

JAMES H. LESAR  
ATTORNEY AT LAW  
1003 K STREET, N.W.  
WASHINGTON, DC 20001

February 7, 2003

FREEDOM OF INFORMATION ACT REQUEST

Ms. Katherine I. Dyer  
Freedom of Information  
and Privacy Coordinator  
Central Intelligence Agency  
Washington, D.C. 20505

Re: **Requests for Records on Missing POWs**

Dear Ms. Dyer:

I represent Mr. Roger Hall and Studies Solutions Results, Inc., trading as POW/MIA FOIA Litigation Account. Mr. Hall is joined in this request by Mr. Reed Irvine and Accuracy in Media, Inc., who are represented by Mr. Joe Jablonski. As further described below, our clients seek records pertaining to members of the American Armed Forces who participated in the War in Vietnam and have been classified as Prisoners of War (POWs) and/or Missing in Action (MIAs), as well as any civilian detainees.

Roger Hall has for many years conducted research into the POW/MIA question for the National Alliance of Families, a service he provides without charge. He distributes the information he obtains in newspapers, research papers, and documents he provides to members of Congress; veterans and POW/MIA groups. His research contributions on this issue have been reprinted in newsletters and magazines, including the National Vietnam Veterans Coalition Magazine. The Marine Corps League POW/MIA Affairs News Letter and Information Report has on numerous occasions carried documentation he has made available to them. One of his contributions was reprinted in toto in an article in the Conservative Review. He has made public presentations to the National Alliance of Families and the Sarah McClendon Study Group, and appeared on the Zoe Hieronimus talk radio show. He has also briefed veterans groups, including the POW/MIA Ad Hoc Committee, the Disabled American Veterans, and the Veterans of Foreign Wars, among many other groups, as well as members of Congress and their staffs. Mr. Hall sends out email newsletters on POW matters to various organizations such as Rolling pride, VietNow, and Pride of Illinois, which have a combined membership in excess of 100,000. The frequency of these newsletters varies from twice daily to twice a month.

The American Legion has manifested an interest in the missing POW/MIAs issue, and in Mr. Hall's work on it, carrying an interview of him in its December 2002 issue which dealt with his FOIA case to obtain records from your agency. The American Legion magazine reaches an audience of over 100,000.

Reed Irvine is a media critic who is Chairman of the Board of Accuracy in Media, Inc. ("AIM"). He is Editor of AIM Report, a biweekly publication which has an interest in the POW/MIA issue. AIM has approximately 3,300 subscribers. Mr. Irvine is editor of AIM Report. He is author of Media Mischief and Misdeeds, 1984; and coauthor (with Cliff Kincaid) of Profiles in Deception, 1990, and The News Manipulators (with Joseph C. Goulden and Cliff Kincaid).

Pursuant to the Freedom of Information Act, 5 U.S.C. 1 552, our clients request all records and information on or pertaining to:

1. Southeast Asia POW/MIAs (civilian or military) and detainees, who have not returned, or

whose remains have not been returned, to the 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, 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 47 individuals who allegedly are Vietnam era POW/MIAs, and whose next-of-kin have provided privacy waivers to Roger Hall, see Attachment 1 hereto, and those persons who are 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 (Attachment 2).

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.

Our clients are entitled to status as "representatives of the news media" and thus cannot be charged search fees. 5 U.S.C. § 552(A) (4) (A) (ii) (II).

Materials on POW/MIAs will necessarily shed light 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. Records disclosed to our clients are likely to contribute significantly to public understanding of such operations or activities, by disclosing records that have remained secret despite congressional inquiries and Presidential directives to disclose them. The records will provide information regarding the thoroughness, scope, intensity, dedication and creativity of the search for missing POW/MIAs, and whether or not it was conducted in good faith. This information will show the degree to which the CIA has complied with Executive Order 12812 and Presidential Decision Directive NSC 8 and whether it has accurately informed Congress and the public about its search efforts and the information it possesses. It will also show how the CIA cooperated and coordinated its search efforts with other agencies and how the CIA controlled the documentation other agencies possessed regarding POW/MIAs and detainees.

As noted above, Roger Hall, through his company, Studies, Solutions Results, Inc., regularly disseminates information concerning missing POW/MIAs to organizations which further disseminate said information, and Hall and his company intend to continue to do this. Indeed, one of the stated purposes of Studies Solutions Results, Inc. is to obtain and disseminate information concerning missing POW/MIAs to the public. Reed Irvine and AIM similarly intend to disseminate information on this issue derived from this request to the public.

Accordingly, our clients are entitled to a waiver of copying costs, and they request that such a waiver be granted pursuant to 5 U.S.C. § 552 (a) (4) (a) (iii).

