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**DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253**

5720 2017-007866
SEROOLJF/17U1514
August 2, 2017

Mr. John Greenewald, Jr.



Dear Mr. Greenewald:

This responds to your June 23, 2017 electronic Freedom of Information Act (FOIA) request seeking a copy of records describing the use of hypnosis used by this Service.

Documentation responsive to your request has been located and processed. Our review of these documents reveals that they contain personal identifiers (such as names and social security numbers) of third parties, the release of which would constitute an unwarranted invasion of personal privacy. Accordingly, we must partially deny your request and withhold this information pursuant to the Freedom of Information Act (FOIA) provisions 5 U.S.C. § 552(b)(6) and (b)(7)(C). All releasable information is provided to you at enclosure (1). We have also provided an enclosure explaining the various exemptions of the FOIA.

As the official responsible for the partial denial of your request, I am advising you of your right to appeal this determination. Your appeal must be postmarked within 90 calendar days from the date of this letter and should be addressed to the Secretary of the Navy's designee: Office of the Judge Advocate General, (Code 14), 1322 Patterson Avenue, S.E., Suite 3000, Washington Navy Yard, D.C. 20374-5066. The envelope and letter must bear the annotation "FOIA Appeal". A copy of your initial request and a copy of this partial denial letter must accompany the appeal.

If you choose not to appeal, you have the right to seek dispute resolution services. You may contact the Department of the Navy's FOIA public liaison, Mr. Chris Julka, at christopher.a.julka@navy.mil or (703) 697-0031 or the Office of Government Information Services (<https://ogis.archives.gov/>).

There are no assessable fees associated with the processing of your request.

Should you have any questions, please contact our office at (571) 305-9092 or via electronic mail at ncis_foia@ncis.navy.mil.

Sincerely,

\\s\\

KAREN RICHMAN
CDR, JAGC, USN

Encl:

(1) Documents



Explanation of the Nine FOIA Exemptions

The following is a list of FOIA exemptions which apply to Government information in accordance with 5 U.S.C. § 552(b):

(b)(1) EXEMPTION – Protects Classified Matters of National Defense or Foreign Policy.

This exemption protects from disclosure national security information concerning the national defense or foreign policy, provided that it has been properly classified in accordance with the substantive and procedural requirements of an executive order.

(b)(2) EXEMPTION – Internal Personnel Rules and Practices.

This exemption exempts from mandatory disclosure records “related solely to the internal personnel rules and practices of an agency.” Courts have interpreted the exemption to encompass two distinct categories of information:

- (a) Internal matters of a relatively trivial nature – sometimes referred to as “low2” information: and

(b)(3) EXEMPTION – Information Specifically Exempted by Other Statutes:

This exemption incorporates the disclosure prohibitions that are contained in various other federal statutes. As originally enacted in 1966, Exemption 3 was broadly phrased so as to simply cover information “specifically exempted from disclosure by statute.” The new Exemption 3 statute prohibits agencies from releasing under the FOIA proposals, “unless that proposal” is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal.”

(b)(4) EXEMPTION – Trade Secrets Commercial or Financial Information.

This exemption protects “trade secrets and commercial or financial information obtained from a person (this is) privileged or confidential.” This exemption is intended to protect the interest of both the government and submitter of information.

(b)(5) EXEMPTION – Privileged Interagency or Intra-Agency Memoranda or Letters.

This exemption protects “inter-agency or intra-agency memorandums of letters which would not be available by law to a party... in litigation with the agency.” As such, it has been construed to “exempt those documents, and only those documents, normally privileged in the civil discovery context.”

(b)(6) EXEMPTION- Personal Information Affecting an Individual’s Privacy.

This exemption permits the government to withhold all information about individuals in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” This exemption cannot be invoked to withhold from a requester information pertaining to the requester.

(b)(7) EXEMPTION – Investigatory Records Compiled for Law Enforcement Purposes.

As amended, this exemption protects from disclosure “records or information compiled for law enforcement purposes.”

EXEMPTION 7(A) Records of information that could reasonably be expected to interfere with enforcement proceedings. This exemption authorizes the withholding of “records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information... could reasonably be expected to interfere with enforcement proceedings.”

EXEMPTION 7(B) Disclosure which would deprive a person of a fair trial or an impartial adjudication. Records that would prevent prejudicial pretrial publicity that could impair a proceeding, protect “records of information compiled for law enforcement purposes (the disclosure of which) would deprive a person of the right to a fair trial or an impartial adjudication.”

EXEMPTION 7(C) Personal Information in Law Enforcement Records. This exemption provides protection for personal information in law enforcement records. This exemption is the law enforcement counterpart to Exemption 6, providing protection for law enforcement information the disclosure of which “could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

EXEMPTION 7(D) Identity of a Confidential Source. This exemption provides protection for “records or information compiled for law enforcement purposes (which) could reasonably be expected to disclose the identity of a confidential source – including a State, local or foreign agency or authority or any private institution which furnished information on a confidential basis – and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source.”

EXEMPTION 7(E) Circumvention of the Law. This exemption affords protection to all law enforcement information which “would disclose techniques and procedures for law enforcement investigation or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.”

EXEMPTION 7(F) Physical Safety to Protect a wide Range of individuals. This exemption permits the withholding of information necessary to protect the physical safety of a wide range of individuals. Whereas Exemption 7(F) previously protected records that “would... endanger the life or physical safety of law enforcement personnel.” The amended exemption provides protection to “any individual when disclosure of information about him or her “could reasonably be expected to endanger (his/her) life or physical safety.”

(b)(8) EXEMPTION – Records of Financial Institutions.

This exemption covers matters that are “contained in or related to examinations, operating, or condition reported prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.”

(b)(9) EXEMPTION – Geographical and Geophysical Information Concerning Wells.

This exemption covers “geological and geophysical information and data, including maps concerning wells.”

U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

REPORT OF INVESTIGATION (ACTION)

23JUN12

RAPE (II)

CONTROL: 12SEP11-NFXH-0019-8FNA

(b)(6), (b)(7)(C)

COMMAND/USS DWIGHT D. EISENHOWER (CVN-69) /03369

MADE AT/NFXH/USS DWIGHT D. EISENHOWER/ (b)(6), (b)(7)(C) SPECIAL AGENT

REFERENCE

(A) NCISRU USS DWIGHT D. EISENHOWER ROI (ACTION)/09Jan12

NARRATIVE

1. Reference (A) requests authorization to conduct a forensic hypnotic interview with (b)(6), (b)(7)(C) According to the psychological services unit, NCIS no longer has the resources to conduct forensic hypnosis. This investigation does not require the research or the resources for forensic hypnosis to be conducted by outside sources.

ACTION

002D: Cancel lead tasking in Reference (A).

DISTRIBUTION

NCISHQ: 023B

ACTION: 23C1 (Attn: Dr. (b)(6), (b)(7)(C) (E)

INFO: NFNF/NFPV

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(b)(6), (b)(7)(C) V2 LNN

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

REPORT OF INVESTIGATION (OPEN)

22OCT03

DEATH (II)

CONTROL: 22OCT03-NENL-0150-7HNS

I/CONNECTICUT STATE POLICE (CSP)/REQUEST FOR FORENSIC HYPNOTIC ASSISTANCE IN TRIPLE HOMICIDE

COMMAND/DOD INTEREST/00129

MADE AT/NENL/NEW LONDON CT (b)(6), (b)(7)(C) SPECIAL AGENT

EXHIBIT

(1) CSP Request for Assistance/07OCT03...(Copy All)

NARRATIVE

1. On 02OCT03, SGT (b)(6), (b)(7)(C) Major Crimes Unit, Connecticut State Police (CSP), telephonically contacted Participant to request NCIS assistance in a triple murder which occurred in Connecticut on 30JUL03. The homicide involved the execution style killing of three (3) men at the B and B Automotive Shop in Windsor Locks. The specific request concerned forensic hypnosis to elicit the license number of the suspect vehicle, seen by a witness immediately prior to the homicide. This witness will be departing the local area on/about 23NOV03 and has agreed to participate in any contemplated hypnosis.

2. Same date, Participant telephonically contacted Dr. (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) NCISHQ, to discuss the matter and a formal request for the aforementioned assistance was received from CSP on 07OCT03, Exhibit (1) pertains.

Participant

(b)(6), (b)(7)(C), Special Agent, NCISRA New London CT

Action

R.0023: Please provide forensic hypnoptic assistance as requested by CSP. Expeditious handling is requested due to the pending departure of the only witness to the murders. POC at NENL is Participant (b)(6), (b)(7)(C)

DISTRIBUTION

NCISHQ: 0023

NCISFO: NENP

ACTION 0023

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(b)(6), (b)(7)(C) V1

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

ACTION/LEAD SHEET (PENDING)

09JAN01

RAPE (II)

CONTROL: 03JAN01-DCWA-0004-8FRR

(b)(6), (b)(7)(C)

COMMAND/ARMED FORCES INAUGURAL COMMITTEE WASHINGTON, DC//

MADE AT/DCWA/WASHINGTON, DC (b)(6), (b)(7)(C) SPECIAL AGENT

1. At First District Headquarters, Metropolitan Police Department (MPD), Washington, D.C., on 03Jan01, Detective (b)(6), (b)(7)(C) and Detective (b)(6), (b)(7)(C) disclosed that at approximately 1900 on 29Dec00, (b)(6), (b)(7)(C) who is currently assigned to the Armed Forces Inaugural Committee (AFIC), was beaten and sexually battered inside her own personally owned motor vehicle, which was then located in a commercial parking garage at 600 Maryland Ave, S.W. Washington. According to (b)(6), (b)(7)(C) had finished work for that day and was attacked after walking the short distance from her office to her car. According to (b)(6), (b)(7)(C) the perpetrator, after accosting (b)(6), (b)(7)(C) got into another car that was parked nearby in the garage and drove off. (b)(6), (b)(7)(C) said that (b)(6), (b)(7)(C) subsequently reported what had occurred to persons at AFIC and to the Metropolitan Police Department. (b)(6), (b)(7)(C) requested reciprocal investigative assistance from NCISFO- Washington, since (b)(6), (b)(7)(C) has a Department of the Navy affiliation. Exhibit (1) documents this investigation to date, to include the development of a suspect.

2. This investigation is being conducted reciprocally at the request of the Metropolitan Police Department.

Exhibit

(1) NCISFO- Washington ROI/09Jan00...(Copy 000P, 23CP and DCVH only)

ACTION

L.000P...As she has agreed to undergo same, conduct forensic hypnosis of (b)(6), (b)(7)(C) with hope she can relate additional details associated with the beating and sexual battery she suffered.

A.23CP...Is requested to furnish authority to polygraph (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) who is a potential suspect.

I.DCVH...For information.

DISTRIBUTION

NCISHQ: 23B2

NCISFO: DCWA

ACTION: 000P (H)/23CP (H)

03JAN01-DCWA-0004-8FRR

09JAN01

(b)(6), (b)(7)(C)

USNR

INFO: 0029/DCVH (F)

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(b)(6), (b)(7)(C)

NNNN

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CONTROL: 03JAN01-DCWA-0004-8FRR

09Jan01

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

GENERAL ADMINISTRATION

28FEB06

FROM: 0000

GEN: 24-0020

TO: DIST

SUBJ: UPDATES TO NCIS-3, CHAPTER 18 (POLYGRAPH)

REFERENCE

(A) NCIS-3, Chapter 18 (Polygraph and Hypnosis)/February 1999

1. Since publication of reference (a), revisions have been made to add, remove, and/or modify information contained in the chapter. Following is an executive summary of significant changes within Chapter 18.

2. EXECUTIVE SUMMARY OF CHAPTER CHANGES:

- A. Title Modified: Polygraph
- B. 18-1 Modified: NCIS Polygraph Program
- C. 18-3 Modified: Program Administration
- D. 18-4 Modified: Requirements for Polygraph Authorization
- E. 18-5 Modified: Polygraph Request and Approval Procedures
- F. 18-6 Modified: Scheduling and Reporting Responsibilities
- G. 18-7 Modified: Miscellaneous
- H. 18-8 Removed: Declination of Polygraph Examination
- I. 18-9 Removed: Denials of Polygraph Requests
- J. 18-10 Removed: Miscellaneous
- K. 18-11 Removed: Forensic Hypnosis
- L. 18-12 Removed: Definitions and Misconceptions
- M. 18-13 Removed: Forensic Hypnosis Coordinators
- N. 18-14 Removed: General NCIS Policy
- O. 18-15 Removed: Hypnotic Interview Request Procedures

3. Please note that Hypnosis has been removed from the chapter and published as NCIS-3, Chapter 44, Forensic Hypnosis.

4. Questions concerning this chapter should be addressed to (b)(6)

(b)(6) (Code 24B2), 202-433-9186.

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GEN: 24-0020

28Feb06

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U.S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

GENERAL ADMINISTRATION

22AUG07

FROM: 0000

GEN: 11C-0022

TO: DIST

SUBJ: UPDATE TO NCIS-3, CHAPTER 44 (FORENSIC HYPNOSIS)

REFERENCE

(A) NCIS-3, Chapter 44 (Forensic Hypnosis)/Dec 2006

1. Reference (a) has been updated and the executive summary is as follows:

a. Modified 44-2.1.b. to address obtaining forensic hypnosis expertise from external sources when unavailable from within NCIS.

b. Deleted 44-3.2.a.(1)

2. The chapter is available to view, print and/or download on the NCISnet.

3. POC of this chapter update is Psychological Services Unit, Code 02D.

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301833 11:41 20060228 IN:SSDEMAIL #14398 OUT:NIPRDAAAM #3855

GENERAL ADMINISTRATION

28FEB06

FROM: 0000

GEN: 02D-0001

TO: DIST

SUBJ: ESTABLISHMENT OF NCIS-3, CHAPTER 44 (FORENSIC HYPNOSIS)

REFERENCE

(A) NCIS-3, Chapter 18 (Polygraph and Hypnosis)/February 1999

1. Since publication of reference (a), revisions have been made to remove Hypnosis from Chapter 18 and establish it as a new chapter, NCIS-3, Chapter 44, Forensic Hypnosis. Following is an executive summary of significant changes regarding the sections removed from Chapter 18 and incorporated into Chapter 44.

2. EXECUTIVE SUMMARY OF CHAPTER CHANGES:

- A. Removed Forensic Hypnosis from 18-11, added to Chapter 44-1
- B. Removed Definitions and Misconceptions from 18-12, added to Chapter 44-2
- C. Removed Forensic Hypnosis Coordinators from 18-13
- D. Removed General NCIS Policy from 18-14, added to Chapter 44-3.1
- E. Removed Hypnotic Interview Request Procedures from 18-15, added to Chapter 44-3.2

3. Questions concerning this new chapter should be addressed to Dr.

(b)(6) Code 02D), 202-433-9621.

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INFO: WWSSD

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