



September 30, 2020

John H. Clarke
1629 K Street, NW
Suite 300
Washington, DC 20006

Dear Mr. Clarke:

This letter is in response to your Freedom of Information Act (FOIA) request dated April 20, 2020 for access to records in the custody of the Eisenhower Library concerning American POWs captured by the communists, not reported to have died, and not returned after the Korean War as well as after Cold War shoot downs. The National Archives and Records Administration (NARA) became aware of your request when it received notice of the filing of your lawsuit on June 26, 2020. Your request was subsequently received by the Eisenhower Library on June 30, 2020.

Most records held by the Eisenhower Library are donated historical material and are not subject to request under the provisions of FOIA, including but not limited to the files and series cited in Requests 20 through 27. According to 5 U.S.C. § 552(f) and NARA regulation 36 C.F.R. § 1250.6, the Freedom of Information Act does not apply to donated historical material or the records of local or state governments. Although this material is not subject to request under FOIA, you can submit a mandatory declassification review (MDR) request for any classified materials in the donated historical material you identified.

The Eisenhower Library does hold in its legal custody a small volume of Presidential records governed by the Presidential Records Act. These records are subject to FOIA and are processed and reviewed for access under provisions of the 1978 Presidential Records Act, as amended (44 U.S.C. §§ 2201-2209). These files consist of U.S. National Security Council Presidential Records: Intelligence Files, 1953-61. More information regarding these files can be found on our website: <https://www.eisenhowerlibrary.gov/sites/default/files/finding-aids/pdf/us-nsc-presidential-records-intelligence-files.pdf>. We performed a search of these records and located no records responsive to your FOIA requests.

Because we conducted a reasonable search and could not locate any responsive records, we are denying the portion of your request for records that are subject to FOIA on procedural grounds.

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We will take no further action regarding the donated historical material you requested unless we hear from you. If you have any questions about this material or the MDR process, please contact our staff at 785-263-6700 or Eisenhower.library@nara.gov. Your case log number is 2020-04.

Should you have any additional questions regarding the material that is subject to the FOIA litigation, please reach out to the DOJ counsel handling that matter, Katherine Palmer-Ball at Katherine.Palmer-Ball@usdoj.gov or 202-252-2537.

Sincerely,

Timothy Rives
Deputy Director
Dwight D. Eisenhower Library

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