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MEMORANDUM

22 November 2013

SUBMITTED WITHOUT PREJUDICE

PRE-DECISIONAL – NOT FOR PUBLIC RELEASE

TO: Brad Byrnes, Esq, JPAC Legal Counsel, through CIL Management
FROM: Paul M. Cole, MSFS, PhD, ORISE Fellow, Central Identification Laboratory, JPAC
SUBJECT: Review of “Plaintiff’s Exhibit #21, Declaration of Chief Rick Stone, 12 March 2013” Case 5:12-cv-01002-FB-HJB Document 23-3 Filed 03/13/13

Purpose

The Department of Defense requested that the JPAC evaluate certain claims made by Mr Rick Stone.

Mr Stone has asserted that the Random Incident Statistical Correlation (RISC) System he claims to have developed and used at the Dallas PD then improved and implemented during his tenure at the Wichita PD is an appropriate method for use in the identification of skeletalized remains of American servicemen lost in America’s previous military conflicts.

Mr Stone has offered the Department of Defense the use of the RISC System method for this purpose. For example, Mr Stone has stated, “If you are a family member of one of the 513 American heroes who are still listed as “Unresolved” from the Battle of Tarawa, you may contact the Chief Rick Stone and Family Charitable Foundation for a comprehensive “Family Report” designed specifically for your lost serviceman with information regarding any possible match to those interred as an “Unknown” in the National Memorial Cemetery of the Pacific (Punchbowl) in Honolulu, Hawaii.”¹

The identification of skeletalized remains is a core mission of the Joint POW/MIA Accounting Command (JPAC) Central Identification Laboratory (CIL). As an accredited laboratory, the CIL is required to utilize forensic testing methods that have been validated. In addition, the methods used by the CIL must comply with various legal standards, such as the Daubert standard.

The CIL has been given the task by DoD to evaluate the RISC System to determine if it would be an appropriate, validated method for use in the identification of skeletalized remains.

Thus far we have found no published description of the RISC System, no record of its use, and no witness who has direct knowledge of the RISC System. In addition, Mr Stone has refused to reveal anything about the RISC System’s methods other than to assert the system produces accurate results.

This is why we are evaluating various claims Mr Stone has made regarding the “RISC System.”

¹ <http://chiefrickstone.com/joint-pacific-miapow-accounting-command/tarawa-unknowns/>

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Mr Rick Stone's "Declaration," filed in the United States District Court for the Western District of San Antonio, Texas, contains various assertions concerning the RISC System. This "Declaration" was filed "under the penalty of perjury under the laws of the United States of America" that the statements were "true and correct."

The referenced "Declaration" was assessed to determine whether certain statements made by Mr Stone concerning the "RISC System" contained therein shed any light on how the "RISC System" could be used to identify skeletalized remains of US servicemen missing as a result of America's historic conflicts. In addition, certain statements relating to JPAC, related activities and the RISC System were assessed to determine if they are "true and correct" as required by the terms of the Declaration.

The page numbers following each of Mr Stone's statements refer to the location of the statement in his Declaration.

This draft memorandum is submitted without prejudice.

1. MR STONE'S STATEMENT

"I was employed as a civil Historian under contract to the 'Oak Ridge Institute of Science and Education[.]'" Page 1, Paragraph 2, Sentence 2.

1. FACTS

1. The correct name is the "Oak Ridge Institute **for** Science and Education."
2. Mr Stone was "appointed" as a "participant" in an Oak Ridge Institute for Science and Education fellowship program.
3. Mr Stone was not "employed" by the "Oak Ridge Institute of Science and Education."

1. ASSESSMENT

Mr Stone's statement that he was "employed" by ORISE is false.

1. MR STONE KNEW HIS STATEMENT WAS FALSE

Each ORISE Fellow is required to sign a contract that includes "Education and Training Programs Terms of Appointment."

The first sentence of the "Education and Training Programs Terms of Appointment" section states, *inter alia*:

"The Oak Ridge Institute for Science and Education (ORISE), managed by the U.S. Department of Energy (DOE) by Oak Ridge Associated Universities (ORAU) administers educational appointments[.]"

The "Nature of Appointment" section states, *inter alia*:

"By accepting this appointment, the Participant acknowledges understanding and agreement that this in is NOT [emphasis in original] a contract of employment and nothing contained in the

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appointment documents or in the performance of the appointment is intended or shall be construed to create or infer an employment relationship between the Participant and ORAU, ORISE, DOE, the host facility, or the sponsoring agency.”

Mr Stone signed the ORISE “Education and Training Programs Terms of Appointment” prior to being assigned to JPAC on 20 June 2011. Mr Stone’s statement that he had been “employed” by ORISE was made 20 months later on 12 March 2013.

2. MR STONE’S STATEMENT

“I participated in the 1976 House Select Committee on Assassinations investigation into the assassination of President Kennedy.” Page 2, Paragraph 2, Sentence 2

2. FACTS

1. The “Report of the Select Committee on Assassinations of the U.S. House of Representatives,” (Hereinafter “Report”) as submitted to the Committee of the Whole House (29 March 1979), is available through the National Archives at <http://www.archives.gov/research/jfk/select-committee-report/>
2. The Report includes a comprehensive list of “Commission Members.”
 - a. Mr Stone was not a Commission Member.
3. The Report includes a comprehensive list of “Staff of the Select Committee on Assassinations,” including Administrative, Former Administrative Personnel, and the John F. Kennedy Task Force that included Attorneys, Research Attorneys, Investigators, Researchers, and Administrative.
 - a. Mr Stone was not a Staff member.
4. The Report includes a comprehensive list of “Contractors to the Select Committee on Assassinations,” including Photo Analysis and Enhancement, Acoustical, Simulated Gun Test, Engineering Survey and Other.
 - a. Mr Stone was not a Contractor.
5. The Report makes no mention whatsoever of Mr Stone as a “participant.”
6. A participant in the 1976 House Select Committee on Assassinations advised that if one is not listed in the Report as a Commission Member, Staff Member, or Contractor, one was not a “participant” nor did one “participate” in the investigation.

2. ASSESSMENT

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Mr Stone's statement that he "participated" in the referenced Congressional investigation is false.

2. MR STONE KNEW HIS STATEMENT WAS DELIBERATELY MISLEADING OR FALSE

A participant is defined as "someone who takes part in something." In this case, Mr Stone stated that he "participated in the 1976 House Select Committee on Assassinations investigation into the assassination of President Kennedy." The official Report, which includes a comprehensive, definitive list of all participants, makes no mention whatsoever of Mr Stone.

3. MR STONE'S STATEMENT

"While assigned as the commander of the [Dallas Police Department's] Planning and Research Division, I developed the 'Random Incident Statistical Correlation System (RISC) for use in predictive policing[.]'" Page 2, Paragraph 2, Sentence 5.

3. FACTS

1. The Dallas Police Department stated, "The Dallas Police Department has not located records that indicate the 'RISC' System as described by Mr Stone was ever used by the Department." (12 Nov 13)
2. The Dallas Police Department stated, "To date, members of the Department have diligently attempted to research the claims made by Mr Stone concerning the 'Random Incident Statistical Correlation (RISC) System.' A copy of the study/research project conducted by Mr Stone has not been found amongst the records currently archived by the Department." (12 Nov 13)
3. Officials who asked not to be identified stated that the RISC System research would "never have been approved" for two reasons. First, such research would have created serious liability issues. Second, the proposed "RISC System" would not have contributed to effective policing.

3. ASSESSMENT

Mr Stone's statements that he "developed the 'Random Incident Statistical Correlation System (RISC) for use in predictive policing" for the Dallas Policy Department and that the 'RISC System' was used by the Dallas Policy Department's "predictive policing" program are both false.

3. MR STONE KNEW HIS STATEMENT WAS FALSE

In order to carry out the research required to produce the "RISC System," the Dallas Police Department required Mr Stone to obtain a signed letter of approval from the Chief of Policy,

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authorizing such a research project. Mr Stone has not produced this letter and the Dallas Police Department has no record of such an authorization letter in their archives.

The Dallas Police Department, which has no record of the development of the “RISC System,” denies that the “RISC System as described by Mr Stone was ever used by the Department.”

There is no record of the “RISC System” being published, described, peer reviewed or validated in any way, anywhere.

4. MR STONE’S STATEMENT

While Chief of Police of Wichita, Kansas, “I adapted the RISC System for use in profiling criminal offenders[.]” Page 4, Paragraph 1, Sentence 2

4. FACTS

1. The Police Department and City Attorney’s Office of Wichita, Kansas advised that the “Law Department has no information regarding any programs Rick Stone might have initiated while employed by the City of Wichita.” (20 Nov 13)
2. The Chief of Police of Wichita, Kansas advised, “This information, if it exists, would be found in the historical files of the Wichita Policy Department.” (20 Nov 13)
3. The Chief of Police of Wichita, Kansas advised, “This Department has no records relating to [Mr Stone’s assertion] nor any information regarding Mr Stone’s credentials while employed by the City of Wichita.” (20 Nov 13)
4. The Police Department and City Attorney’s Office of Wichita, Kansas advised, “The Wichita PD searched the Department’s relevant archives and the City of Wichita searched its relevant historical records, but neither the Department nor the City was able to locate any responsive documents that would confirm Mr Stone’s assertions concerning the ‘RISC System’.” (20 Nov 13)

4. ASSESSMENT

Mr Stone’s statement that he “adapted the RISC System for use in profiling criminal offenders” while Chief of Police of Wichita, Kansas, cannot be confirmed by either the Wichita Police Department or the Wichita City Attorney’s Office. No records exist that support any of Mr Stone’s claims concerning the development and use of the “RISC System” by the Wichita Police Department.

4. MR STONE KNEW HIS STATEMENT WAS FALSE OR MISLEADING

Neither the Police Department nor the City Attorney’s Office of Wichita, Kansas is able to provide any evidence that Mr Stone’s “RISC System” was “adapted...for use in profiling criminal offenders.” Mr Stone has presented no evidence to support his statement.

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5. MR STONE'S STATEMENT

“[While Chief of Police of Wichita, Kansas, I] worked with the FBI on homicide investigations in which I used [the RISC System] to develop profiles on suspected serial killers.” Page 4, Paragraph 1, Sentence 2

5. FACTS

1. The Police Department and City Attorney's Office of Wichita, Kansas advised that the “Law Department has no information regarding any programs Rick Stone might have initiated while employed by the City of Wichita.” (20 Nov 13)
2. The Law Department of the City of Wichita, Kansas further advised, “nor do we have any records regarding contact [Mr Stone] may have had with the FBI in identifying serial killers.” (20 Nov 13)
3. The Police Department and City Attorney's Office of Wichita, Kansas advised, “The Wichita PD searched the Department's relevant archives and the City of Wichita searched its relevant historical records, but neither the Department nor the City was able to locate any responsive documents that would confirm Mr Stone's assertions concerning the ‘RISC System’.” (20 Nov 13)

5. ASSESSMENT

Neither the Law Department of the City of Wichita nor the Wichita Policy Department is able to provide any evidence that establishes the truthfulness or supports in any way Mr Stone's statement that while as Chief of Police of Wichita, Kansas that he “worked with the FBI on homicide investigations in which I used [the RISC System] to develop profiles on suspected serial killers.”

5. MR STONE KNEW HIS STATEMENT WAS FALSE

Neither the Police Department nor the City Attorney's Office of Wichita, Kansas is able to provide any evidence to support the validity of Mr Stone's statement that “[While Chief of Police of Wichita, Kansas, I] worked with the FBI on homicide investigations in which I used [the RISC System] to develop profiles on suspected serial killers.” Mr Stone has presented no evidence to support his statement.

6. MR STONE'S STATEMENT

“In 2010, I completed my Master of Science degree in Administration of Justice, Summa Cum Laude, from Salve Regina University in Newport, Rhode Island[.] My Master's thesis was titled “Using Research and Statistical Analysis to Develop a Predictive Profile.” Page 3, Paragraph 3, Sentence 2

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6. FACTS

1. Mr Stone received a Master's degree from Salve Regina University in 2010.
2. Mr. Stone completed "ADJ-591 Independent Study," a three credit hour course.
3. According to Salve Regina University's regulations, a paper written for the "ADJ-591 Independent Study" course does not qualify as a "Master's thesis."
4. According to his transcript, Mr Stone did **not** complete "ADJ-590," the six credit-hour course that is the Master's thesis course at the Salve Regina University.
5. A Master's thesis would be accessioned and stored by the Salve Regina University library. No Master's thesis by Mr Stone has been accessioned or stored by the Salve Regina University library.

6. ASSESSMENT

Mr Stone's statement that he wrote a "Master's thesis" at Salve Regina University is false.

6. MR STONE KNEW HIS STATEMENT WAS FALSE

Mr Stone knew he had not completed "ADJ-590," the Master's thesis course at Salve Regina University when he made this false statement. Mr Stone knew he took "ADJ-591, Independent Study" which no reasonable person could confuse with the Master's thesis course. The process of registering a Master's thesis with a university library is a time consuming task that requires the student to take the appropriate courses, to interact with both faculty and register the thesis with the library. The title page of a Master's thesis states that it is a Master's thesis submitted in partial fulfillment of the requirements for a Master's degree. If Mr Stone wrote a Master's thesis he should have a document with such a title endorsed by the university. He has not produced such a document because he cannot. Mr Stone has repeatedly made the false claim that he wrote a Master's thesis in a variety of circumstances.

7. MR STONE'S STATEMENT

"During my service at JPAC, I was a recipient of the Department of Defense Joint Meritorious Unit Award." Page 4, Paragraph 1, Sentence 2

7. FACTS

1. The Joint Meritorious Unit Award (JMUA) is a military award presented to joint military units. The Chairman of the Joint Chiefs of Staff awarded the JMUA to the U.S. Pacific Command on March 1st, 2012. As a subordinate command, military members of JPAC were also awarded the JMUA.

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2. The JMUA is awarded to Military Members or permanent DoD civilian employees ONLY.
3. Mr. Stone was not eligible to receive the JMUA.

7. ASSESSMENT

Mr Stone's statement, "During my service at JPAC, I was a recipient of the Department of Defense Joint Meritorious Unit Award," is false.

7. MR STONE KNEW HIS STATEMENT WAS FALSE

The statement released by the JPAC personnel department when the JMUA was presented stated, *inter alia*:

"If you were permanently assigned to JPAC or attached as an augmentee² for 30 days or more, you are eligible for the JMUA. You will need a copy of the JMUA order and a copy of your TDY orders (which must be between dates specified above). Take these documents to your servicing admin department to apply the award to your service history."

The two key phrases in this notification that make it clear to any reasonable person that s/he was not eligible for the JMUA are: (1) "...permanently assigned" and (2) "...your service history".

First, Mr. Stone knew he was an ORISE participant on a temporary appointment, not a DoD civilian employee "permanently assigned" to JPAC.

Second, members of the military have a "service history." Military personnel who were assigned to the unit during the period of performance indicated on the award are authorized to wear the JMUA ribbon on their uniforms.

Civilians such as Mr Stone do not have a military "service history." Temporary appointees have no uniform on which to wear the JMUA ribbon. Mr Stone knew he was not a member of the US military when he made this false statement.

Mr Stone knew that he was neither a member of the US military nor a permanent DoD employee, thus ineligible to be a recipient of the JMUA when he made this false statement.

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² An "augmentee" is defined as non-JPAC military member who is assigned on a temporary basis to support JPAC field operations in low-density, specialty billets. For example, an augmentee may be a medic, a linguist or an Explosive Ordnance Disposal Technician (EOD).

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