACK).

National Security Agency RecordsRequest 6

National Security Agency POW records in Record Group 457, including the names of POWs appearing below in Appendix A, and the incidents listed below in Appendix B. This is to include records from the NSA predecessor, the Armed Forces Security Agency.

Department of Defense—Records of Joint Chiefs of StaffRequest 7

All POW records in Record Group 218, Records of the U.S. Joint Chiefs of Staff.

Department of Defense—Army recordsRequest 8

All records concerning Korean and Cold War POW in the files including but not limited to:

- (1) The U.S. Army Forces Far East (AFFE), 8th U.S. Army, United States Forces Korea and the United Nations Command.
- (2) The Combined Command Reconnaissance Activities Korea (CCRAK).
- (3) Records in the Record Group 554 for General Headquarters, Far East Command.
- (4) All classified documents in the *Case Files of American Prisoners of War During the Korean War, 1952-1956*, dated September 1953 or later.
- (5) All classified documents contained in Record Group 319, Records of the Army Staff, dated after September 1953.
- (6) All classified documents produced by the Army Security Agency, dated after September 1953.

Department of Defense—Air Force records

Request 9

All POW records generated from the 6004th and 6006th Air Intelligence Squadrons (AISS), including but is not limited to all files regarding *Project American*. *Project American* was the repository file for all U.S. Air Force personnel missing in the Far East.

Request 10

All POW records in Record Group 341, *Records of Headquarters U.S. Air Force (Air Staff)*.

Request 11

All Air Force POW records in Record Group 342, *Records of U.S. Air Force Commands, Activities, and Organizations*. (See, e.g. <https://www.archives.gov/research/guide-fed-records/groups/342.html>)

Request 12

All POW records produced by the U.S. Air Force Security Service.

Department of Defense—Navy

Request 13

All Bureau of Naval Personnel POW records in Record Group 24.

Request 14

All POW records of the *Office of the Chief of Naval Operations* in Record Group 38.

Request 15

Record Group 38, all completed Naval forms, *Identification data on missing U.S. Naval and Marine Personnel*, from February of 1956, regarding Korean POWs believed to be in the Soviet Union.

Request 16

All Navy records in Record Group 38, the *Case Files of American Prisoners of War During the Korean War, 1952-1956*.

State Department

Request 17

All POW records in Record Group 59, *General Records of the Department of State, Central Foreign Policy File*, including but not limited to Central Files 1958-1963, Record Group 59, Boxes 157-161, lot files 63D168, 65D93, 65D235, 66D224, and 66D245.

Eisenhower Presidential LibraryRequest 18

All classified and unreleased records held or controlled by the Eisenhower Library concerning POWs.

Request 19

The original intelligence memos from February 3, 1955 and February 4, 1955 concerning a debriefing of defector Yuri Rastvorov and his knowledge of U.S. POW/MIA and other Soviet intelligence activities.

Request 20

All classified documents concerning U.S. Korean and Cold War POW/MIA in the "Ann Whitman File," or Eisenhower presidential papers, from 1953-1961. This includes but is not limited to the Administration Series, Box 40, and Diary Series Box 5.

Request 21

All classified documents concerning U.S. Korean and Cold War POW/MIA in the White House Central Files, Confidential File, Box 61 and Box 70.

Request 22

All classified documents concerning U.S. Korean and Cold War POW/MIA in the John Foster Dulles file Boxes 10 and 12.

Request 23

All classified documents concerning U.S. Korean and Cold War POW/MIA in the *Christian A. Herter Papers*, 1957-1961, Box 3, Box 5, Box 6, Box 7, and Box 11, regarding downed U.S. airmen.

Request 24

All classified documents concerning U.S. Korean and Cold War POW/MIA in the White House Office, National Security Council Staff files, Operations Coordinating Board Central Files Series, Boxes 117-118, entitled, *OCB 383.6 Prisoners of War – Korean War*.

Request 25

All classified documents concerning U.S. Korean and Cold War POW/MIA in the White House Office, NSC Series, Box 18, *USSR 1954-60*, which contains eight pages of classified material regarding Soviet-related aircraft incidents.

Request 26

All classified documents concerning U.S. Korean and Cold War POW/MIA in the White House Office, Office of the Staff Secretary, Records 1952-1961, documenting U.S. aircraft losses and crewmen.

Request 27

All classified documents concerning POWs in the White House Office, National Security Staff files, 1948-1961.

Request 28 through 48 seek disclosure of records associated with twenty "Withdrawal Notices," restricting public access. These requests are set forth below, together with the Withdrawal Notices to which they refer.

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

Mark Sauter is a member of the news media. He has been an award-winning investigative reporter and historian since 1987, employed by national and local television and newspaper outlets. He co-authored four books. One, written with Korean War POW expert John Zimmerlee, is titled *American Trophies*, and is subtitled, "How US POWs Were Surrendered to North Korea, China and Russia by Washington's Cynical Attitude." He coauthored with James Sanders, *The Men We Left Behind: Henry Kissinger, the Politics of Deceit and the Tragic Fate of POWs After the Vietnam War*, published in 1993. And he co-authored with James Carafano a McGraw Hill university textbook, *Homeland Security: A Complete Guide*.

Mr. Sauter served as a U.S. Army officer in the Special Forces and infantry, including service in the DMZ between South and North Korea. He has been investigating the fate of unrepatriated American POWs from the Korean and Cold Wars since 1989, and has uncovered evidence that the U.S. government knew that specific American prisoners were held at the end of the conflict but never returned,

that reports of their survival in enemy hands continued to be received for decades, and that information pertaining to their fate remains classified today. Mr. Sauter's findings on the POW issue have been covered by media organizations such as the Associated Press, New York Times, ABC News, Washington Post and Wall Street Journal.

Mr. Sauter gathers information of potential interest to the general public, uses his editorial skills to turn the raw materials into a distinct work, and distributes that work to his audience. Upon disclosure of the records sought, he has concrete plans to make the information public.

Materials on POW/MIAs will contribute significantly to public understanding on the operations or activities of the government. Among other things, they will reveal the extent, nature, intensity, and duration of the government's efforts to locate POW/MIAs, a subject that has long been of intense interest to the public. The records will provide information regarding the thoroughness, scope, intensity, dedication and creativity of the search for missing POW/MIAs. Disclosure will also show how agencies cooperated and coordinated their efforts with other agencies which possessed information on POW/MIAs.

The interest of enhancing the public's understanding of the operations or activities of the U.S. Government is clear, and the records' connection to these government activities is direct. Release of the information is will contribute to an understanding of government operations or activities regarding the Korean War POW/MIA issue, as compared with awareness prior to the disclosure.

This request seeks disclosure of records that have remained secret despite Congressional inquiries, the mandates of Executive Order 12812 and Presidential Decision Directive NSC 8, and "The McCain Bill," 50 U.S.C. § 435 Note.

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

Right of Appeal. The information sought is not the subject of pending litigation in the federal courts. In any event, kindly apprise the requesters of their right to administratively appeal any adverse response.

Sincerely,

John H. Clarke

cc:

- Lois Moore
- Robert Moore
- Jana Orear
- Christianne O'Malley
- John Zimmerlee
- Michael Driggs
- Mark Sauter

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