

Exhibit N

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

VIETNAM VETERANS OF AMERICA,
et al.,

Plaintiffs, Civil Action No.

v. CV 09-0037-CW

CENTRAL INTELLIGENCE AGENCY,
et al.,
Defendants.

Friday, January 27, 2012

Washington, D.C.

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

Videotaped deposition of ROY S. FINNO, commencing
at 9:01 a.m., held at the offices of Morrison &
Foerster, 2000 Pennsylvania Avenue, N.W., Washington,
D.C., before Keith Wilkerson, a notary public in and for
the District of Columbia.

Job No. SD129160

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1	version of the fact sheet, regarding the congressional	00:21:48
2	hearings?	00:21:51
3	MR. BOWEN: Objection. Vague. Lacks	00:21:52
4	foundation.	00:21:53
5	Q. You can answer.	00:21:55
6	A. No.	00:21:58
7	Q. Do you know why it wasn't included?	00:21:59
8	A. You'd have to ask the editors or the people above	00:22:01
9	me. I do not know.	00:22:05
10	Q. And who were they?	00:22:06
11	MR. BOWEN: Objection. Asked and answered.	00:22:07
12	A. It would be Dr. Kilpatrick, Dee Morris, and the	00:22:09
13	editors who I submitted it to.	00:22:16
14	Q. Do you know who any of those editors were?	00:22:21
15	MR. BOWEN: Objection. Asked and answered.	00:22:24
16	A. No, at that time I don't know who the editor was.	00:22:26
17	This was in 2006. I don't know who the editor was in	00:22:29
18	2006.	00:22:32
19	Q. Were there earlier editors that you knew?	00:22:33
20	MR. BOWEN: Objection. Vague. Lacks	00:22:38
21	foundation.	00:22:40
22	A. No. I just don't know who edited this one.	00:22:41
23	Q. So after you submitted your initial draft of the	00:22:44
24	fact sheet to Dee Morris -- that's correct, right?	00:22:49
25	A. Yes.	00:22:52

1	A. I told her I was going to write it, yes.	00:27:21
2	Q. And did she encourage you to write it?	00:27:28
3	A. She just said go ahead.	00:27:31
4	Q. Did she give you any direction in what she was	00:27:34
5	looking for in the fact sheet?	00:27:37
6	A. No.	00:27:38
7	Q. So the fact sheet draft at 463 mentions on the	00:27:55
8	second page that the IOM study documented an increased	00:28:06
9	number of complaints involving sleep problems in this	00:28:08
10	group of individuals.	00:28:11
11	A. Right.	00:28:12
12	Q. Was this included in the final version of the	00:28:12
13	fact sheet?	00:28:14
14	MR. BOWEN: Objection. Foundation. We	00:28:15
15	don't know that this is the draft.	00:28:17
16	A. I have no idea. There's so many drafts of the	00:28:19
17	fact sheet running around. It doesn't look like it was	00:28:24
18	included in this particular one, though.	00:28:28
19	Q. That's Exhibit 264?	00:28:29
20	A. 264, yes.	00:28:31
21	Q. Do you know why it wasn't included?	00:28:32
22	A. No, I don't.	00:28:33
23	Q. Do you know who would have decided whether to	00:28:34
24	include it or not?	00:28:37
25	A. Somebody at the editor, Ms. Morris or	00:28:38

1	do.	00:30:18
2	Q. And on the fact sheet that's a part of 264, the	00:30:19
3	end of the second paragraph, where it says, The study	00:30:33
4	objectives, it says: The study objectives were to	00:30:36
5	determine specific health effects associated with	00:30:40
6	exposure (particularly at low dosages).	00:30:42
7	Did you write that?	00:30:47
8	A. If it was in this fact sheet and it came from	00:30:49
9	here to there (indicating) I probably did, yes.	00:30:55
10	Q. Take a look with me at 463. Does this include	00:31:04
11	any discussion of low dosages?	00:31:09
12	A. No, not that I see.	00:31:19
13	Q. Do you know why at "particularly low dosages" was	00:31:24
14	included in --	00:31:26
15	A. No, I don't.	00:31:27
16	Q. Do you know who included it?	00:31:28
17	A. No, I don't.	00:31:29
18	Q. Did you ever print any updated versions of the	00:31:30
19	fact sheet after 2006?	00:31:48
20	MR. BOWEN: Objection. Vague. Lacks	00:31:50
21	foundation.	00:31:52
22	A. I'm not quite sure what you mean. There's fact	00:31:52
23	sheets and there's fact sheets. Now, what fact sheet	00:31:55
24	are we talking about, this one?	00:31:58
25	Q. The Edgewood Arsenal fact sheet.	00:32:00

1 mustard gas testing that happened after 1946? 00:55:05

2 MR. BOWEN: Objection. Vague. 00:55:10

3 A. I don't know anything about testing after 1946. 00:55:11

4 I don't know if they did anything. 00:55:14

5 Q. Do you know if the VA sent out any kind of 00:55:16

6 mustard gas notice letter? 00:55:42

7 A. I believe mustard gas notice letters were sent 00:55:43

8 out by DMDC in the mid '90s. I don't believe the VA 00:55:49

9 sent any out. 00:55:53

10 MR. PATTERSON: This will be 792. 00:56:42

11 (Finno Exhibit No. 792 00:56:44

12 was marked for identification.) 00:57:02

13 MR. PATTERSON: What's just been marked as 00:57:02

14 Exhibit 792 is an excerpt from a Department of Defense 00:57:05

15 and Department of the Army privilege log January 2012, 00:57:09

16 pages 9 through 17. The two entries at the bottom, 36 00:57:13

17 and 37, 36 says Roy S. Finno to Dee Morris dated 00:57:26

18 February 14th, 2005, and the description is: Draft VA 00:57:32

19 Mustard Gas notice letter that reflects deliberative 00:57:37

20 comments from DoD contractor and predates the final VA 00:57:41

21 Mustard Gas notice letter. 00:57:45

22 Q. Do you know what notice letter this is referring 00:57:47

23 to? 00:57:49

24 A. No, I do not. 00:57:49

25 Q. And so you're saying you were not involved in any 00:57:50

1	VA mustard gas newsletter?	00:57:56
2	MR. BOWEN: Objection. Mischaracterizes	00:57:59
3	prior testimony.	00:58:01
4	A. I do not remember being involved in any VA	00:58:02
5	mustard gas notification.	00:58:06
6	Q. Refer to the second page, entry 41, which is from	00:58:09
7	Roy S. Finno to Dee Morris dated June '05. It's called	00:58:18
8	Rules of the Road. It says: Attachment to email	00:58:23
9	reflecting draft document regarding deliberations	00:58:27
10	concerning the determination of exposures during World	00:58:29
11	War Two and the Cold War.	00:58:33
12	Do you know what this document Rules of the Road	00:58:34
13	is?	00:58:39
14	A. No.	00:58:39
15	Q. Did you write any documents regarding	00:58:40
16	determinations of exposures for World War Two and Cold	00:58:44
17	War testing?	00:58:48
18	A. I don't remember.	00:58:49
19	MR. PATTERSON: This will be 793.	00:59:37
20	(Finno Exhibit No. 793	00:59:55
21	was marked for identification.)	01:00:00
22	MR. PATTERSON: What's just been marked as	01:00:00
23	Exhibit 793 is an e-mail chain from Kelley Brix to Mark	01:00:01
24	Brown cc'ing a number of people, including Roy Finno.	01:00:08
25	Subject, regarding need to delay lunch until next week,	01:00:11

1 contain the name of the agents. 02:22:27

2 Do you know if that's accurate? 02:22:29

3 A. No. I don't know whether the notification letter 02:22:30

4 actually contained the name of the agent. I don't know 02:22:38

5 what VA finally did. 02:22:41

6 Q. Do you know what -- did the DoD ask the VA to do 02:22:42

7 something with respect to whether to include any -- 02:22:49

8 A. I don't believe we did. 02:22:51

9 Q. But do you know or are you just speculating? 02:22:52

10 A. No, I just don't remember. 02:22:54

11 MR. PATTERSON: This will be 797. 02:23:22

12 (Finno Exhibit No. 797 02:23:24

13 was marked for identification.) 02:23:35

14 MR. PATTERSON: What's just been marked as 02:23:35

15 Exhibit 797 is an e-mail chain. The top e-mail is from 02:23:38

16 Michael Kilpatrick to Dee Morris, cc Roy Finno, subject, 02:23:43

17 regarding LA Daily News: Ex-test subjects may be in 02:23:47

18 danger, produced at VET140-001353 through VET140-001357. 02:23:53

19 Do you recognize this e-mail, Mr. Finno? 02:24:10

20 A. I was cc'd, so I read the e-mail. 02:24:14

21 Q. And Mr. Kilpatrick says: Looks like the VA and 02:24:27

22 Len are talking to reporters. Interesting that Tom 02:24:33

23 Pamparin has an idea on what the letters are going to 02:24:36

24 say to each individual. Sounds like what the agreement 02:24:40

25 was last week is now out the window. Good look on the 02:24:43

1 VA creating a letter for each person. 02:24:47

2 Do you know who Tom Pamparin is? 02:24:50

3 A. No. 02:24:53

4 Q. Do you know what agreement Dr. Kilpatrick is 02:24:53
5 referring to here? 02:24:58

6 A. Well, it says the date of this e-mail is the 3rd 02:24:59
7 of April. I'm speculating he's referring to Exhibit 02:25:03
8 285, but it's pure speculation. 02:25:09

9 Q. Did you ever speak with Dr. Kilpatrick regarding 02:25:11
10 the notification letter? 02:25:18

11 MR. BOWEN: Objection. Vague. 02:25:19

12 A. No. 02:25:20

13 Q. And then the next e-mail down, which is from Dee 02:25:34
14 Morris to Kilpatrick and cc's Roy Finno: The Committee 02:25:38
15 is getting impatient. There are some inaccuracies in 02:25:42
16 the article. VA agreed not to include agent/dose in the 02:25:44
17 letters to veterans. 02:25:47

18 Do you know if that's accurate from the March 02:25:51
19 30th meeting, that the VA agreed not to include agent 02:25:54
20 and dose? 02:25:59

21 MR. BOWEN: Objection. Lacks foundation. 02:25:59

22 A. Well, I can go by the Points of Agreement, VA 02:26:02
23 notifications will not contain the names of agents, so 02:26:03
24 that's what the results of the meeting said. 02:26:07

25 Q. Was there any follow-up to the March 30th 02:26:10

1	meeting?	02:26:54
2	MR. GARDNER: Objection. Vague.	02:26:54
3	A. There could have been. I don't know.	02:26:55
4	Q. Did you have any discussions with Mr. Morris	02:26:57
5	after the March 30th meeting regarding what happened	02:27:00
6	during the meeting?	02:27:02
7	A. Probably not, no.	02:27:03
8	Q. Do you know if Ms. Morris kept notes from	02:27:04
9	meetings with the VA?	02:27:15
10	A. No. I have no idea whether she did or didn't.	02:27:16
11	Q. Did the DoD keep meeting minutes for these	02:27:21
12	meetings with the VA?	02:27:25
13	A. I didn't. I don't think anyone else did.	02:27:26
14	Q. Did you ever discuss the March 30th meeting with	02:27:28
15	Dr. Brix?	02:27:36
16	MR. GARDNER: Objection. Vague.	02:27:38
17	A. I have no recollection.	02:27:39
18	MR. PATTERSON: This will be 798.	02:28:06
19	(Finno Exhibit No. 798	02:28:09
20	was marked for identification.)	02:28:22
21	MR. PATTERSON: What's just been marked as	02:28:22
22	Exhibit 798 is entitled Chemical and Biological Agent	02:28:25
23	Meeting, June 14th, 2006, produced at DVA004 014682	02:28:29
24	through DVA004 014686. Under Participants it says DoD's	02:28:38
25	Deployment Health Support Directorate, Dee Morris and	02:28:52

1 Exhibit 813 is an e-mail from Roy Finno to Kelley Brix, 06:10:45
2 subject, forward Porton Downs, produced at 06:10:49
3 VET125-049867. 06:10:52
4 Q. Did you send this e-mail? 06:10:59
5 A. Yes. 06:11:00
6 Q. And you write: I sent the Porton Downs article 06:11:00
7 to IOM. What Porton Downs article? 06:11:09
8 A. I don't know what the article was. There was 06:11:13
9 some article on Porton Downs. Right now I couldn't tell 06:11:16
10 you what the article was. 06:11:19
11 Q. And what's Porton Downs? 06:11:20
12 A. It's the British equivalent of Edgewood Arsenal. 06:11:21
13 Q. And then you say: Below is Bill Pages' response. 06:11:26
14 I have a good idea why they didn't mention the Edgewood 06:11:34
15 volunteer study. And Bill Page had written at the 06:11:37
16 bottom: Thanks much for the Porton Downs article. I'm 06:11:42
17 a little surprised that they didn't mention our study of 06:11:46
18 Edgewood volunteers. 06:11:50
19 Do you know what study he's referring to here? 06:11:51
20 A. I think he did a study on the Edgewood volunteers 06:11:53
21 in the '90s, a three volume study on the Edgewood 06:11:56
22 volunteers, and basically concluded that there wasn't 06:12:02
23 any long term effects. 06:12:04
24 Q. And so you wrote to Kelley Brix: I have a good 06:12:05
25 idea why they didn't mention the Edgewood volunteer 06:12:10

1	study.	06:12:13
2	A. Right.	06:12:14
3	Q. What was that good idea?	06:12:14
4	A. It was an inside joke. Kelley Brix did not	06:12:16
5	particularly care for the study and she let me know she	06:12:20
6	didn't care for the study, so that's why I wrote to her	06:12:24
7	that I have a good idea why they didn't mention it	06:12:28
8	because Kelley didn't like it. It was an inside joke	06:12:32
9	between me and Kelley.	06:12:33
10	Q. Why did Dr. Brix say she didn't like the study?	06:12:33
11	A. She just didn't like the way Bill Page did some	06:12:37
12	of his work, you know, didn't like the way he did his	06:12:41
13	studies, but she didn't particularly care for the way he	06:12:46
14	did his work.	06:12:50
15	Q. Do you remember any other specifics?	06:12:51
16	A. No, I don't remember any specifics now, but she	06:12:53
17	just didn't care for them.	06:12:56
18	Q. Did you conduct any searches related to Porton	06:12:57
19	Downs?	06:13:09
20	MR. BOWEN: Objection. Vague.	06:13:09
21	A. Searches for what?	06:13:11
22	Q. Any testing records regarding Porton Downs	06:13:13
23	testing.	06:13:18
24	MR. BOWEN: Objection. Foundation.	06:13:19
25	A. No.	06:13:21

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I, ROY S. FINNO, do hereby declare
under penalty of perjury that I have read the foregoing
transcript of my deposition; that I have made such
corrections as noted herein, in ink, initialed by me, or
attached hereto; that my testimony as contained herein,
as corrected, is true and correct.

EXECUTED this ____ day of _____,
20____, at _____, _____.
(City) (State)

ROY S. FINNO

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, KEITH WILKERSON, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Notary Public in and for the
District of Columbia

Commission Expires: NOVEMBER 2, 2014