

Exhibit C

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15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

19 VIETNAM VETERANS OF AMERICA, *et al.*,
 20 Plaintiffs,
 21 v.
 22 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 23 Defendants.

Case No. CV 09-0037-CW

**DEFENDANTS' AMENDED
 RESPONSE TO PLAINTIFFS'
 INTERROGATORIES**

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 27 Defendants Central Intelligence Agency and its Director Leon Panetta (collectively,
 28 "CIA"); United States Department of Defense and its Secretary, Robert M. Gates, and the United

1 States Army and its Secretary, Pete Geren (collectively, "DoD"); and United States Department
2 of Justice and the Attorney General of the United States (collectively, "DOJ") in this civil action,
3 by and through undersigned counsel, hereby submit the following responses to Plaintiffs'
4 Interrogatories based on the searches conducted to date and further recognize their duty to
5 supplement these responses according to Federal Rule of Civil Procedure 26(e)(1):
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7 **GENERAL RESPONSES**

8 1. The information submitted herewith is being provided in accordance with the
9 Federal Rules of Civil Procedure which permit the discovery of any matter not privileged that is
10 relevant to the subject matter of this civil action. Fed. R. Civ. P. 26(b)(1). Accordingly,
11 Defendants do not, by providing such information, waive any objection to its admissibility on the
12 grounds of relevance, materiality, or other appropriate ground.

13 2. The responses supplied herein are not based solely on the knowledge of the
14 executing party, but include the knowledge of the Defendants, their agents, employees,
15 representatives, and attorneys, unless privileged.

16 3. To the extent that Defendants identify documents, Defendants do not concede that
17 the information requested is relevant to this action. Defendants expressly reserve the right to
18 object to further discovery of the subject matter of the interrogatories and the introduction into
19 evidence of any answer or portion thereof or any document produced in response to these
20 interrogatories.
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22 **GENERAL OBJECTIONS**

23 1. Defendants object to Plaintiffs' Interrogatories, including all definitions and
24 instructions contained therein, to the extent they seek to impose obligations beyond those
25 specified under the Federal Rules of Civil Procedure or other applicable rules, including requests
26 that are not reasonably calculated to lead to the discovery of admissible evidence. All of
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1 Defendant's responses to Plaintiffs' requests herein are subject to and without waiver of this
2 objection.

3 2. Defendants object to Plaintiffs' definitions of "COMMUNICATION,"
4 "COMMUNICATIONS," "DOCUMENT," "DOCUMENTS," "MEETING" or "MEETINGS" to
5 the extent that they seek identification of electronic mail or other electronic records that are not in
6 word-searchable format, including, but not limited to, any computer backup tapes. Defendants
7 further object to Plaintiffs' definition of "COMMUNICATION," "COMMUNICATIONS,"
8 "MEETING" or "MEETINGS" to the extent that they seek information that had been solely
9 vested in personnel who are unavailable due to retirement, death, or other causes. Such
10 definitions render any corresponding requests unduly burdensome and not reasonably calculated
11 to lead to the discovery of admissible evidence, and the burden of any such proposed discovery
12 outweighs its likely benefit.

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15 3. Defendants object to Plaintiffs' definitions of "TEST PROGRAMS", "TEST
16 SUBJECT", and "TEST SUBJECTS" as overly broad. The term "TEST PROGRAM" is defined
17 to include, "without limitation," specifically identified test programs "and any other program of
18 experimentation involving human testing of any substance[.]" The term "TEST SUBJECT(S)" is
19 defined to include "any person who . . . participated in any experiment that was part of, or related
20 to, the TEST PROGRAMS." These definitions have the potential to encompass clinical trials and
21 other human tests in any setting, under any circumstances, and within any time frame and, as
22 such, renders any corresponding request unduly burdensome and not reasonably calculated to lead
23 to the discovery of admissible evidence.

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25 4. In light of the concerns discussed in General Objection 3 and because most
26 potentially responsive records are wholly unrelated to the subjects of this litigation, Defendants
27 have limited both their search for information responsive to Plaintiffs' interrogatories and their
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1 corresponding responses to relevant information pertaining to the specified test programs and
2 other chemical or biological testing involving service members conducted in conjunction with the
3 Edgewood Arsenal area of Aberdeen Proving Ground, Maryland, Fort Detrick, Maryland and Fort
4 Ord, California. In addition, Defendant CIA conducted searches regarding CIA research
5 programs, and provided corresponding responses to Plaintiffs' interrogatories, limited to relevant
6 information pertaining to Project OFTEN, the only CIA program known to CIA to have
7 contemplated testing on military personnel.
8

9 5. Defendants object to identifying or providing any files, records, reports, and any
10 other papers and documents pertaining to any individual other than the individually named
11 Plaintiffs to the extent that such information is protected by the Privacy Act, 5 U.S.C. § 552a, the
12 Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. § 1320d-2,
13 the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164.
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15 6. Defendants further object to Plaintiffs' request for identification of documents to
16 the extent they seek information protected from disclosure by the attorney-client privilege, the
17 work product doctrine, deliberative process, or any other applicable privilege or immunity
18 recognized under statute, regulation or applicable case law. In conformance with Fed. Rule Civ.
19 P. 26(b)(5), Defendants will describe the nature of any documents that are withheld as privileged
20 or subject to protection as attorney work product.
21

22 7. Defendants object to Plaintiffs' Interrogatories to the extent they seek information
23 from any individual or entity other than Defendants or to the extent they seeks information that is
24 publicly available, and/or that is equally or more readily available to Plaintiffs. Defendants object
25 to Plaintiffs' Interrogatories to the extent they demand the identification of documents or
26 information not within the possession, custody, or control of Defendants.
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1 8. Defendants object to Plaintiffs' Interrogatories to the extent that they seek
2 information that is classified pursuant to Executive Order 12,958, its predecessor, or its
3 successors, and subject to the state secrets privilege or otherwise subject to the state secrets
4 privilege.

5 9. Defendants further object to the instructions and definitions set forth in Plaintiffs'
6 Interrogatories to the extent they impose obligations on Defendants that require disclosures of
7 information protected pursuant to the Central Intelligence Agency Act of 1949, 50 U.S.C. § 403g,
8 which authorizes the CIA to protect the organization, functions, names, official titles, and salaries
9 of all of its employees notwithstanding any other provisions of law. All of Defendants' responses
10 to Plaintiffs' Interrogatories requests herein are subject to and without waiver of this objection.
11

12 10. Defendant DOJ objects to Plaintiffs' Interrogatories to the extent they demand that
13 DOJ identify documents or information not relevant to the claims against DOJ and the Attorney
14 General. Plaintiffs' Second Amended Complaint ("SAC") references the DOJ or Attorney
15 General in only three paragraphs, and all three paragraphs pertain solely to Plaintiffs' claims
16 regarding the identification and notification of participants in government test programs. Second
17 Am. Compl. ¶¶13, 14, 98. Paragraph 13 alleges both that the CIA testified that it was working
18 with the Attorney General regarding the identification of test participants and that the Attorney
19 General participated in efforts to locate test participants. *Id.* ¶ 13. Paragraph 14 characterizes a
20 DOJ opinion regarding whether the CIA had a duty to locate participants in the CIA's
21 MKULTRA program. *Id.* ¶ 14. Paragraph 98 then expressly states that the Attorney General "is
22 named solely in his official capacity and in connection with the Attorney General's assumption of
23 responsibility to notify the victims of biological and chemical weapons tests." *Id.* ¶ 98. It would
24 be unduly burdensome and not reasonably calculated to lead to the discovery of admissible
25 evidence to require DOJ to search for documents and information not relevant to the claims
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1 specifically pertaining to DOJ or the Attorney General. Based on Plaintiffs' claims in the SAC,
2 therefore, Defendant DOJ has limited its search and response to information relevant to the
3 allegations in the SAC that pertain to DOJ and the Attorney General.
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6 **SPECIFIC OBJECTIONS AND RESPONSES TO REQUESTS
FOR PRODUCTION**

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8 Each of the foregoing statements and/or objections is incorporated by reference into each and
9 every specific response set forth below, and Defendants response below is not a waiver of any of
10 their General Objections.

11 **INTERROGATORY NO. 1:**

12 For each TEST PROGRAM and any sub-projects, please IDENTIFY all PERSONS who
13 directed, designed or carried out experiments involving TEST SUBJECTS.

14 **OBJECTION**

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16 Defendants object to this Interrogatory for the reasons described in General Objections 3–
17 4, 6, and 8–10. Defendants further object to Plaintiffs' request as overly broad and not reasonably
18 calculated to lead to the discovery of admissible evidence, and protected from disclosure by one
19 or more privileges or immunities.

20 **RESPONSE**

21 Subject to these objections and Defendants' General Objections above, Defendants
22 respond as follows:

- 23
- 24 • DoD: DoD does not have a roster or list of all the individuals who directed,
25 designed or carried out experiments, though some names may appear in documents
26 or reports produced March 25, 2010.
 - 27 • CIA: Pursuant to General Objection 9, CIA has no response to this interrogatory.
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- 1 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
2 related to this interrogatory.
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5 **INTERROGATORY NO. 2:**

6 Please IDENTIFY all known TEST SUBJECTS, including the dates of participation.

7 OBJECTION

8 Defendants object to this Request on the ground that it seeks information protected by the
9 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
10 ("HIPAA"), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
11 and for the reasons described in General Objections 3–5, 7, and 10. Defendants further object to
12 Plaintiffs' request as overly broad, irrelevant to the claims remaining in this action, and not
13 reasonably calculated to lead to the discovery of admissible evidence.
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15 RESPONSE

16 Subject to these objections and Defendants' General Objections above, Defendants
17 respond as follows:
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- 19 • DoD: DoD produced a copy of the DoD chem-bio database (VVA 029358) as of
20 March 2010 that identifies each service member participant, albeit not by name,
21 the substance(s) tested, and provides additional information about the tests,
22 including the amount administered and route of administration (e.g., oral or
23 percutaneous), where available.
24 • CIA: CIA has a copy of certain potentially responsive, classified DoD information
25 contained on magnetic tapes that are unreadable to CIA. CIA also has printout of
26 classified DoD information that it believes to be the contents of the magnetic
27 tapes. CIA will return both the tapes and the printout to DoD for a classification
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1 review and determination of whether DoD possesses the hardware to read the
2 tapes. Pursuant to General Objection 8, CIA has no further response to this
3 interrogatory.

- 4 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
5 related to this interrogatory.
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8 **INTERROGATORY NO. 3:**

9 For each TEST SUBJECT, IDENTIFY the TEST PROGRAM project and/or sub-project
10 in which the TEST SUBJECT was involved.
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12 **OBJECTION**

13 Defendants object to this Request on the ground that it seeks information protected by the
14 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
15 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
16 and for the reasons described in General Objections 3–5 and 10. Defendants further object to
17 Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, and not
18 reasonably calculated to lead to the discovery of admissible evidence.
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20 **RESPONSE**

21 Subject to these objections and Defendants’ General Objections above, Defendants
22 respond as follows:

- 23 • DoD: DoD categorized its tests involving military service members based on the
24 chemical agent involved, rather than by specific projects or test programs.
25 Information on the chemical agents involved would be contained in the DoD
26 chem-bio database (VVA 029358), which DoD produced as of March 2010. This
27 database identifies each service member participant, albeit not by name, the
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1 substance(s) tested, and provides additional information about the tests, including
2 the amount administered and route of administration (e.g., oral or percutaneous),
3 where available. Additionally, while information concerning Seventh Day
4 Adventist test volunteers in Fort Detrick's biological agent test program is
5 contained in the chem-bio database, these individuals were grouped together under
6 the label "Project Whitecoat."

- 8 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
9 information that is responsive to this request.
- 10 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
11 related to this interrogatory.
12

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14 **INTERROGATORY NO. 4:**

15 Please IDENTIFY all COMMUNICATIONS between YOU and any TEST SUBJECT or
16 other former service members whom YOU believe or understand to have participated in the
17 TEST PROGRAMS.

18 **OBJECTION**

19 Defendants object to this Request on the ground that it seeks information protected by the
20 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
21 ("HIPAA"), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
22 and for the reasons described in General Objections 2–6. Defendants further object for the
23 reasons identified in General Objection 7 in so far as the requested information is in the
24 possession of a third party, the Department of Veterans Affairs ("VA"). Finally, Defendants
25 object to Plaintiffs' request as overly broad, irrelevant to the claims remaining in this action, not
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1 reasonably calculated to lead to the discovery of admissible evidence, and protected from
2 disclosure by one or more privileges or immunities.

3 RESPONSE

4 Subject to these objections and Defendants' General Objections above, Defendants
5 respond as follows:

- 6 • DoD: DoD previously produced documents responsive to RFP ## 13 and 49.
- 7 • CIA: CIA previously produced documents responsive to RFP # 14.
- 8 • DOJ: Based on the searches conducted to date, as outlined in General Objection 4,
9 DOJ has identified no information that is responsive to this request.
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13 INTERROGATORY NO. 5:

14 Please IDENTIFY all DOCUMENTS that reflect the results of experiments for the TEST
15 PROGRAMS that used TEST SUBJECTS.

16 OBJECTION

17 Defendants object to this Interrogatory for the reasons described in General Objections 2-
18 8 and 10. Defendants further object to Plaintiffs' request as overly broad, vague, not reasonably
19 calculated to lead to the discovery of admissible evidence, and protected from disclosure by one
20 or more privileges or immunities.
21

22 RESPONSE

23 Subject to these objections and Defendants' General Objections above, Defendants
24 respond as follows:

- 25 • DoD: DoD produced a copy of the DoD chem-bio database (VVA 029358) as of
26 March 2010 that identifies each service member participant, albeit not by name,
27 the substance(s) tested, and provides additional information about the tests,
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1 including the amount administered and route of administration (e.g., oral or
2 percutaneous), where available. DoD also previously produced documents
3 responsive to RFP ## 3, 17, 20, 25, 32, 57, 67, 72, and 73. DoD also received six
4 classified DoD documents that were in the possession of the CIA; DoD will
5 conduct a classification review of those documents and determine whether they are
6 responsive and/or duplicate information previously released by DoD.

- 8 • CIA: CIA provided to Plaintiffs documents in its initial disclosures that may be
9 responsive, and CIA transferred the six documents described above to DoD.
- 10 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
11 related to this interrogatory.

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14 **INTERROGATORY NO. 6:**

15 Please IDENTIFY all repositories of DOCUMENTS CONCERNING the TEST
16 PROGRAMS.

17 **OBJECTION**

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19 Defendants object to this Interrogatory for the reasons described in General Objections 2-
20 5 and 7. Defendants further object to Plaintiffs' request as overly broad and not reasonably
21 calculated to lead to the discovery of admissible evidence. Finally, Defendants object on the
22 ground that the term "repositories" is not defined.

23 **RESPONSE**

24 Subject to these objections and Defendants' General Objections above, Defendants
25 respond as follows:
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- 1 • DoD: DoD previously produced documents responsive to RFP ## 3 and 26.
2 Additionally, the National Archives of the United States serves as a depository for
3 DoD documents.
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5 • CIA: The National Archives of the United States serves as a depository for CIA
6 documents.
7
8 • DOJ: For the period at issue, any records of the Attorney General, Deputy
9 Attorney General, or the Associate Attorney General would have been paper
10 records and would have been accessioned by the National Archives of the United
11 States. Based on the searches conducted to date, the Office of Legal Counsel has
12 identified an internal electronic database that allows OLC personnel to locate a
13 large number of unclassified documents prepared by OLC from 1945 to the
14 present.
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17 **INTERROGATORY NO. 7:**

18 Please IDENTIFY all reported, observed and/or claimed violations of the Wilson
19 Memorandum, attached as Exhibit C to the First Amended Complaint, and ALL MEETINGS
20 CONCERNING the same.

21 **OBJECTION**

22 Defendants object to this Interrogatory for the reasons described in General Objections 2,
23 4, 7-8, and 10. Defendants object to Plaintiffs' request as overly broad, irrelevant to the claims
24 remaining in this action, and not reasonably calculated to lead to the discovery of admissible
25 evidence.
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27 **RESPONSE**

1 Subject to these objections and Defendants' General Objections above, Defendants
2 respond as follows:

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- 4 • DoD: DoD previously produced documents responsive to RFP # 73.
 - 5 • CIA: Pursuant to General Objection 4, CIA has not searched for information
6 related to this interrogatory.
 - 7 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
8 related to this interrogatory.
- 9

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11 **INTERROGATORY NO. 8:**

12 For each TEST SUBJECT, please IDENTIFY whether that TEST SUBJECT received any
13 notice or warning from YOU CONCERNING the TEST SUBJECT'S participation in the TEST
14 PROGRAMS or CONCERNING any substance to which the TEST SUBJECT was exposed, after
15 the TEST SUBJECT'S participation in the TEST PROGRAMS had concluded, and IDENTIFY
16 the notice or warning and the date on which it was sent.

17

18 **OBJECTION**

19 Defendants object to this Request on the ground that it seeks information protected by the
20 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
21 ("HIPAA"), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
22 and for the reasons described in General Objections 3–5. Defendants further object for the
23 reasons identified in General Objection 7 in so far as the requested information is in the
24 possession of a third party, the VA. Finally, Defendants object to Plaintiffs' request as overly
25 broad, irrelevant to the claims remaining in this action, and not reasonably calculated to lead to
26 the discovery of admissible evidence.

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28 **RESPONSE**

1 Subject to these objections and Defendants' General Objections above, Defendants
2 respond as follows:

- 3 • DoD: DoD conducted a follow-up study on forty test volunteers and published a
4 report in 1972. DoD conducted interviews with and laboratory tests on all forty
5 subjects. Additionally, DoD conducted a follow-up study on the effects of LSD on
6 test volunteers and published a report in 1980. DoD received responses from 320
7 test volunteers: 100 provided answers to written questionnaires and 220 reported
8 to military medical facilities for testing. DoD also previously produced documents
9 responsive to RFP # 10.
- 10 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
11 information that is responsive to this request.
- 12 • DOJ: Based on the searches conducted to date, as outlined in General Objection 4,
13 DOJ has identified no information that is responsive to this request.

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18 **INTERROGATORY NO. 9:**

19 For each database YOU have used to record or preserve information CONCERNING
20 TEST SUBJECTS or the TEST PROGRAMS, please IDENTIFY each, including the purpose,
21 period of time it was active, and software and hardware requirements.

22 **OBJECTION**

23 Defendants object to this Interrogatory for the reasons described in General Objections 3–
24 4 and 10. Defendants further object to Plaintiffs' request as overly broad, and not reasonably
25 calculated to lead to the discovery of admissible evidence. Finally, Defendants object because the
26 disclosure of software and hardware requirements is not relevant to the claims in this action and
27 this request is not reasonably calculated to lead to the discovery of admissible evidence.
28

1 RESPONSE

2 Subject to these objections and Defendants' General Objections above, Defendants
3 respond as follows:

- 4
- 5 • DoD: DoD produced the contents of its chem-bio database (VVA 029358) as of
6 March 2010. The purpose of the database is to identify each service member
7 participant, though names have been redacted pursuant to the objections above, the
8 substance(s) tested, and any additional information about the tests, including the
9 amount administered and route of administration (e.g., oral or percutaneous),
10 where available. DoD maintains the names of test participants for Mustard Gas
11 and Lewisite tests, and test participants for Project 112 / SHAD tests in the same
12 chem-bio database.
 - 13
 - 14 • CIA: CIA has a copy of certain potentially responsive, classified DoD information
15 contained on magnetic tapes that are unreadable to CIA. CIA also has printout of
16 classified DoD information that it believes to be the contents of the magnetic
17 tapes. CIA will return both the tapes and the printout to DoD for a classification
18 review and determination of whether DoD possesses the hardware to read the
19 tapes. Pursuant to General Objection 8, CIA has no further response to this
20 interrogatory.
 - 21
 - 22 • DOJ: Pursuant to General Objection 10, DOJ did not search for information
23 related to this interrogatory as it pertains to "TEST PROGRAMS." With regard to
24 this request as it pertains to "TEST SUBJECTS," DOJ is not aware of any
25 databases that existed for the Attorney General, Deputy Attorney General, or
26 Associate Attorney General at that time; records were maintained in paper format.
27 DOJ's Executive Secretariat maintains a correspondence tracking system, which
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1 reflects the dates of correspondence. Based on the searches conducted to date, the
2 Office of Legal Counsel has identified an internal electronic database that allows
3 OLC personnel to locate a large number of unclassified documents prepared by
4 OLC from 1945 to the present.
5

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7 **INTERROGATORY NO. 10:**

8 Please IDENTIFY the full text of all DOCUMENTS CONCERNING the TEST
9 PROGRAMS withheld from prior releases in response to FOIA requests or requests from
10 Congress, the DAIG, or any other investigatory agency or department, and the full text of any
11 DOCUMENTS which were provided in response to any such request only in redacted form.
12

13 **OBJECTION**

14 Defendants object to this Interrogatory for the reasons described in General Objections 2–
15 4, 6, and 8–10. Defendants further object to Plaintiffs’ request as overly broad, unduly
16 burdensome, irrelevant to the claims remaining in this action, and not reasonably calculated to
17 lead to the discovery of admissible evidence, and protected from disclosure by one or more
18 privileges or immunities.
19

20 **RESPONSE**

21 Subject to these objections and Defendants’ General Objections above, Defendants
22 respond as follows:

- 23
- 24 • DoD: DoD provided redacted versions of the following documents in response to
25 Mr. Muth’s April 22, 2007 FOIA request: “Long Term Followup of Medical
26 Volunteers”; “A Review of the Time Course of the Central Effects of
27 Incapacitating Compounds in Humans”; “Literature and Opinion Survey on Field
28 Testing as Related to Psychochemicals”, and; “Estimate of Minimal Effective

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Dose of EA 3443 in Man”. DOD withheld “The Search for Toxic Chemical Agents” in its entirety.

- CIA: Any responsive documents in the CIA’s care, custody, or control are protected from disclosure by one or more privileges or immunities, the reasons stated in General Objections 8 and 9, and because such a request would be unduly burdensome.
- DOJ: Pursuant to General Objection 10, DOJ has not searched for information related to this interrogatory.

INTERROGATORY NO. 11:

Please IDENTIFY all DOCUMENTS and COMMUNICATIONS CONCERNING any release from secrecy oaths of any TEST SUBJECT.

OBJECTIONS

Defendants object to this Interrogatory for the reasons described in General Objections 2–, 4 and 10. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE

Subject to these objections and Defendants’ General Objections above, Defendants respond as follows:

- DoD: DoD previously produced documents responsive to RFP # 2.
- CIA: CIA conducted a search, as outlined in General Objection 4, and did not find information that is responsive to this request.

- 1 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
2 related to this interrogatory.
3
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5 **INTERROGATORY NO. 12:**

6 For each project and sub-project in the TEST PROGRAMS, please indicate whether or
7 not the CIA was involved in any way, and, if so, describe that involvement in complete detail, and
8 IDENTIFY all PERSONS who were involved.

9 OBJECTION

10 Defendants object to this Interrogatory for the reasons described in General Objections 3–
11 4, 6, and 8–10. Defendants further object to Plaintiffs’ request because it contains two distinct
12 subparts and because it is overly broad, irrelevant to the claims remaining in this action, not
13 reasonably calculated to lead to the discovery of admissible evidence, and protected from
14 disclosure by one or more privileges or immunities.
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16 RESPONSE

17 Subject to these objections and Defendants’ General Objections above, Defendants
18 respond as follows:
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- 20 • DoD: DoD conducted a search, as outlined in General Objection 4, and did not
21 find information that is responsive to this request.
22 • CIA: Project OFTEN involved a joint testing program with Edgewood Arsenal
23 Research Laboratories and CIA between approximately 1967 and 1973. Though
24 this program contemplated testing on volunteer military personnel, CIA’s past
25 reviews determined that the CIA ceased its funding for the testing program prior to
26 the advancement of the program to the human testing phase. Defendants produced
27 a copy of “Historical Documentation of the [CIA’s] Role in the Human Subject
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1 Test Program at Edgewood Arsenal Research Laboratories” (Oct. 21, 1994) as part
2 of their initial disclosures. (VVA 023789-023965)

- 3 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
4 related to this interrogatory.
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7 **INTERROGATORY NO. 13:**

8 Please IDENTIFY all PERSONS who died as a result of their participation in the TEST
9 PROGRAMS, and for each such PERSON identify the TEST PROGRAM project or sub-project
10 in which that PERSON participated, and the substances or chemicals to which that PERSON was
11 exposed as part of the TEST PROGRAMS.
12

13 **OBJECTION**

14 Defendants object to this Interrogatory for the reasons described in General Objections 3,
15 5-7, 9, and 11–12. Defendants also object to Plaintiffs’ request as overly broad, irrelevant to the
16 claims remaining in this action, protected from disclosure by one or more privileges or
17 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.
18

19 **RESPONSE**

20 Subject to these objections and Defendants’ General Objections above, Defendants
21 respond as follows:

- 22 • DoD: DoD conducted a search, as outlined in General Objection 4, and did not
23 find information that is responsive to this request.
24 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
25 information that is responsive to this request.
26 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
27 related to this interrogatory.
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INTERROGATORY NO. 14:

Please 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.

OBJECTION

Defendants object to this Interrogatory for the reasons described in General Objections 3-4, 7, and 10. Defendants object to Plaintiffs' request as irrelevant to the claims remaining in this action, and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE

Subject to these objections and Defendants' General Objections above, Defendants respond as follows:

- DoD: Records indicate that 61 test volunteers requested release from the testing program and that 6 refused to participate after arrival at Edgewood. See documents DoD previously produced responsive to RFP # 73.
- CIA: CIA conducted a search, as outlined in General Objection 4, and did not find information that is responsive to this request.
- DOJ: Pursuant to General Objection 10, DOJ has not searched for information related to this interrogatory.

INTERROGATORY NO. 15:

Please provide the text of each form of consent used in the conduct of the TEST PROGRAMS, indicating the period of time it was operative.

OBJECTION

1 Defendants object to this Interrogatory for the reasons described in General Objections 3–
2 5 and 10. Defendants further object to Plaintiffs’ request as overly broad and not reasonably
3 calculated to lead to the discovery of admissible evidence.

4 RESPONSE

5 Subject to these objections and Defendants’ General Objections above, Defendants
6 respond as follows:
7

- 8 • DoD: Documents previously provided by DoD indicate the text of the consent
9 forms used and the time period they were operative. DoD also previously
10 provided the consent forms signed by all the named Plaintiffs. See documents
11 DoD previously produced responsive to RFP ## 10 and 73.
- 12 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
13 information that is responsive to this request.
- 14 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
15 related to this interrogatory.
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19 INTERROGATORY NO. 16:

20 Please describe in complete detail all efforts YOU made to contact or locate TEST
21 SUBJECTS once their participation in the TEST PROGRAMS had concluded.

22 OBJECTION

23 Defendants object to this Interrogatory for the reasons described in General Objections 3–
24 5 and 7– 9. Defendants further object for the reasons identified in General Objection 8 in so far
25 as the requested information is in the possession of a third party, the Department of Veterans
26 Affairs (“VA”). Finally, Defendants object to Plaintiffs’ request as overly broad, irrelevant to the
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1 claims remaining in this action, and not reasonably calculated to lead to the discovery of
2 admissible evidence.

3 RESPONSE

4 Subject to these objections and Defendants' General Objections above, Defendants
5 respond as follows:
6

- 7 • DoD: DoD conducted a follow-up study on forty test volunteers and published a
8 report in 1972. DoD conducted interviews with and laboratory tests on all forty
9 subjects. Additionally, DoD conducted a follow-up study on the effects of LSD on
10 test volunteers and published a report in 1980. DoD received responses from 320
11 test volunteers: 100 provided answers to written questionnaires and 220 reported
12 to military medical facilities for testing. Additionally, in the 1990s, DoD provided
13 a list of names of test subjects with exposure to mustard to the VA. From 2000 to
14 2003, DoD provided the VA with a list of service members exposed to chemical
15 and biological warfare agents and stimulants during the 1960s and 1970s. DoD
16 provided an additional list of service members participating in testing on
17 identifying and treating exposures to chemical and biological warfare agents to the
18 VA in 2004, and updates that list monthly based on reports from Batelle.
- 19 • CIA: CIA efforts to locate human subjects of Project OFTEN determined that the
20 CIA's funding of the program ceased before it progressed to human subject
21 testing. CIA also provided documents in its initial disclosures that may be
22 responsive. Pursuant to General Objection 8-9, no further information may be
23 provided.
- 24 • DOJ: Based on the searches conducted to date, as outlined in General Objection 4,
25 DOJ has identified no information that is responsive to this request.
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INTERROGATORY NO. 17:

Please IDENTIFY and describe all COMMUNICATIONS between or among DEFENDANTS and/or between DEFENDANTS and the DVA CONCERNING this action, including without limitation, the facts alleged in the Complaint or the First Amended Complaint and the discovery served upon the DVA.

OBJECTION

Defendants object to this Interrogatory for the reasons described in General Objections 2–4 and 6–9. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more privileges or immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE

The above stated objections and Defendants’ General Objections comprise Defendants’ entire response to this interrogatory.

INTERROGATORY NO. 18:

Please IDENTIFY and describe all COMMUNICATIONS between or amongst DEFENDANTS, or any of them, and the DVA, and IDENTIFY all DOCUMENTS, CONCERNING the results of tests or experiments involving any chemical or biological substance conducted by the DVA using veterans as subjects between 1975 and the present.

OBJECTION

Defendants object to this Interrogatory for the reasons described in General Objections 2–4 and 6–9. Defendants further object to Plaintiffs’ request as having multiple parts, overly broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more

1 privileges or immunities, and not reasonably calculated to lead to the discovery of admissible
2 evidence.

3 RESPONSE

4 The above stated objections and Defendants' General Objections comprise Defendants'
5 entire response to this interrogatory.
6

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8 INTERROGATORY NO. 19:

9 Please IDENTIFY each substance administered to any PERSON as part of the TEST
10 PROGRAMS that caused or contributed to or was asserted to cause or contribute to any type of
11 mental disease or condition, including, without limitation, depression or post-traumatic stress
12 disorder, shell shock, combat fatigue, and IDENTIFY all DOCUMENTS CONCERNING the
13 incidence and nature of mental health care problems experienced by any such PERSON exposed
14 to such substances as part of the TEST PROGRAMS.
15

16 OBJECTION

17 Defendants object to this Interrogatory for the reasons described in General Objections 3–
18 5, 7, and 10. Defendants further object to Plaintiffs' request as having multiple parts, overly
19 broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more
20 privileges or immunities, and not reasonably calculated to lead to the discovery of admissible
21 evidence. In addition, Defendants object to this Request on the ground that it seeks information
22 protected by the Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and
23 Accountability Act of 1996 ("HIPAA"), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or
24 45 C.F.R. parts 160 and 164.
25

26 RESPONSE
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1 Subject to these objections and Defendants' General Objections above, Defendants
2 respond as follows:

- 3
- 4 • DoD: DoD has provided this information in response to Plaintiffs' RFP #3.
 - 5 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
6 information that is responsive to this request.
 - 7 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
8 related to this interrogatory.
- 9

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11 **INTERROGATORY NO. 20:**

12 Please IDENTIFY each incident in which the provisions of the Official Directives, as that
13 term is defined Paragraph 123 of the First Amended Complaint, were violated, and IDENTIFY
14 the PERSON(S) involved and DOCUMENTS CONCERNING the same.

15 **OBJECTION**

16 Defendants object to this Interrogatory for the reasons described in General Objections 2-
17 4, 7, and 10. Defendants further object to Plaintiffs' request as overly broad, irrelevant to the
18 claims remaining in this action, protected from disclosure by one or more privileges or
19 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

20

21 **RESPONSE**

22 Subject to these objections and Defendants' General Objections above, Defendants
23 respond as follows:

- 24
- 25 • DoD previously produced documents responsive to RFP # 73.
 - 26 • CIA: Pursuant to General Objection 4, CIA has not searched for information
27 related to this interrogatory.
- 28

- 1 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
2 related to this interrogatory.
3
4

5 **INTERROGATORY NO. 21:**

6 Please IDENTIFY any information that YOU learned, through a published scientific study
7 or other means, CONCERNING: (a) the actual or potential physical or mental health effects of
8 any chemical or biological substance administered to TEST SUBJECTS as part of the TEST
9 PROGRAMS; or (b) YOUR conduct of or the TEST SUBJECTS' participation in the TEST
10 PROGRAMS; that may affect the well-being of the TEST SUBJECTS, including the date on
11 which YOU learned such information.
12

13 OBJECTION

14 Defendants object to this Interrogatory for the reasons described in General Objections 3–
15 7–8, and 10. Defendants further object to Plaintiffs' request as having multiple parts, overly
16 broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more
17 privileges or immunities, and not reasonably calculated to lead to the discovery of admissible
18 evidence.
19

20 RESPONSE

21 Subject to these objections and Defendants' General Objections above, Defendants
22 respond as follows:

- 23 • DoD: DoD has provided this information in response to Plaintiffs' Request for
24 Production ## 3, 7, 20, 32, 57, 67, 75, 76, 77. DoD has also identified the
25 following document: Bibliography, "Involving Whitecoat Volunteers as Human
26 Subjects," U.S. Army Medical Research Institute of Infectious Diseases, unknown
27 date and recipients, containing a bibliography of studies. Finally, DoD received
28

1 six classified DoD documents that were in the possession of the CIA; DoD will
2 conduct a classification review of those documents and determine whether they are
3 responsive and/or duplicate information previously released by DoD.

- 4
- 5 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
6 information that is responsive to this request other than the six documents
7 discussed above.
 - 8 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
9 related to this interrogatory.
- 10

11

12 **INTERROGATORY NO. 22:**

13 Please IDENTIFY each and every statute, regulation, directive, policy, or instruction
14 governing YOUR conduct and execution of the TEST PROGRAMS, including, without
15 limitation, each statute, regulation, directive, or instruction CONCERNING the provision of
16 information to TEST SUBJECTS CONCERNING any risks associated with their participation in
17 the TEST PROGRAMS, the procurement or evaluation of the informed consent of any PERSON
18 participating in the TEST PROGRAMS, and the provision of medical care and evaluations for
19 any PERSON participating in the TEST PROGRAMS.

20

21 **OBJECTION**

22 Defendants object to this Interrogatory for the reasons described in General Objections 3–
23 4, 7, and 10. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the
24 claims remaining in this action, protected from disclosure by one or more privileges or
25 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

26

27 **RESPONSE**

28

1 Subject to these objections and Defendants' General Objections above, Defendants
2 respond as follows:

- 3 • DoD: DoD has provided this information in response to Plaintiffs' Request for
4 Production ## 2 and 30.
- 5 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
6 information that is responsive to this request.
- 7 • DOJ: Pursuant to General Objection 10, DOJ did not search for information
8 related to this interrogatory as it pertains to "TEST PROGRAMS." Based on the
9 searches conducted to date, as outlined in General Objection 4, DOJ has identified
10 no information that is responsive to this request as it pertains to "TEST
11 SUBJECTS."
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15 **INTERROGATORY NO. 23:**

16 Please IDENTIFY any medical follow up that YOU have conducted CONCERNING any
17 TEST SUBJECT for any reason, including without limitation, to ensure that any long-range
18 problems are detected and treated.
19

20 **OBJECTION**

21 Defendants object to this Interrogatory for the reasons described in General Objections 3–
22 5, 7, and 10. Defendants further object to Plaintiffs' request as overly broad, irrelevant to the
23 claims remaining in this action, and not reasonably calculated to lead to the discovery of
24 admissible evidence.
25

26 **RESPONSE**

27 Subject to these objections and Defendants' General Objections above, Defendants
28 respond as follows:

- 1 • DoD: Pursuant to the objections stated above and Defendants' General
2 Objections, DoD has no further information beyond the studies disclosed below:
3
 - 4 ○ J.A. Klapper, M.D., et al., Long Term Followup of Medical Volunteers,
5 Edgewood Arsenal Technical Report (1972).
 - 6 ○ Charles S. White, III M.D., et al., Repeated Immunization: Possible
7 Adverse Effects, Annals of Internal Medicine 1974 Volume 81, pg 594.
 - 8 ○ Phillip R. Pittman, Long-Term Health Effects of Repeated Exposure to
9 Multiple Vaccines, Vaccine 23 (2004) 525–536.
 - 10 ○ Phillip R. Pittman, et al., An Assessment of Health Status among Medical
11 Research Volunteers Who Served in the Project Whitecoat Program at Fort
12 Detrick, Maryland, MILITARY MEDICINE. 170. 3:183, 2005.
 - 13 ○ U.S. Army Medical Department, LSD Follow-Up Study Report, October,
14 1980.
 - 15 ○ National Research Council, "Possible Long-Term Health Effects of Short-
16 Term Exposure to Chemical Agents," Washington DC, 1985.
 - 17 ○ Institute of Medicine, "Long-Term health Effects of Exposure to Sarin and
18 Other Anticholinesterase Chemical Warfare Agents," Mil. Med. March,
19 2003.
 - 20
 - 21
- 22 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find
23 information that is responsive to this request.
- 24 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information
25 related to this interrogatory.
26
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28 **INTERROGATORY NO. 24:**

1 Please IDENTIFY and describe all efforts being undertaken by YOU to notify TEST
2 SUBJECTS about information CONCERNING their participation in the TEST PROGRAMS or
3 to warn TEST SUBJECTS about any information concerning their participation in the TEST
4 PROGRAMS that may affect the well-being of the TEST SUBJECTS, including YOUR efforts
5 completed to date and the anticipated date of completion of any such effort to notify or warn
6 TEST SUBJECTS.
7

8 OBJECTION

9 Defendants object to this Interrogatory for the reasons described in General Objections 3–
10 5 and 7–9. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the
11 claims remaining in this action, and not reasonably calculated to lead to the discovery of
12 admissible evidence.
13

14 RESPONSE

15 Subject to these objections and Defendants’ General Objections above, Defendants
16 respond as follows:

- 17
- 18 • DoD: DoD conducted a follow-up study on forty test volunteers and published a
19 report in 1972. DoD conducted interviews with and laboratory tests on all forty
20 subjects. Additionally, DoD conducted a follow-up study on the effects of LSD on
21 test volunteers and published a report in 1980. DoD received responses from 320
22 test volunteers: 100 provided answers to written questionnaires and 220 reported
23 to military medical facilities for testing. Additionally, DoD has collected
24 information from archived records and compiled a list of names of service
25 members who were exposed, along with dates, locations, and the substances to
26 which they were exposed, where available. DoD has provided that information to
27
28

1 the VA. DoD anticipates that its contract to identify test participants will conclude
2 in September 2011.

- 3
- 4 • CIA: CIA efforts to locate human subjects of Project OFTEN determined that the
5 CIA's funding of the program ceased before it progressed to human subject
6 testing. CIA also provided documents in its initial disclosures that may be
7 responsive. Pursuant to General Objection 8-9, no further information may be
8 provided.
 - 9 • DOJ: Based on the searches conducted to date, as outlined in General Objection 4,
10 DOJ has identified no information that is responsive to this request.
- 11

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13 **INTERROGATORY NO. 25:**

14 Please IDENTIFY all DOCUMENTS and COMMUNICATIONS CONCERNING the
15 legal memorandum attached as Exhibit A to the First Amended Complaint, or any other
16 DOCUMENT or COMMUNICATION concerning YOUR duty to notify and warn any PERSON
17 who participated in the TEST PROGRAMS.

18

19 **OBJECTION**

20 Defendants object to this Interrogatory for the reasons described in General Objections 2-
21 4, 6, 8-9. Defendants further object to Plaintiffs' request as overly broad, irrelevant to the claims
22 remaining in this action, protected from disclosure by one or more privileges or immunities, and
23 not reasonably calculated to lead to the discovery of admissible evidence.

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25 **RESPONSE**

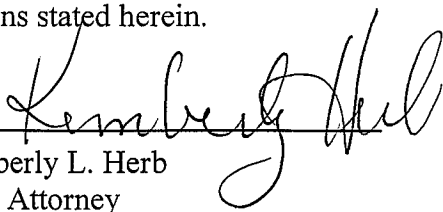
26 Subject to these objections and Defendants' General Objections above, Defendants
27 respond as follows:

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- DoD: DoD conducted a search, as outlined in General Objection 4, and did not find information that is responsive to this request.
- CIA provided documents in its initial disclosures that may be responsive. Pursuant to General Objection 8–9, no further information may be provided.
- DOJ: DOJ has identified to date six documents related to Exhibit A of the First Amended Complaint. Pursuant to General Objection 6, no further information may be provided at this time beyond the details below:
 - Memorandum, August 10, 1977, John M. Harmon, for the Attorney General, concerning MKULTRA.
 - Letter, September 9, 1977, John M. Harmon, to Benjamin R. Civiletti, concerning MKULTRA.
 - Letter, December 20, 1977, John N. Gavin, to John M. Harmon, concerning MKULTRA.
 - Letter, January 5, 1978, John M. Harmon, to Benjamin R. Civiletti, concerning MKULTRA.
 - Letter, January 24, 1979, Larry A. Hammond, for the Attorney General, concerning MKULTRA.
 - Letter, January 25, 1979, Griffin B. Bell, to Stansfield Turner, concerning MKULTRA.

To the best of my knowledge, I assert the objections stated herein.



Kimberly L. Herb
Trial Attorney
Department of Justice

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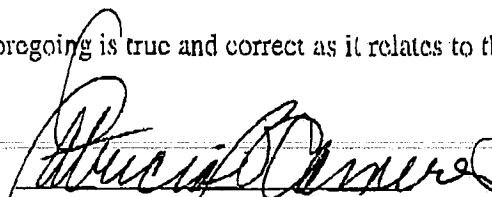
I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Justice, Executive Secretariat.



Dana E. Paige
Departmental Executive Secretariat
Department of Justice

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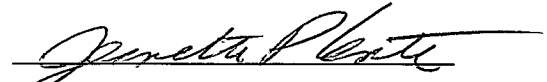
I declare under penalty of perjury that the foregoing is true and correct as it relates to the Central Intelligence Agency.



Patricia B. Camerese
Central Intelligence Agency

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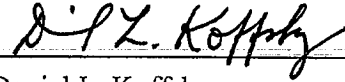
I declare under penalty of perjury that the foregoing is true and correct as it relates to the offices of the Attorney General, Deputy Attorney General, and Associate Attorney General.



Jeanette Plante
Office of Records Management Policy
Department of Justice

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I declare under penalty of perjury that the foregoing is true and correct as it relates to the Office of Legal Counsel, Department of Justice.



Daniel L. Koffsky
Office of Legal Counsel
Department of Justice


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For Interrogatories 16, 17, 21, and 24, I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Defense and U.S. Army.



Michael E. Kilpatrick, MD, FACP
Department of Defense

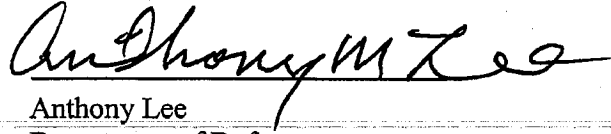
1 For Interrogatories 7, 8, 13, 14, 15, 19, 20, 22, 23, and 25, I declare under penalty of perjury that
2 the foregoing is true and correct as it relates to the Department of Defense and U.S. Army.

3 

4 Arthur O. Anderson, MD
5 Department of Defense

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1 For Interrogatories 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, and 18, I declare under penalty of perjury that the
2 foregoing is true and correct as it relates to the Department of Defense and U.S. Army.

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4 Anthony Lee
5 Department of Defense

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