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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

United States District Court
Northern District of California

VIETNAM VETERANS OF AMERICA,

et al.,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY, et

al.,

Defendants.

Case No.: 09-cv-0037 CW (JSC)

**ORDER RE: JOINT STATEMENTS
OF DISCOVERY DISPUTES FILED
OCTOBER 12, 2011 (Dkt. Nos. 299 &
300)**

Now pending before the Court are two new discovery disputes: 1) Joint Statement of Discovery Dispute Concerning Depositions and Navy and Air Force Document Production (Dkt. No. 299); and 2) Joint Statement of Discovery Dispute Concerning Magnetic Tapes Regarding Database of Edgewood Test Participants and Project “Often” Documents (Dkt. No. 300). As discussed at the telephone hearing on October 13, 2011, with respect to the dispute regarding the Magnetic Tapes and the Project “Often” Documents (Dkt. No. 300), the Court DENIES the motion in part. With respect to the dispute regarding the Depositions and Navy and Air Force Documents (Dkt. No. 299), the Court orders further briefing.

DISCUSSION

1. The Project “Often” Documents

Plaintiffs contend that Defendants have withheld documents concerning Project Often which are contained in 11 boxes. The Court’s October 5, 2011 order granted the CIA’s motion for a protective order in part and held that Plaintiffs’ discovery of the CIA is limited to their secrecy oath claim and the CIA’s involvement in the testing program. Given the CIA’s representation that they have produced all relevant documents from the 11 boxes and elsewhere dealing with testing on service members, the Court denies Plaintiffs request to compel further production of documents. Plaintiffs must make a more particularized showing regarding what evidence they allege is missing and why this evidence is relevant to Plaintiffs’ secrecy oath claim before the Court will order further production from the CIA.

2. The Magnetic Tapes

This dispute concerns “magnetic tapes” which contain, at least in part, information regarding testing done at Edgewood. Defendants allege that it is not feasible to recover information from these tapes. Plaintiffs contend that Defendants have not actually attempted to convert these magnetic tapes into a readable format and purport to have information regarding a program that would allow Defendants to do so. The parties are ordered to meet and confer on or before Monday, October 17, 2011 regarding this matter.

3. Depositions and Navy and Air Force Documents

The Court requests further briefing regarding the parties’ dispute over the number of depositions and the documents from the Navy and Air Force. The parties shall file one ten page supplemental brief addressing both subjects. With respect to the depositions, Plaintiffs should identify who they seek to depose, why this person’s testimony is relevant and necessary, and how long of a deposition they request. Plaintiffs’ supplemental brief shall be filed by October 21, 2011. Defendants’ opposition is due November 4, 2011. Upon filing of the opposition, the Court will take the matter under submission.

IT IS SO ORDERED.

Dated: October 14, 2011



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE

United States District Court
Northern District of California

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