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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

VIETNAM VETERANS OF AMERICA, *et al.*, Plaintiffs, v. CENTRAL INTELLIGENCE AGENCY, *et al.*, Defendants.	Case No. CV 09-0037-CW Noticed Motion Date and Time: October 27, 2010 9:30 a.m. **DEFENDANTS' MOTION FOR PROTECTIVE ORDER LIMITING SCOPE OF DISCOVERY**

NOTICE OF MOTION AND DEFENDANTS' MOTION FOR PROTECTIVE ORDER LIMITING SCOPE OF DISCOVERY

Please take notice that on October 27, 2010, at 9:30 a.m., before the Honorable James Larson, Courtroom F, 15th Floor, 450 Golden Gate Avenue, San Francisco, California, 94102, or

as soon thereafter as counsel may be heard by the Court, Defendants, by and through their attorneys, will move pursuant to Rule 26(c) of the Federal Rules of Civil Procedure for a protective order limiting the scope of discovery in the above captioned matter.

Defendants' motion is based on this Notice, the accompanying Memorandum, the Declarations of Michael Kilpatrick, Patricia Cameresi, Lloyd Roberts, Richard L. Wiltison, and Kimberly L. Herb, and attachments thereto, the pleadings on file in this matter, and on such oral argument as the Court may permit. A proposed order is attached.

In accordance with Fed. R. Civ. P. 26(c) and Local Civil Rule 16-2(d)(2), the undersigned certifies that she has in good faith met and conferred with counsel for Plaintiffs in an effort to resolve Defendants' request without Court intervention and that Plaintiffs oppose Defendants' request.

Dated: September 15, 2010

Respectfully submitted,

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INTRODUCTION

Plaintiffs have served numerous discovery requests that are not only far outside the scope of this litigation, but also relate to claims that have been dismissed by the District Court. Furthermore, Defendants have conducted extensive investigations of their test programs outside of this litigation, the results of which have been made available to Plaintiffs. A renewed search in the context of Plaintiffs' discovery requests is highly unlikely to yield additional discoverable information and will duplicate past investigations. This Court should deny discovery that is outside the scope of this litigation and that duplicates prior investigations.

Defendants also request that this Court issue an order limiting requests for information that are irrelevant, protected by statute, overly broad, and unduly burdensome. For example, Plaintiffs have sought information on animal testing and research, the operational use of chemical and biological agents, irrelevant Central Intelligence Agency ("CIA") programs, and tests that were not conducted on service members or as part of Department of Defense ("DoD") test programs. Discovery into these topics is not reasonably calculated to lead to the discovery of admissible evidence. This Court should also foreclose Plaintiffs' attempts to seek the identity of individuals and institutions protected by 50 U.S.C. § 403g and intelligence sources and methods protected by 50 U.S.C. § 403-1(i)(1). Finally, Defendants seek limitations on requests that are not tailored to substances used in DoD's test programs; that encompass a broad swath of irrelevant documents; that seek discovery from the Department of Justice ("DOJ") despite its limited nexus to this litigation; that seek a reinvestigation of issues previously examined; and that are being investigated as part of the ongoing DoD investigation. Such requests are unreasonably duplicative and unduly burdensome, particularly in light of their limited potential relevance.

BACKGROUND

I. PLAINTIFFS ASSERT A NUMBER OF CLAIMS REGARDING DOD'S TEST PROGRAMS, AND THE COURT HAS RULED ON SOME OF THOSE CLAIMS.

This case arises out of the testing of chemical and biological agents by DoD during the cold war era. Plaintiffs allege that they, and other service members, have been harmed as a result of chemical and biological tests conducted at Edgewood Arsenal, a U.S. Army research facility in

Maryland, and several other military installations. In their Second Amended Complaint, Plaintiffs assert violations of the Constitution, executive and military directives, and international law. (Second Am. Compl. ("SAC") ¶¶ 183–86, 189, 195.) They seek declaratory and injunctive relief requiring Defendants to release the individual Plaintiffs from secrecy oaths; notify them and all military test participants of the tests in which they participated, their exposures and any known health effects; to search for and provide participants with available documentation concerning the tests; and to provide participants with medical examinations and care.[1] (*Id.* ¶¶ 183–84, 189.)

In January 2010, Defendants moved to dismiss Plaintiffs' claims or, in the alternative, for summary judgment. (Defs.' Mot. to Dismiss SAC or in the Alternative, for Summ. J. (Dkt. No. 57).) Judge Wilken granted Defendants' motion in part, leaving a narrow set of claims remaining. (Order of Jan. 19, 2010 at 19 (Dkt. No. 59).) Significantly, the Court concluded that Plaintiffs lacked standing to assert claims regarding the lawfulness of the test programs. (*Id.* at 11–12 (concluding that the requested relief would neither redress Plaintiffs' injuries nor prevent future injury).) It also limited the scope of Plaintiffs' broad claims arising from the Army's use of consent forms. The Court held that Plaintiffs had standing to challenge the consent forms only "to the extent that [the Army] required the individual Plaintiffs to take a secrecy oath." (*Id.* at 13.) With regard to Plaintiffs' claims seeking notice of the test programs and known health effects, as well as the production of documents related to the programs, the Court stated that "an Army regulation . . . suggest[ed] that Defendants had a non-discretionary duty to warn the individual Plaintiffs about the nature of the experiments." (*Id.* at 16 (citing Army Regulation 70-25 (indicating that test participants should "be told as much of the nature, duration, and purpose of the experiment, the method and means by which it is to be conducted . . . [and] the effects upon his health")).) The Court also concluded that Plaintiffs had "sufficiently alleged a claim for

[1] Plaintiffs also sought a declaration that the "*Feres* doctrine"—the Supreme Court's holding that the Federal Torts Claims Act bars tort suits against the government for injuries arising out of or incident to military service, first articulated in *Feres v. United States*, 340 U.S. 135 (1950)—is unconstitutional. The Court dismissed Plaintiffs' challenge to the *Feres* doctrine. (Order of Jan. 19, 2010 at 19–20.)

medical care." (*Id.* at 17.) Thus, the Court narrowed the claims in this action to three issues: (1) the validity of consent forms as they relate to secrecy oaths; (2) whether the individual Plaintiffs are entitled to notice of substances to which they were exposed and any known health effects; and (3) whether Defendants are obligated to provide medical care to the individual Plaintiffs.

II. DEFENDANTS HAVE CONDUCTED EXTENSIVE INVESTIGATIONS OF THE TEST PROGRAMS.

A. The CIA Has Thoroughly Examined Its Test Programs and Released More than 20,000 Documents to Plaintiffs.

In the wake of World War II, the United States received reports that foreign nations were developing programs to alter human behavior through the use of drugs. (Decl. of Patricia Cameresi, Assoc. Info. Review Officer for the Directorate of Sci. & Tech., CIA ("Cameresi Decl.") ¶ 4); *see also United States v. Sims*, 471 U.S. 159, 173 (1985) ("[T]he Agency was concerned, not without reason, that other countries were charting new advances in brainwashing and interrogation techniques."). The CIA sought to counter this perceived threat by developing its research capabilities concerning human behavior. (Cameresi Decl. ¶ 4.) It did so by supporting "research into behavior modification underway at a number of universities and research organizations," but "did not attempt to develop its own research capability." (*Id.*)

Beginning in the 1970s, information concerning the CIA's support for behavioral research became publicly known, which set in motion numerous investigations of the CIA's research programs. (*Id.* ¶ 5–6.) In response to Congressional and executive investigations, numerous requests under the Freedom of Information Act ("FOIA"), civil litigation, and an internal investigation commissioned by the then-CIA Director, CIA conducted exhaustive hand searches of its files in order to identify all records in its possession relating to any drug testing program sponsored by the CIA. (*Id.* ¶¶ 5–7.) In the span of a few years, the CIA's closely guarded and classified research programs morphed into "one of the most thoroughly investigated and exposed aspects of the CIA's past activities." (*Id.* ¶ 5.) Furthermore, the results of these investigations—a set of documents containing 20,000 pages concerning the CIA's behavioral research programs—have been made available to the public and Plaintiffs in this case. (*Id.* ¶¶ 6–7 & n.1.)

After an extensive review of records and information concerning the CIA's behavioral research program, the CIA concluded that it did not fund or conduct testing on military personnel. (*Id.* ¶¶ 8, 11–12 ("The Agency reached this conclusion after reviewing its documents and, in the 1970s as part of its internal investigations of its behavioral research programs, interviewing Army personnel at Edgewood Arsenal.").) Based on its review, CIA determined that only one program, known as Project OFTEN, contemplated testing on service members, but funding for this project was withdrawn before human testing began. (*Id.* ¶¶ 8, 12; *see also* Ex. A to Decl. of Kimberly L. Herb, Trial Attorney, U.S. Department of Justice ("Herb Decl.") (stating that, with regard to Project OFTEN, "I do not believe that any drug or substance was actually . . . used in human experimentation"); Ex. B to Herb Decl. (recounting that Dr. Van Sim, chief of clinical research at Edgewood Arsenal, "was positive that no work on human subjects was performed under the contract with the Agency").) Nonetheless, "[i]n an abundance of caution," CIA also has searched for and produced, pursuant to this litigation, documents "relating to the named Plaintiffs, Edgewood Arsenal, and Fort Detrick," with exceptions noted on Defendants' privilege log. (Cameresi Decl. ¶ 13.)

B. DoD Has Conducted Numerous Investigations of Its Test Programs, Including the Health Effects, and It Has an Ongoing Investigation for Information.

The Army's chemical and biological test programs have also been the subject of previous large-scale investigations, the reports of which are either publicly available or have been produced to Plaintiffs. (Decl. of Michael Kilpatrick, Dir., Strategic Commc'ns for the Office of the Under Sec'y of Def. for Health Affairs ("Kilpatrick Decl.") ¶¶ 3–10.) Beginning in 1975, the Inspector General for the Department of the Army ("DAIG") conducted a seven-month investigation of the Army's chemical agent testing between 1950 and 1975. (*Id.* ¶ 3.) The resulting report, which has been made available to Plaintiffs, is comprehensive: "[i]t describes the history of chemical and biological warfare, the perceived threat that gave rise to the testing programs, the authorities enacted for the testing programs, implementation of those authorities, and specific tests conducted at Edgewood Arsenal and elsewhere." (*Id.*) The following year, the Army published a comprehensive report on its biological testing program at Fort Detrick,

Maryland between 1942 and 1977, and this report too has been provided to Plaintiffs. (*Id.*) In addition, there have been multiple Congressional and public investigations into DoD's test programs, culminating in several reports of the Government Accountability Office ("GAO") and the U.S. Senate Committee on Veterans' Affairs. (*Id.* ¶ 10.) As a result of those investigations and congressional and other public inquiries, DoD's test programs have been aired extensively. (*Id.* ¶ 11.)

DoD's investigations have not only examined the nature of the test programs, but also their associated health effects. In 1980, the Army published a report on the health effects associated with exposure to LSD. (*Id.* ¶ 4.) This report was based on a follow-up study with 320 test volunteers, including 220 of whom received a one week in-patient evaluation. (*Id.*) Between 1982 and 1985 and again in 2003, the National Research Council ("NRC"), working under contract with the Army, examined test volunteers to determine the long-term health effects of the test programs. (*Id.* ¶¶ 5–6.) Pursuant to these reviews, the NRC solicited and received 4,085 responses from test participants in the 1980s and 2,748 in 2003 concerning the test subjects' participation in the test programs and health effects. (*Id.*) Additionally, the Army contacted 358 biological test program participants and published a report in 2005 regarding the health status of these volunteers, as compared to a control group of individuals who were not exposed to biological agents. (*Id.* ¶ 9.)

Though DoD has revealed many details of its test programs, it is also currently working to identify, under congressional direction and supervision, all service members who participated in the Army's chemical and biological tests and to compile as much information about their exposure as possible. (*Id.* ¶¶ 10, 13–15; Ex. 1 to Kilpatrick Decl.) *See also, e.g.*, GAO, GAO-04-410, Chemical and Biological Defense: DOD Needs to Continue to Collect and Provide Information on Tests and Potentially Exposed Personnel (2004). Working through its contractor Battelle Memorial Institute ("Battelle"), DoD is analyzing "all documents at [relevant records]

sites for information on personnel potentially exposed to chemical and/or biological agents while involved in tests and other ancillary events." (Ex. 1 to Kilpatrick Decl. at 7.) In order to provide test participants with pertinent information about the tests and to enable them to seek examination at a Department of Veterans Affairs ("VA") health care facility, Battelle is also collecting information including "the test names, test objectives, chemical or biological agents involved, and number of service members and other personnel potentially affected by each test from 1942 to the present timeframe" and transmitting that information to the VA. (Kilpatrick Decl. ¶ 13–15.) This investigation is scheduled for completion in September 2011. (*Id.* ¶ 14.) As part of its investigation, Battelle is compiling information concerning the test subjects and the details of their exposure in a database known as the "Chemical and Biological Tests Repository" or "Chem-Bio Database." (*Id.*) Defendants have produced to Plaintiffs a copy of the database as of March 2011. (Herb Decl. ¶ 4.)

III. DEFENDANTS HAVE MET AND CONFERRED IN GOOD FAITH WITH PLAINTIFFS.

The parties met and conferred telephonically regarding a number of discovery disputes, including the scope of discovery in this case, on May 19, 2010. (Herb Decl. ¶ 5.) The parties also met and conferred in-person on June 30, 2010, per the Court's order. (*Id.* ¶ 6.) Following the in-person meeting, on July 12, 2010, Defendants submitted by letter a proposal to limit the scope of discovery. (*Id.* ¶ 7.) Plaintiffs rejected that proposal on July 20, 2010. (*Id.* ¶ 8.) Defendants submitted a second proposal to Plaintiffs on July 30, 2010. (*Id.*¶ 9.) Plaintiffs rejected that proposal on August 4, 2010. (*Id.* ¶ 10.)

ARGUMENT

Rule 26(b)(1) of the Federal Rules of Civil Procedure sets forth the scope of discovery, whether by depositions, written interrogatories, or production of documents. It provides that a party "may obtain discovery regarding any nonprivileged matter that is relevant to any party's

claim or defense." Fed R. Civ. P. 26(b)(1). Information is relevant if it "appears reasonably calculated to lead to the discovery of admissible evidence." *Id.* In addition, even if the information sought is relevant, a court "*must* limit the frequency or extent of discovery" if "the burden or expense of the proposed discovery outweighs its likely benefit." Fed. R. Civ. P. 26(b)(2)(c) (emphasis added). Furthermore, a court may limit the scope of discovery in order to protect a party "from annoyance, embarrassment, oppression, or undue burden or expense" by granting an order "forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters." *Id.* 26(c); *see also Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1063 (9th Cir. 2004) (stating that Rule 26 is "subject to limitation" and that a court may issue a protective order "prohibiting the requested discovery altogether, limiting the scope of the discovery, or fixing the terms of disclosure"); 8A Charles Alan Wright et al., *Federal Practice and Procedure* § 2035 (3d ed. 1998) ("Rule 26(c) empowers the court to make a wide variety of orders for the protection of parties and witnesses in the discovery process.").

I. THIS COURT SHOULD LIMIT DISCOVERY TO THE CLAIMS REMAINING IN THIS ACTION AND PROHIBIT DUPLICATION OF PRIOR INVESTIGATIONS.

In this case, Plaintiffs not only seek discovery on issues that are outside the scope of this litigation, but also propound discovery requests on matters that have been dismissed by the District Court. Furthermore, Defendants have conducted extensive investigations of their test programs, namely the Army's test programs and the CIA's behavioral research program, and the results have been made available to Plaintiffs. A renewed search, taken nearly forty years after the conclusion of the test programs, is unlikely to yield additional discoverable information and will duplicate past investigations. And, in any event, such a search would be unduly burdensome. Pursuant to its authority under Rule 26(c), this Court should preclude discovery that is outside the scope of this litigation and that duplicates prior investigations.

A. Plaintiffs Inappropriately Seek a Wide-Scale Investigation of Defendants' Test Programs and Information Outside the Scope of this Litigation.

As described below, Plaintiffs seek to conduct a wide-scale investigation into the Army's test programs and CIA's behavioral research over a sixty-year period, but such a search is

unwarranted given the narrow claims before the Court. As set forth above, the Court held that Plaintiffs lacked standing to assert claims regarding the lawfulness of the test programs and that Plaintiffs could challenge the consent forms only "to the extent that [the Army] required the individual Plaintiffs to take a secrecy oath." (Order of Jan. 19, 2010 at 11–13.) Furthermore, the Court narrowed the issues in this action to three: (1) the validity of consent forms as they relate to the secrecy oaths; (2) whether the individual Plaintiffs are entitled to notice of chemicals to which they were exposed and any known health effects; and (3) whether Defendants are obligated to provide medical care to the individual Plaintiffs. Because the Court dismissed some of Plaintiffs' claims, and narrowed others, discovery should be limited to requests that seek information relevant to these claims.

Despite the Court's actions to narrow the claims in this action, Plaintiffs have continued to seek wide-ranging discovery into all aspects of the Army's test programs and CIA's behavioral research. For example, Plaintiffs have indicated an intent to serve additional interrogatories, one of which they maintain will require Defendants to "IDENTIFY all military personnel who directed or participated in any mind control experiments or studies, indicating their last known address and phone number." (Ex. D to Herb Decl. at 11.) This request would apply to every aspect of the Army's test programs—on its face, this request would encompass animal testing and other studies that did not involve human trials. Additionally, in a letter to Defendants, Plaintiffs demanded that the CIA produce all

> documents that it created or maintained through the various 'cut-out' entities that served as fronts for CIA funding of human experimentation projects by contractors and researchers, including the Geschickter Fund for Medical Research, the Society for the Investigation of Human Ecology, the Josiah H. Macy, Jr. Foundation, the Granger Fund, the H.J. Rand Foundation, Medical Sciences Research Foundation, and Amazon Natural Drug Co., among others.

(Ex. C to Herb Decl.; *see also* Ex. E to Herb Decl. at 2–3.) Plaintiffs demand this extensive production, despite the absence of allegations (let alone evidence) that the alleged "cut-out" organizations have conducted testing on service members. In fact, in their Second Amended Complaint, Plaintiffs' allege that the Geschickter Fund was used to fund tests at Georgetown

University Hospital in Washington, D.C. (SAC ¶ 137a.) But not even Plaintiffs' broad Complaint, spanning some sixty-five pages and including nearly 200 paragraphs, makes any reference to the Josiah H. Macy, Jr. Foundation, the Granger Fund, the H.J. Rand Foundation, the Medical Sciences Research Foundation, or the Amazon Natural Drug Co., and it makes only passing reference to the Society for the Investigation of Human Ecology. (*Id.* ¶ 117.) Yet, Plaintiffs maintain that these organizations are relevant to this action—and Defendants, in turn, must search for and produce every document related to each organization—because Plaintiffs deem them so. To the degree Plaintiffs argue that these organizations may be relevant because they may have tested some of the same substances and agents used on service members,[2] Plaintiffs' demand for documents, on its face, is not so limited. (*See also* Ex. E to Herb Decl. at 2 (requesting that CIA produce "any documents [sic] relating to: (1) the legal status of these entities . . . (2) funding provided by the CIA . . . (3) contracts between these entities and CIA related to the procurement of drugs, the testing of drugs on humans or animals, or the implantation of electrodes in human or animal brains; and (4) meetings and other communications between these entities and the CIA").) Because it is clear that Plaintiffs seek discovery outside of the scope of the claims in this action, this Court should deny such requests.

Plaintiffs also seek information that goes to the lawfulness of the test programs, despite the District Court's ruling that Plaintiffs lacked standing to assert this claim. Courts have held that "it is proper to deny discovery of [a] matter that is relevant only to claims or defenses that have been stricken . . . ." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 352 (1978); *Jane Doe 130 v. Archdiocese of Portland in Or.*, ___ F. Supp. 2d ____, 2010 WL 1838844, *18 (D. Or. 2010) (finding discovery requests irrelevant where, "[w]hile these documents . . . were likely of significant relevance to [Plaintiff's] voluntarily withdrawn misrepresentation claim, they are

[2] As will be addressed in Part II, discovery should be denied under this theory because of the undue burden of finding such information and its minimal relevance. Additionally, if Plaintiffs' theory of relevance is that testimony regarding cut-outs will lead them to information concerning DoD test programs or unearth evidence of some CIA involvement, this attenuated theory has already been answered in the negative by the numerous more contemporaneous investigations of the CIA's behavioral research program.

not of clear relevance to her remaining claims"). In this case, the Court held that Plaintiffs lacked standing to challenge the lawfulness of Defendants' test programs. (Order of Jan. 19, 2010 at 11–12.) Yet, Plaintiffs continue to seek discovery related to this claim. For instance, RFP No. 153 requests information on "[a]n agreement between the CIA and the U.S. Department of Justice . . . whereby the violation of 'criminal statutes' by CIA would not result in Department of Justice prosecutions". (Ex. G to Herb Decl. at 8.) Likewise, RFP No. 113 asks for "[a]ll reported, alleged, or actual violations of protocols involving the use of human subjects in chemical or biological weapons test at the Edgewood Arsenal or any other Army facility." (Ex. F to Herb Decl. at 15; *see also id.* 16 (requesting "procedures, regulations, requirements, standards, and violations of any of the same, and other DOCUMENTS CONCERNING the use of human beings in experiments"); *id.* 15 (requesting all documents regarding "the activities of the Medical Review Committee for scientific evaluation of protocols using human subjects and a Human Uses Committee for the moral and ethical review of such protocols").) These requests concern the lawfulness of the test programs. Under *Oppenheimer* and *Jane Doe*, Plaintiffs should be foreclosed from propounding discovery on claims that have been dismissed by the Court.

B. The Court Should Exclude Discovery Requests That Are Duplicative of Prior Investigations.

In cases with broad discovery requests that are duplicative of previously produced materials or publicly available information, courts have denied discovery to the propounding party. *In re Agent Orange Product Liability Litigation*, 517 F.3d 76 (2d Cir. 2008), arose out of the military's use of Agent Orange during the Vietnam War. *Id.* at 82. The plaintiffs sought discovery documents from earlier, multidistrict litigation ("MDL") concerning the same pesticides and claims. *Id.* at 102. The district court ruled, however, that the plaintiffs had to familiarize themselves with the MDL discovery documents before serving additional requests. *Id.* It also denied the plaintiffs' efforts to seek documents produced from litigation and government hearings after the MDL, despite the plaintiffs' arguments that documents produced in those later cases and hearings were more extensive and germane to the pending claims than the earlier investigations. *Id.* The Second Circuit upheld the district court's decisions to require the

plaintiffs to review the MDL and deny discovery into the later litigation and government hearings. *Id.* at 102–03. It found there was no basis "for a conclusion on our part that the documents would differ materially from the voluminous documents available to them through the MDL." *Id.* at 103. It noted that the plaintiffs sought "many thousands of additional documents, made without any attempt to review what was already available to them or to tailor their request to materials reasonably expected to produce relevant, non-duplicative information." *Id.*; *see also Pub. Serv. Enter. Grp. Inc. v. Philadelphia Elec. Co.*, 130 F.R.D. 543, 551–52 (D.N.J. 1990) (finding that Rule 26(b)(1)(1), denying discovery that is unreasonably cumulative, was implicated where "the essential information . . . is readily available" by virtue of government hearings and other litigation); *Carlson Cos., Inc. v. Sperry and Hutchinson Co.*, 374 F. Supp. 1080, 1085 (D. Minn. 1974) (refusing to require document productions, "the contents of which will possibly serve only to supplement material already revealed").

In this case, Plaintiffs seek information that duplicates prior investigations by DoD and CIA. Defendants have provided Plaintiffs with thousands of pages of documents concerning the conduct of the test programs, including the results of comprehensive Congressional and executive investigations, FOIA requests, and lawsuits, as described above. Yet, Plaintiffs continue to serve requests that would be duplicative of information previously disclosed pursuant to these investigations. By way of example, RFP No. 155 requests information on "[c]ollaboration between officials within the CIA's Security Office, scientists from Fort Detrick's Special Operations Division, and scientists from other Army installations, including Edgewood Arsenal, on experiments with LSD, mescaline, peyote, and synthesized substance known as 'Smasher' in the summer of 1951." (Ex. G to Herb Decl. at 8–9.) Defendants, however, have previously provided a comprehensive memorandum concerning any "project conducted or participated in by the Department of Defense in which there was any Central Intelligence Agency involvement and which included the administration of drugs to human subjects for mind-control or behavior-modification purposes." (Ex. I to Herb Decl. at 1.)

Additionally, RFP No. 92 requests "[r]esearch that YOU sponsored, financed, directed, controlled, monitored or received the results of involving the chemical stimulation to areas of the brain, electrical self-stimulation to the human brain, and all MEETINGS and COMMUNICATIONS CONCERNING the same." (Ex. F to Herb Decl. at 12.) If DoD and CIA were to produce all communications concerning chemical stimulation of the brain, a primary focus of the test programs, they would be required to replicate previous extensive searches and reproduce many of the documents already provided, as discussed above. Furthermore, though this request would likely require an extensive search, it would not likely produce new information. (Cameresi Decl. ¶ 25 ("Engaging in a repeated search of the same files (many paper-based) at this late date could be expected to impose substantial burden on the CIA—taking employees away from their duties in furtherance of the Agency's mission—but likely adding nothing to CIA's discovery responses."); Kilpatrick Decl. ¶ 11 ("As a result of these investigations and congressional and public inquiries, the subject of the Army's chemical and biological agent tests involving human subjects has been aired extensively. I therefore do not have reason to believe that there exists a significant amount of critical information about those testing programs that is not already publicly known.").) Because many of Plaintiffs' requests seek information previously provided to Plaintiffs and resulting from extensive investigations, duplicative discovery requests should be denied.

II. THIS COURT SHOULD LIMIT THE SCOPE OF DISCOVERY TO EXCLUDE IRRELEVANT, PROTECTED, OVERLY BROAD, AND UNDULY BURDENSOME REQUESTS.

Plaintiffs have served numerous discovery requests for information that are irrelevant, protected, overly broad, and unduly burdensome. Defendants respectfully request that this Court limit discovery into topics such as animal testing and research; the operational use of chemical and biological agents; irrelevant CIA programs; and tests that were not conducted on service members or as part of the test programs. Discovery into these topics is not reasonably calculated to lead to the discovery of admissible evidence. This Court should also foreclose Plaintiffs' attempts to seek the identity of individuals and institutions protected by 50 U.S.C. §§ 403-1(i)(1)

& 403g. Sections 403-1(i)(1) & 403g are unqualified and distinct from any executive order safeguards for protecting classified information. Finally, Defendants seek limitations on requests that are not tailored to agents used in Defendants' test programs; that encompass a broad swath of irrelevant documents; that seek discovery from DOJ despite its limited nexus to this litigation; that seek a reinvestigation of issues previously examined; and that are being investigated as part of the Battelle investigation. Such requests are unreasonably duplicative and unduly burdensome, particularly in light of their limited relevance.

A. The Court Should Exclude Discovery Requests That Are Irrelevant and Exceed the Scope of This Litigation.

1. Plaintiffs Seek Information Related to Animal Testing, Which Has No Bearing on Their Claims.

Plaintiffs' discovery requests seek, among other things, information concerning the testing of chemical and biological agents on animals. For example, Plaintiffs have indicated an interest in serving additional interrogatories, one of which would require Defendants to identify all locations where tests were conducted, identify the nature of experiments at those locations, and produce all documents about the tests, regardless of "whether or not testing was done on humans." (Ex. D. to Herb Decl. at 11.) Another request asks that Defendants "IDENTIFY each experiment in the TEST PROGRAMS which involved a human subject which was not preceded by animal experimentation, and explain why prior animal experimentation was not done." (*Id.* at 9.) Additionally, Plaintiffs have requested every communication and document related to a contract that "established and used test procedures with animals from which behavioral effects of drugs and chemical compounds in humans could be predicted." (Ex. F to Herb Decl. at 18–19 (requesting information regarding animal research in RFP No. 133 and 134).) On its face, this document concerns animal research.[3] (Cameresi Decl. ¶ 20; Ex. J to Herb Decl. at 2.)

[3] Not only are the requests irrelevant, but they are also unduly burdensome. The CIA estimates that it would take "three months to collect and to review documents potentially responsive to these [two] requests." (Cameresi Decl. ¶ 20.)

Additionally, all of Plaintiffs' requests that seek information about particular tests programs and substances are not limited to tests on human subjects. By way of example, RFP No. 79 requests information concerning the "administration of LSD in eye drops", (Ex. E. 10); RFP No. 89 seeks "[c]ontracts involving research on hallucinogenic drugs", (*id.* at 11); and RFP Nos. 93–95 inquire into research, reports, and experiments concerning "EA-1476 or its analogs and/or dimethylheptyl", (*id.* 12). None of these requests state, nor do Plaintiffs' discovery requests otherwise indicate, that Defendants may limit their response to tests on human subjects. As such, Defendants would be required to produce documents concerning animal research, despite the limited utility of this information.

Animal research has no bearing on Plaintiffs' claims. At best, Plaintiffs could argue that such research could be relevant to the health effects experienced by human subjects. There is no evidence, however, that animal studies are predictive of the long-term health effects experienced by human subjects. Robert J. Berlin, *Epidemiology As More Than Statistics: A Revised Tool for Products Liability*, Tort Trial & Ins. Prac. L.J. 81, 84 (2006) ("Courts and scholars consistently maintain that animal studies and in vitro studies are not as valuable as epidemiology for predicting health effects in humans. Simply put, it is believed that the truth about causes of human disease is more reliably derived from human studies than in vivo or in vitro evidence."). Moreover, even if animal studies were relevant to health effects in humans in the abstract, animal studies are unlikely to be so here given that the test programs date back at least twenty-five years, and as much as sixty years, and that animal testing did not and could not examine health effects of that duration. Accordingly, Plaintiffs' discovery requests should be limited to exclude requests for tests and research conducted on animals.

2. The Court Should Preclude Discovery on the Operational Use of Chemical and Biological Weapons Because There Are No Allegations of Operational Exposure.

In this case, Plaintiffs allege that the named Plaintiffs and putative class members were exposed to chemical and biological substances through tests primarily at Edgewood Arsenal and Fort Detrick, though Plaintiffs also allege tests at other locations within the United States. (*See,*

e.g., SAC ¶¶ 103, 105, 107, 111.) Plaintiffs have not, however, made any allegations of operational exposure, such as in a war zone. Despite the absence of such allegations, Plaintiffs have propounded many discovery requests regarding the operational use of chemical and biological agents in war zones. For instance, Defendants seek the following information:

> RFP No. 80: The composition and IDENTITY of any chemicals or other substances developed or tested at Edgewood or Fort Detrick and spread or used in war zones, including, without limitation, known or suspected infiltration of supply routes such as the Ho Chi Minh Trail in Vietnam."
>
> RFP No. 81: The activities, orders, reports from, and other DOCUMENTS CONCERNING military personnel referred to as "dusters," including, without limitation, the spreading and use of chemicals or other substances developed or tested at Edgewood or Fort Detrick in war zones.

(Ex. F to Herb Decl. at 10.)

Defendants respectfully request that this Court exclude discovery into operational exposure. On their face, these requests seek information regarding the operational use of chemicals in war zones. Accordingly, the requests do not seek information related to consent forms, health care, health effects, or the notice to be provided to individuals tested pursuant to DoD's test programs and can have no bearing on Plaintiffs' claims.

3. The Court Should Exclude Discovery Concerning CIA Programs and Activities That Are Not Relevant to This Litigation.

Plaintiffs seek a broad investigation of the CIA's behavioral research program. For instance, Plaintiffs have indicated an intention to seek additional interrogatories, one of which asks the CIA to "indicate the annual funding provided by the CIA for each of the TEST PROGRAMS between 1943 and the present." (Ex. D to Herb Decl. at 10.) If the CIA were to provide a specific dollar amount, as requested, this information would have no bearing on Plaintiffs' claims: it would not reveal whether testing was actually conducted on service members or whether service members received notice of the tests, and it has no relevance to health effects or health care. This information is irrelevant, and it is not likely to lead to the discovery of admissible evidence.

Plaintiffs also seek information on the Graphic Arts Reproduction Branch ("GARB"), which concerned the reproduction of sensitive documents and did not involve the testing of chemical or biological agents. Plaintiffs have served two discovery requests concerning GARB:

> RFP No. 126: The activities, functions, and purpose of . . . the [GARB] of the Technical Services Division ("TSD"), as referred to in paragraph 4 of the Report of Inspection of MKULTRA/TSD, in the version of the CIA Inspector General Report produced by Defendants to Plaintiffs on Friday, April 30, 2010.
>
> RFP No. 127: All agendas, reports, or analyses received, prepared or distributed by the GARB that relate to chemical and biological weapons research or testing.

(Ex. F to Herb Decl. at 17.) These requests seek information that has no bearing on Plaintiffs' claims. GARB was devoted to document reproduction and did not involve drug research (human or otherwise). (Cameresi Decl. ¶ 14.) This is apparent on the face of the document that Plaintiffs reference. The document notes that "[t]he security considerations applying to [the redacted classified work of the GARB] were found to be significantly different from those governing the manipulation of human behavior." (*Id.*) The document also makes clear that MKULTRA had two distinct purposes, one of which concerned behavioral research while the other concerned the reproduction of sensitive documents. (*Id.*) Because the document that Plaintiffs reference makes clear that GARB did not relate to biological and chemical agent testing, information related to GARB can have no bearing on Plaintiffs' claims.

Finally, Plaintiffs have sought information on CIA behavioral research program that did not involve testing on service members. Plaintiffs have propounded numerous discovery requests concerning MKULTRA, ZR/ALERT,[4] MKDELTA, and CHICKWIT, among others, in RFP Nos. 90, 117, 125, 128. (Ex. F to Herb Decl. at 11, 16–18.) As discussed above, however, only one CIA program even contemplated the testing of service members: Project OFTEN. (Cameresi Decl. ¶¶ 8, 11.) Furthermore, based on multiple extensive investigations, including interviews with personnel at Edgewood Arsenal, the CIA concluded that funding for this program was

[4] Plaintiffs have failed to define this program. Nonetheless, Plaintiffs have indicated that they are alleging that ZR/ALERT has some relationship with the CIA.

withdrawn before the commencement of human testing. (*Id.* ¶ 12.) Plaintiffs' requests seeking a broader investigation of CIA's test programs is unwarranted, particularly in light of the Court's finding that Plaintiffs lacked standing to challenge the lawfulness of the programs.

4. The Court Should Exclude Discovery on Tests That Were Not Conducted on Service Members or as Part of the Test Programs.

Plaintiffs seek information concerning the health effects reported by individuals other than the named Plaintiffs or putative class members. For example, RFP No. 82 requests information on the "health effects reported by 'dusters' used to deploy, release or spread chemicals in war zones . . . such as the Ho Chi Minh Trail." (Ex. F to Herb Decl. at 10.) Additionally, Plaintiffs request information concerning tests conducted at and through contracts with non-military installations. RFP Nos. 89, 91, 94, 108, 136, 177 concern research allegedly conducted at Tulane University, Yale University, University of Maryland, University of Michigan Medical School, George Washington University, and University of Pennsylvania, respectively. (*Id.* at 11–12, 14, 18; Ex. G to Herb Decl. at 8.) However, Plaintiffs have not made any allegations that the named Plaintiffs or putative class members received operational exposure to chemical or biological agents in a war zone or were exposed to chemical or biological agents at the referenced institutions.

Nor would the health effects experienced by individuals encompassed by these requests be of particular usefulness here. If individuals were tested at these locations, descriptions of those tests would identify side or health effects reported by the test recipient and would, accordingly, reflect the short-term effects on and experience of the individual. Furthermore, even if there had been tests, we have no indication or evidence that there would have been or were follow-up studies conducted on these individuals, and thus, there is little likelihood of finding information related to the long-term health effects of exposure. As such, it would be unduly burdensome to require Defendants to search for documents concerning exposure to these individuals.

B. The Court Should Exclude From Discovery Information That Is Protected Pursuant to Statutory Privileges.

Plaintiffs have served numerous discovery requests that seek the disclosure of the identity of individuals and institutions associated with the CIA and protected by statutory privilege. (Supplemental Decl. of Patricia Cameresi, Assoc. Info. Review Officer for the Directorate of Sci. & Tech., CIA ("Supplemental Cameresi Decl.") ¶ 4) For example, RFP No. 130, referencing a memorandum to the CIA Inspector General, requests the identity "of the author of the memorandum", as well as of "private industry members", "university professors", and the "Division Chief" referenced in the memorandum. (Ex. F to Herb Decl. at 18.) RFP No. 132 requests the membership of a CIA panel. (*Id.*) RFP No. 143 requests identification of the "members of" the CIA's ARTICHOKE Committee. (*Id.* at 21.) RFP No. 144 seeks the identity of the institutions that contracted with the CIA. (*Id.*)

This information is protected by the National Security Act of 1947, 50 U.S.C. § 403-1(i)(1), and the Central Intelligence Agency Act of 1949, 50 U.S.C. § 403g. (Supplemental Cameresi Decl. ¶ 5.) Section 403g states that, in the interest of "protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the . . . provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." Section 403-1(i)(1) states that "The Director of National Intelligence shall protect intelligence sources and methods from unauthorized disclosure." In *CIA v. Sims*, 471 U.S. 159 (1985), the Supreme Court held that the CIA's research of chemical and biological agents "was related to the Agency's intelligence-gathering function in part because it revealed information about the ability of foreign governments to use drugs and other biological, chemical, or physical agents in warfare or intelligence operations against adversaries." *Id.* at 173. Accordingly, the Court held that the National Security Act protected the names of individuals and institutions associated with the

CIA's behavioral research program. *Id.* Here, Plaintiffs seek the identity of CIA intelligence sources associated with the CIA's behavioral research program, as well as the names of CIA employees involved in aspects of these programs. The National Security Act, the CIA Act, and *Sims* establish that such information is protected from disclosure.[5]

C. Plaintiffs' Discovery Requests Are Overbroad and Not Tailored to Lead to the Discovery of Relevant Information.

1. Plaintiffs' Requests Are Not Tailored to the Agents Used in Defendants' Test Programs.

Defendants argue above that any health effects experienced by individuals who were exposed to a chemical or biological substance outside of the test programs are irrelevant. Even if the Court were to disagree, Plaintiffs have failed to tailor their discovery requests in a manner that is likely to produce information relevant to this litigation. For instance, RFP No. 82, referenced above, concerning the "[a]dverse health effects reported by 'dusters' used to deploy, release or spread chemicals in war zones", encompasses substances that were not tested at Edgewood. By way of example, it is well known that a variety of herbicides were used during the Vietnam War to defoliate forests. *In re Agent Orange Product Liability Litigation*, 373 F. Supp. 2d 7, 19 (E.D.N.Y. 2005) (listing eight herbicides used in Vietnam, the most well-known of which was Agent Orange). There is no allegation in this case that any of the named Plaintiffs or members of the putative class were exposed to herbicides.[6] Yet, RFP No. 82 would require that Defendants produce information related to herbicide use during the Vietnam War, and it is therefore overbroad. Defendants respectfully request that this Court limit Plaintiffs' discovery requests to chemicals and substances that were tested on service members. *See Bredemus v. Int'l. Paper*

[5] In the event the Court requires CIA to respond to these, and other, discovery requests that implicate information protected pursuant to 50 U.S.C. § 403-1(i)(1) and 50 U.S.C. § 403g, CIA reserves the right to explain the withholding of protected information.

[6] Nor would plaintiffs be able to seek relief for such exposure as part of this action, given that such claims have been extensively litigated and subject to numerous class-action settlements. *See In re "Agent Orange" Product Liability Litigation*, 304 F. Supp. 2d 404, 408 (E.D.N.Y. 2004) (discussing the more than one hundred cases involving Agent Orange and other herbicides).

Co., 252 F.R.D. 529, 535 (D. Minn. 2008) (refusing to permit discovery into chemical agents that were not alleged to have caused harm to the plaintiffs).

2. Plaintiffs' Requests Concerning the Test Programs Encompass a Broad Swath of Irrelevant Documents.

Plaintiffs have served numerous discovery requests that seek every document related to the Army's test programs or CIA's behavioral research. For instance, RFP Nos. 98–102 seek the "[r]eports, minutes, memos, budgets, notes, minutes [sic], transcripts and other DOCUMENTS CONCERNING all activities" of the Chemical Corps Advisory Council, the Chemical Corps R&D Command, the Chemical Warfare Laboratory, the Chemical Research and Development Laboratory, and the Chemical Corps Technical Committee, respectively. (Ex. F to Herb Decl. at 13.) Additionally, Plaintiffs have requested that Defendants identify every communication and document related to any test program that involved biological substances. (Ex. D to Herb Decl. at 12.) Because these requests seek every document related to an activity, entity, or program, the requests necessary encompass all invoices, bills of lading, inventories, and other administrative minutiae ranging from salary information to the purchase of pens and paper. Though the requests may include some relevant information, the requests, as framed, are substantially overbroad and would require Defendants to produce countless documents that have no bearing on Plaintiffs' claims. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 657 (C.D. Cal. 2005) (finding a discovery request overbroad for capturing extraneous information). As such, this Court should limit discovery requests that are overly broad.

3. The Court Should Limit Discovery Directed to the Department of Justice.

Plaintiffs have demanded that each individual Defendant respond to every discovery request, but they have made few allegations about DOJ generally and no allegations about DOJ having a nexus to the conduct of the test programs. Plaintiffs' Second Amended Complaint references the DOJ or Attorney General in only three paragraphs, and all three paragraphs pertain solely to Plaintiffs' claims regarding the identification and notification of participants in government test programs. (SAC ¶¶13, 14, 98.) Paragraph 13 alleges both that the CIA testified

that it was working with the Attorney General regarding the identification of test participants and that the Attorney General participated in efforts to locate test participants. (*Id.* ¶ 13.) Paragraph 14 characterizes a DOJ opinion regarding whether the CIA had a duty to locate participants in the CIA's MKULTRA program. (*Id.* ¶ 14.) Paragraph 98 then expressly states that the Attorney General "is named solely in his official capacity and in connection with the Attorney General's assumption of responsibility to notify the victims of biological and chemical weapons tests." (*Id.* ¶ 98.)

DOJ has searched for documents and information pertaining to the allegations concerning it and the Attorney General, namely allegations that they assumed some role in providing notice to test participants. (Herb Decl. ¶ 18.) Because Plaintiffs' have not made any allegations beyond notice, Plaintiffs' demands that DOJ respond to each discovery request are overbroad and not reasonably calculated to lead to admissible evidence. This Court should limit discovery to DOJ to claims and allegations concerning notice.

D. The Court Should Limit Discovery to Exclude Requests That Are Unduly Burdensome.

"In making a decision regarding burdensomeness, a court must balance the burden on the interrogated party against the benefit to the discovering party of having the information." *Thomas v. Cate*, ___ F.3d ___, 2010 WL 671254, *14 (E.D. Cal. 2010). In this case, Plaintiffs seek information that has been or is currently part of an extensive investigation. It would be unduly burdensome to require Defendants to replicate these searches and investigations, particularly given the low likelihood of discovering new materials as a result of the discovery searches.

1. The Court Should Limit Discovery to Exclude Requests That Seek Information Currently Being Examined As Part of the Ongoing DoD Investigation.

As discussed above, DoD is searching for information related to test participants in its chemical and biological tests. (Kilpatrick Decl. ¶ 13.) It has entered into a contract with Battelle to "review individual test records and other sources for veterans' identifying information and

details about the tests they underwent," including "the chemical or biological agent each was exposed to, and the amount administered and route of administration (e.g., oral) where available." *Id.* This search is comprehensive, requiring "a laborious by-hand search of hard copy records . . . by individual researchers." (*Id.* ¶ 14.)

Despite this ongoing effort by DoD to determine the nature of the test programs, an investigation which has cost millions of dollars, (*id.*), Plaintiffs have served discovery requests that would impose a similar burden on Defendants with little hope of offering relevant information. For instance, Interrogatory No. 14 requires Defendants to "IDENTIFY all TEST SUBJECTS who, after signing a consent to participate in the TEST PROGRAMS, revoked consent or refused to continue participation, and summarize the outcome of each case." (Ex. K to Herb Decl. at 11.) In order to comply with this request, Defendants would have to "individually review 6,723 individual personnel files to determine if those individuals' refusal was noted in their record." (Decl. of Lloyd Roberts, Biological Scientist, U.S. Army Med. Research Inst. of Chem. Def. ¶ 7.) The burden of producing this information is substantial—it would take ten months and require 1,680 man-hours of effort. (*Id.*) Yet, the search is unlikely to yield much relevant information, as the DAIG investigation found that only six volunteers refused to participate in testing after arriving at Edgewood Arsenal. (Roberts Decl. ¶ 7.)

Additionally, Plaintiffs have served discovery requests that are duplicative of information investigated by Battelle. For instance, RFP No. 79 requests information concerning "[t]he administration of LSD in eye drops in connection with the TEST PROGRAMS, and the health effects of the same." (Ex. F to Herb Decl. at 10.) To the degree this request is designed to uncover information concerning the administration of LSD on individual test subjects, it would require an extensive and labor-intensive search. For instance, the CIA has more than 9,000 documents containing the words LSD or lysergic, and CIA personnel would have to review each document individually to determine its responsiveness. (Cameresi Decl. ¶ 23.) Yet, the payoff of such an effort would be minimal, as Battelle is already searching for information on each agent to which a test subject was exposed. (Kilpatrick Decl. ¶ 13.)

2. Plaintiffs Seek an Investigation of a Contract Previously Examined.

Plaintiffs seek to require Defendants to reexamine an Army contract that has been thoroughly investigated by the Army, which found few available records. Two RFPs concern Army Contract DA-18-108-CML-5596:

> RFP No. 87: Army Contract DA-18-108-CML-5596, including without limitation, all drafts, negotiations, reports, payments, and research progress and results.
>
> RFP No. 88: MEETINGS and COMMUNICATIONS between YOU and researchers, including, without limitation, Dr. Edward Heath and Dr. Russell Monroe at Tulane University, CONCERNING Army Contract DA-18-108-CML-5596 and any other contracts between YOU and the researchers at Tulane University.

(Ex. F to Herb Decl. at 11.) This contract was investigated by the Deputy Army Inspector General, who found "few Army records available regarding the experiments" under this contract. (Ex. L to Herb Decl. at 160.) The DAIG report also provided the outcome of its investigation into this contract: experiments were conducted by "Tulane medical investigators" on mental patients, normal volunteers and neurological patients"; "no determination was made concerning [Tulane's] compliance with Department of the Army policies nor could any judgment be made as to the quality of consent rendered by the patients"; and the Army's "interest in the experiments . . . did not go beyond gathering evidence of the effects of LSD and mescaline in humans", as evidenced by the fact that follow-up reports "did not discuss the implantation procedures, purpose or effect" but "rather they stressed the effects of the drugs." *Id.*

It would be unduly burdensome to require Defendants to re-search for documents concerning DA-18-108-CML-5596. (Decl. of Richard L. Wiltison, U.S. Army Research, Dev., and Eng'g Command ¶ 4 (stating that a search for materials underlying the DAIG Report, namely the references, only located 11 documents).) As the above discussion makes clear, the Army has already conducted an examination of this very contract. It has reported its findings concerning the contract, and those findings have been made available to the Plaintiffs. Accordingly, any expenditure of time and resources on this contract would outweigh the utility

of a renewed investigation of this contract, particularly in light of the DAIG Report's notation that there were few documents pertaining to it.

E. Defendants Seek Limits on the Categories of Information That May Be Sought by Plaintiffs.

In light of the discussion above, Defendants respectfully request that this Court exclude the following categories of information from discovery in this case:

1. Animal testing and research;
2. Operational use of chemical and biological agents;
3. CIA programs and activities that do not reflect on testing on military service members;
4. Tests that were not conducted on service member volunteers or as part of the test programs;
5. The identity of individuals and institutions protected by 50 U.S.C. §§ 403-1(i)(1) & 403g;
6. Requests that are not tailored to agents used in Defendant DoD's test program volunteers;
7. Requests that encompass a broad swath of irrelevant documents;
8. Requests that seek information from DOJ and do not pertain to the notification of test participants.
9. Requests that seek a reinvestigation of issues previously examined; and
10. Requests that are being investigated as part of the Battelle investigation.

CONCLUSION

For the reasons stated above, Defendants respectfully request that the Court grant their Motion for Protective Order Limiting Scope of Discovery.

Dated: September 15, 2010

Respectfully submitted,

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From: ECF-CAND@cand.uscourts.gov

Sent: Wednesday, September 15, 2010 8:43 PM

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Case Name:	Vietnam Veterans of America et al v. Central Intelligence Agency et al
Case Number:	4:09-cv-00037-CW
Filer:	United States of America Central Intelligence Agency United States Department of the Army Leon Panetta United States Department of Defense Robert M. Gates Pete Geren Eric H. Holder, Jr
Document Number:	140

Docket Text:
MOTION for Protective Order *Limiting Scope of Discovery* filed by Central Intelligence Agency, Robert M. Gates, Pete Geren, Eric H. Holder, Jr, Leon Panetta, United States Department of Defense, United States Department of the Army, United States of America. Motion Hearing set for 10/27/2010 09:30 AM in Courtroom F, 15th Floor, San Francisco. (Attachments: # (1) Herb Declaration, # (2) Exhibit A to Herb Declaration, # (3) Exhibit B to Herb Declaration, # (4) Exhibit C to Herb Declaration, # (5) Exhibit D to Herb Declaration, # (6) Exhibit E to Herb Declaration, # (7) Exhibit F to Herb Declaration, # (8) Exhibit G to Herb Declaration, # (9) Exhibit H to Herb Declaration, # (10) Exhibit I to Herb Declaration, # (11) Exhibit J to Herb Declaration, # (12) Exhibit K to Herb Declaration, # (13) Exhibit L to Herb Declaration, # (14) Cameresi Declaration, # (15) Supplemental Cameresi Declaration, # (16) Kilpatrick Declaration and Exhibit 1, # (17) Roberts Declaration, # (18) Wiltison Declaration)(Herb, Kimberly) (Filed on 9/15/2010)

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