

EXHIBIT 14

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

VIETNAM VETERANS OF)
AMERICA, et al.,) Case No. CV 09-0037-CW
Plaintiffs,)
vs.)
CENTRAL INTELLIGENCE)
AGENCY, et al.,)
Defendants.)

A PORTION OF THIS TRANSCRIPT IS CONFIDENTIAL

DEPOSITION OF DEE DODSON MORRIS
Washington, DC
Wednesday, July 6, 2011

REPORTED BY:

CARMEN SMITH

PAGES 1 - 254
PAGES 248 - 249 ARE CONFIDENTIAL
AND ARE BOUND SEPARATELY

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1 MR. PATTERSON: Please mark this as
2 Exhibit 464.

3 (Exhibit 464 identified.)

4 BY MR. PATTERSON:

5 Q What's been marked as Exhibit 464 is a
6 document entitled, "Army Regulation 70-25," "Use of
7 Volunteers as Subjects of Research," dated January
8 25, 1990.

9 Ms. Morris, do you recognize this
10 document?

11 A Yes, but I couldn't tell you if it was the
12 most current one.

13 Q Have you read this particular version?

14 A I believe that I have.

15 Q And when was that?

16 A Again, that would have been during the
17 SHAD investigations.

18 Q Let me refer you to page 3 and at section
19 3-2, "procedural guidance." Go down to (a)(1)(4)
20 starts with "Establish a system."

21 Do you see where I'm at?

22 A Uh-huh.

23 Q Reads, "Establish a system that permits
24 the identification of volunteers who have
25 participated in research conducted or sponsored by

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1 that command or organization."

2 Do you know if this particular provision
3 was ever discussed with you?

4 A This would have been what we were using to
5 justify going back to commands that we thought had
6 done research.

7 Q So you were acting in response to this?

8 MS. FAREL: Objection; mischaracterization
9 of prior testimony.

10 THE WITNESS: Basically, this would have
11 caused me to believe that a system of records at
12 every organization that conducted research should
13 have at some point in time existed. And so we went
14 back and asked for it.

15 Sometimes we got things; sometimes we
16 didn't. I'd have to consult the administrative
17 filing regs as to how long in 1990 they were
18 required to keep various records.

19 BY MR. PATTERSON:

20 Q So your record collection and database
21 creation, was that consistent with this requirement
22 to establish a system to permit the identification
23 of volunteers?

24 MS. FAREL: Object as calling for a legal
25 conclusion.

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1 THE WITNESS: No. We did not use this as
2 the reason behind why we were collecting the
3 information.

4 BY MR. PATTERSON:

5 Q So why did you collect?

6 A We collected the information at the
7 request of the Department of Veterans Affairs. We
8 filed a system of records notice with the
9 appropriate authorities, and it was published and
10 commented upon, and then it took effect.

11 So we were essentially complying with OPM
12 guidance, Office of Personnel Management.

13 Q A system of notice, is that what you said?

14 A A system of records notice.

15 MR. PATTERSON: Ms. Farel, that has not
16 been produced, the system of records notice.
17 Plaintiffs request it.

18 MS. FAREL: Can you define a little bit
19 more of what you're looking for in that request?
20 Any system of records notice?

21 BY MR. PATTERSON:

22 Q Well, Ms. Morris, what exactly are you
23 referring to, this system of records notice? What
24 was the purpose of that?

25 A Okay. At the time we started working on

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1 BY MR. PATTERSON:

2 Q And let me refer you to page 5 of Exhibit
3 464. And this is paragraph h, "Duty to warn." Do
4 you have it?

5 A Yes.

6 Q It states, "Commanders have an
7 obligation," and then it continues, "to provide them
8 with any newly acquired" --

9 MS. FAREL: Counsel, I'm sorry, I was
10 writing down the systems of notice information.
11 What page?

12 BY MR. PATTERSON:

13 Q This is page 5, paragraph h.

14 MS. FAREL: I apologize for interrupting.

15 BY MR. PATTERSON:

16 Q It reads, "Commanders have an obligation,"
17 and then it continues, "to provide them with any
18 newly acquired information that may affect their
19 well-being when that information becomes available.
20 The duty to warn exists even after the individual
21 volunteer has completed his or her participation in
22 research."

23 Ms. Morris, have you ever discussed this
24 particular provision with anyone at DOD?

25 A No.

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1 Q Has it ever come up in a meeting?

2 A Not that I recall.

3 Q Was it ever referred to in any of the
4 documents you've seen while you were working for
5 DOD?

6 MS. FAREL: Objection; relevance.

7 THE WITNESS: Not that I recall.

8 BY MR. PATTERSON:

9 Q And have you done anything to -- in your
10 investigation to comply with this provision?

11 MS. FAREL: Objection to the extent you're
12 calling for a legal conclusion.

13 THE WITNESS: This, as you indicated, was
14 a -- an Army regulation, and the obligation to
15 follow up with volunteers rests with the commander
16 of the organization that conducted the tests, in
17 which case, you know, Edgewood or succeeding
18 organizations may not have followed up.

19 But the fact that the information was now
20 being collated and produced in a format that could
21 be provided to people and that with a cooperative
22 effort with the VA to notify the people that we
23 identified, the Department of Defense was picking up
24 on a responsibility that the Army had.

25 BY MR. PATTERSON:

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, CARMEN SMITH, 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: MARCH 14, 2013