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

18 VIETNAM VETERANS OF AMERICA, *et al.*,  
 19 Plaintiffs,  
 20 v.  
 21 CENTRAL INTELLIGENCE AGENCY, *et al.*,  
 22 Defendants.  
 23  
 24

Case No. CV 09-0037-CW

**DEFENDANTS' ANSWER TO  
FOURTH AMENDED COMPLAINT**

1 Defendants in this action, by and through undersigned counsel, hereby answer the  
2 numbered paragraphs of Plaintiffs' Third Amended Complaint ("Complaint") as follows:<sup>1</sup>

3 1. Paragraph 1 of the Complaint contains Plaintiffs characterization of the nature of  
4 this action, argument, and conclusions of law, to which no response is required; to the extent a  
5 response is deemed required, Defendants deny the allegations contained in the paragraph.

6 2. First sentence: Defendant Department of Defense ("DOD") admits. Second  
7 sentence: this sentence contains Plaintiffs' characterization of DOD's research of chemical and  
8 biological weapons, argument, and conclusions of law regarding the extent of such programs, to  
9 which no response is required; to the extent a response is deemed required, Defendants deny the  
10 allegations contained in this sentence except to admit that DOD and the Central Intelligence  
11 Agency ("CIA") studied chemical and biological weapons. Third sentence: this sentence  
12 contains Plaintiffs' characterization of the CIA's work with the Federal Bureau of Narcotics  
13 ("FBN"), to which no response is required; to the extent a response is deemed required,  
14 Defendants deny the allegations contained in this sentence except to admit that the CIA had a  
15 relationship with the FBN for a drug research program that involved human subjects. Fourth  
16 sentence: this sentence contains Plaintiffs' characterization of the research of chemical and  
17 biological weapons, argument, and legal conclusions regarding the extent of such programs, to  
18 which no response is required; to the extent a response is deemed required, Defendants deny the  
19 allegations contained in this sentence except to admit that DOD's experimentation program  
20 involving human subjects was centered at Edgewood Arsenal and Fort Detrick. Fifth sentence:  
21 this sentence contains a conclusion of law, to which no response is required; to the extent a  
22 response is deemed required, Defendants deny the allegations contained in this sentence. Sixth  
23 sentence: Defendants deny. Seventh and ninth sentences: these sentences contain Plaintiffs'  
24 characterization of DOD's research programs and argument, to which no response is required; to  
25 the extent a response is deemed required, Defendants deny the allegations. Eighth sentence: this  
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27 <sup>1</sup> Plaintiffs' headings and prefatory quote are argument and do not constitute allegations  
28 requiring an answer.

1 sentence constitutes argument, to which no response is required; to the extent a response is  
2 deemed required, Defendants deny these allegations..

3           3.       First sentence, including subparts a–q: this sentence contains Plaintiffs’  
4 characterization of government research of chemical and biological weapons, to which no  
5 response is required; to the extent that a response is deemed required, Defendants are without  
6 knowledge or information sufficient to admit or deny the allegations contained in this paragraph  
7 except to admit that DOD’s research program had many purposes. Defendants aver that the  
8 purpose of the program at Fort Detrick from 1943–73 was twofold: develop defensive mechanism  
9 against biological attack and develop weapons with which the United States could respond “in  
10 kind” if attacked by an enemy that used biological weapons. Defendants further aver that the  
11 purpose of the studies at Edgewood Arsenal was to ensure that the U.S. military could adequately  
12 protect its service members from possible wartime exposures to chemical warfare agents. The  
13 Central Intelligence Agency (“CIA”) avers that it researched behavior modification. Second  
14 sentence: The last sentence of paragraph 3 contains Plaintiffs’ characterization of DOD’s  
15 research programs, to which no response is required; to the extent a response is deemed required,  
16 Defendants deny the allegations.

17           4.       Paragraph 4 constitutes Plaintiffs’ characterization of the cited 1976 Army IG  
18 Report and the 1975 Memorandum from Army Office of the Adjutant General. Defendants  
19 respectfully refer the Court to that report and memorandum, which speak for themselves, and  
20 deny Paragraph 4 to the extent that the allegations are inconsistent with those documents.

21           5.       First sentence: Defendants deny the allegations in this sentence except to admit  
22 that DOD used approximately 7,800 armed services personnel in the experimentation program at  
23 Edgewood Arsenal, most of whom were from the Army, although DOD also used troops from the  
24 Air Force and Marines. Second sentence: Defendants admit that DoD administered 250 to 400  
25 chemical and biological agents during the course of its research at Edgewood Arsenal involving  
26 human subjects. Defendants deny that certain service members were not informed about the true  
27 identity of the substances that they were tested with at the time of the test program, and further  
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1 deny these allegations to the extent that DOD has disclosed to certain test participants the identity  
2 of the substances, as well as the doses, that they were tested with since the conclusion of the test  
3 programs. Defendants otherwise are without knowledge or information sufficient to admit or  
4 deny the remaining allegations in this sentence. Third sentence: Defendants are without  
5 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
6 Fourth sentence, including the bulleted list: Defendants are without knowledge or information  
7 sufficient to admit or deny the allegations contained in this sentence except that DOD admits that,  
8 of those agents listed in this sentence, its records reflect that DOD used the following agents at  
9 Edgewood Arsenal: mylaxen, VX, GB, GA, GD, G agents, atropine, scopolamine, BZ (3-  
10 quinuclidinyl benzilate), CAR 302,688, EA 3580, 2-PAM (pralidoxime), toxogonin (obidoxim)  
11 irritant, CA (Bromobenzylcyanide), CS (ortho-chlorobenzalmalononitrile), CN  
12 (chloroacetophenone), EA 1778, mustard gas, mustard agents, Lewisite, CX (phosgene oxime),  
13 LSD, DMHP, EA 1476, EA 2233, valium, thorazine, secobarbital, P2S, and TMB-4.

14 6. Defendants deny the allegations except to admit that DOD videotaped many  
15 experiments involving human subjects at Edgewood.

16 7. First sentence: Defendants deny the allegations except to admit that DOD  
17 administered varying doses of substances through multiple pathways, including through  
18 intravenous, inhalation, oral, and percutaneous. Second sentence: this sentence contains  
19 argument, to which no response is required; to the extent a response is deemed required,  
20 Defendants deny the allegations in this sentence and aver that DOD used placebos in some studies  
21 as part of the scientific method to provide a control group.

22 8. Defendants are without knowledge or information sufficient to admit or deny the  
23 allegations contained in paragraph 8.

24 9. Paragraph 9 constitutes Plaintiffs' characterization of the 1976 Army IG Report.  
25 Defendants respectfully refer the Court to that report, which speaks for itself, and deny Paragraph  
26 9 to the extent that the allegations are inconsistent with that report.  
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1           10.     First sentence: this sentence contains Plaintiffs' characterization of government  
2 research of chemical and biological weapons, to which no response is required; to the extent a  
3 response is deemed required, Defendants lack knowledge or information sufficient to admit or  
4 deny the allegations contained in this sentence except to aver that CIA obtained materials from  
5 commercial drug manufacturers. Second sentence: Defendants are without knowledge or  
6 information sufficient to admit or deny the allegations contained in this sentence except that DOD  
7 admits its research program at Edgewood used the substances listed in this sentence. Third  
8 sentence: Defendants are without knowledge or information sufficient to admit or deny the  
9 allegations contained in this sentence.

10           11.     First through third sentences: Defendants are without knowledge or information  
11 sufficient to admit or deny the allegations contained in the first, second, and third sentences of  
12 paragraph 11. Fourth sentence: Defendants deny. Fifth sentence: this sentence contains  
13 Plaintiffs' characterization of this case and DOD's research of chemical and biological weapons,  
14 to which no response is required; to the extent a response is deemed required, Defendants deny  
15 the allegations contained in this sentence except to admit that DOD's research program had  
16 defensive and offensive purposes.

17           12.     Paragraph 12 contains Plaintiffs' characterization of this case, argument, and  
18 conclusions of law, to which no response is required; to the extent a response is deemed required,  
19 Defendants deny this paragraph.

20           13.     First sentence: this sentence contains Plaintiffs' characterization of this case and  
21 argument, to which no response is required; to the extent a response is deemed required,  
22 Defendants are without knowledge or information sufficient to admit or deny the allegations  
23 contained in the first sentence of paragraph 13. Second sentence: Defendants admit that  
24 Congress convened hearings in 1975 and 1977 that, among other things, concerned activities at  
25 Edgewood Arsenal; Defendants are without knowledge or information sufficient to admit or deny  
26 the remaining allegations in this sentence. Third through fifth sentences: these sentences  
27 constitutes Plaintiffs' characterizations of Admiral Turner's testimony. Defendants respectfully  
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1 refer the Court to that testimony, which speaks for itself, and deny the fourth and fifth sentences  
2 to the extent they are inconsistent with that testimony. Sixth sentence: Defendants deny the  
3 allegations contained in this sentence. Seventh sentence: this sentence contains Plaintiffs'  
4 characterization of Defendants' efforts to locate participants, to which no response is required; to  
5 the extent a response is deemed required, Defendants deny the allegations.

6 14. First and second sentences: these sentences constitute Plaintiffs' characterization  
7 of the cited DOJ letter and memorandum. Defendants respectfully refer the Court to that letter  
8 and memorandum, which speak for themselves, and deny the first and second sentences to the  
9 extent they are inconsistent with those documents. Third sentence: this sentence contains  
10 Plaintiffs' characterization of the cited memorandum. Defendants respectfully refer the Court to  
11 that document, which speaks for itself, and deny the third sentence to the extent it is inconsistent  
12 with that memorandum. Fourth sentence: Defendants admit.

13 15. First through third sentences: these sentences contain Plaintiffs' characterization  
14 of this case and argument, to which no response is required; to the extent a response is deemed  
15 required, Defendants deny the allegations. Fourth a sentence: this sentence contains Plaintiffs'  
16 characterization of a July 6, 2004 letter. Defendants respectfully refer the Court to that document,  
17 which speaks for itself, and deny the fourth sentence to the extent it is inconsistent with that letter.  
18 Fifth sentence: Defendants aver that the CIA received magnetic computer tapes from Edgewood  
19 Arsenal in the early 1970s and that these tapes may contain information about human testing,  
20 though the CIA has been unable to read the tapes to confirm their contents; Defendants are  
21 without knowledge or information sufficient to admit or deny the remaining allegations contained  
22 in this sentence. Sixth sentence: Defendants aver that DoD has largely completed its work in  
23 compiling a registry of participants. The remainder of the sentence constitutes argument, to  
24 which no response is required; to the extent a response is deemed required, Defendants deny the  
25 allegations. Seventh sentence: this sentence constitutes Plaintiffs' characterization of the cited  
26 website. Defendants respectfully refer the Court to that website, which speaks for itself, and deny  
27 the seventh sentence to the extent it is inconsistent with the website.  
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1           16. Paragraph 16 contains Plaintiffs' characterization of this case and argument, to  
2 which no response is required; to the extent a response is deemed required, Defendants deny the  
3 allegations.

4           17. First and second sentences: these sentences constitute Plaintiffs' characterization  
5 of Army regulations. Defendants respectfully refer the Court to those regulations, which speak  
6 for themselves, and deny the first and second sentences to the extent they are inconsistent with the  
7 regulations. Third sentence: this sentence contains Plaintiffs' characterization of this case,  
8 argument, and legal conclusions, to which no response is required; to the extent a response is  
9 deemed required, Defendants deny the allegations.

10           18. First sentence: Defendants are without knowledge or information sufficient to  
11 admit or deny the allegations contained in this sentence. Second sentence: Defendants admit that,  
12 on April 28, 2005, Congressmen Lane Evans and Ted Strickland provided VA with a list of  
13 participants in chemical and biological testing and requested that VA provide written notice to the  
14 living veterans on the lists; Defendants deny the remaining allegations in this sentence. Third  
15 sentence: Defendants admit that VA's notice letter offered a clinical examination to participants  
16 in the chemical and biological tests and that ongoing medical care was provided to veterans who  
17 qualified for such care under VA statutes and regulations; Defendants deny the remaining  
18 allegations in this sentence. Fourth sentence: this sentence contains Plaintiffs' characterization  
19 of this case and argument, to which no response is required; to the extent a response is deemed  
20 required, Defendants deny the allegations.

21           19. Defendants are without knowledge or information sufficient to admit or deny the  
22 allegations contained in this paragraph except that DOD admits that it has given many volunteers  
23 access to their available Edgewood files.

24           20. Paragraph 20 contains Plaintiffs' characterization of this case, argument, and legal  
25 conclusions and prayer for relief, to which no response is required; to the extent a response is  
26 deemed required, Defendants deny the allegations and that Plaintiffs are entitled to the relief  
27 requested, or to any relief whatsoever.  
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1           21. Paragraph 21 contains Plaintiffs' characterization of the nature of this action and  
2 its claims to relief, to which no response is required; to the extent a response is deemed required,  
3 Defendants deny that Plaintiffs are entitled to the relief requested, or to any relief whatsoever.

4           22. Paragraph 22 contains Plaintiffs' allegations concerning jurisdiction, to which no  
5 response is required; to the extent a response is deemed required, Defendants deny the allegations  
6 in paragraph 22.

7           23. Paragraph 23 contains Plaintiffs' allegations and conclusions of law concerning  
8 venue and Plaintiffs' beliefs concerning discovery, to which no response is required; to the extent  
9 a response is deemed required, Defendants admit that plaintiffs Swords to Plowshares has a  
10 presence in the District, but deny the remainder of paragraph 23.

11           24. Defendants are without knowledge or information sufficient to admit or deny the  
12 allegations contained in paragraph 24.

13           25. Defendants are without knowledge or information sufficient to admit or deny the  
14 allegations contained in paragraph 25.

15           26. Defendants are without knowledge or information sufficient to admit or deny the  
16 allegations contained in paragraph 26.

17           27. Defendants are without knowledge or information sufficient to admit or deny the  
18 allegations contained in paragraph 27.

19           28. Defendants are without knowledge or information sufficient to admit or deny the  
20 allegations contained in paragraph 28.

21           29. Defendants admit paragraph 29.

22           30. Defendants are without knowledge or information sufficient to admit or deny the  
23 allegations contained in paragraph 30.

24           31. First sentence: Defendants admit that Bruce Price signed a consent form that did  
25 not provide information about the drugs to be given. The remainder of the sentence constitutes  
26 Plaintiffs' characterization of the consent form, to which no response is required. To the extent  
27 that a response is deemed required, Defendants respectfully refer the Court to that form, which  
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1 speaks for itself, and deny the first sentence to the extent it is inconsistent with the form. Second  
2 and third sentences: Defendants are without knowledge or information sufficient to admit or  
3 deny the allegations contained in these sentences.

4 32. First sentence: Defendants are without knowledge or information sufficient to  
5 admit or deny the allegations contained in this sentence except to admit that Bruce Price  
6 participated in approximately four experiments. Second, fourth, and fifth sentences: Defendants  
7 are without knowledge or information sufficient to admit or deny the allegations contained in  
8 these sentences. Third sentence: Defendants are without knowledge or information concerning  
9 what Mr. Price believes, but Defendants aver that Bruce Price has been provided with his  
10 Edgewood Arsenal medical file, which he, in turn, has shared with other governmental bodies.  
11 That medical file contains information concerning some of the substances on which he was tested  
12 and the doses used, and Defendants deny the allegations in this sentence to the extent they are  
13 inconsistent with that medical file.

14 33. Defendants are without knowledge or information sufficient to admit or deny the  
15 allegations contained in paragraph 33.

16 34. First sentence: Defendants deny. Second sentence: Defendants are without  
17 knowledge or information sufficient to admit or deny the allegations contained in this sentence.

18 35. Defendants are without knowledge or information sufficient to admit or deny the  
19 allegations contained in paragraph 35.

20 36. Defendants are without knowledge or information sufficient to admit or deny the  
21 allegations contained in paragraph 36.

22 37. First sentence, first clause: Defendants admit that Bruce Price received an  
23 honorable discharge. First sentence, second clause through third sentences: Defendants are  
24 without knowledge or information sufficient to admit or deny the allegations contained in this  
25 clause and these sentences.

26 38. Defendants are without knowledge or information sufficient to admit or deny the  
27 allegations contained in paragraph 38.

1           39. Defendants are without knowledge or information sufficient to admit or deny the  
2 allegations contained in paragraph 39.

3           40. First and third sentences: Defendants are without knowledge or information  
4 sufficient to admit or deny the allegations contained in these sentences. Second sentence:  
5 Defendants admit that Bruce Price is rated 100% for post-traumatic stress disorder (“PTSD”) by  
6 the Veterans Administration (“VA”), but Defendants are without knowledge or information  
7 sufficient to admit or deny the remainder of the allegations in this sentence.

8           41. Defendants are without knowledge or information sufficient to admit or deny the  
9 allegations contained in these sentences.

10           42. First through third sentences: Defendants admit. Fourth sentence: Defendants are  
11 without knowledge or information sufficient to admit or deny the allegations contained in this  
12 sentence except to admit that Eric Muth served in the National Guard from 1960 to 1969.

13           43. Defendants are without knowledge or information sufficient to admit or deny the  
14 allegations contained in paragraph 43.

15           44. First, third, fifth, and sixth sentences: Defendants are without knowledge or  
16 information sufficient to admit or deny the allegations contained in these sentences. Second  
17 sentence: Defendants deny that Mr. Muth was given a security non-disclosure form as a  
18 participant in the test programs, but admit that he signed a Volunteer Participation Agreement.  
19 Fourth sentence: this sentence contains Plaintiffs’ characterization of the role of service  
20 members, to which no response is required; to the extent a response is deemed required,  
21 Defendants deny the allegations except to admit that service members are expected to follow  
22 lawful orders.

23           45. First, second, and fourth sentences: Defendants are without knowledge or  
24 information sufficient to admit or deny the allegations contained in these sentences. Third  
25 sentence: Defendants admit Eric Muth was enrolled as a medical volunteer at Edgewood. The  
26 remaining allegations contained in the third sentence are Plaintiffs’ characterization of the case, to  
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1 which no answer is required; to the extent a response is deemed required, Defendants deny the  
2 allegations.

3 46. First sentence: Defendants admit. Second sentence: Defendants admit Eric Muth  
4 was involved in at least five tests during his tours at Edgewood. Defendants are without  
5 knowledge or information sufficient to admit or deny the remaining allegations contained in this  
6 sentence. Third through sixth sentences: Defendants are without knowledge or information  
7 sufficient to admit or deny the allegations contained in these sentences.

8 47. First sentence, first and second clauses: Defendants admit Eric Muth volunteered  
9 for a second tour at Edgewood from November to December 1958. The remainder of the first and  
10 second clauses constitutes Plaintiffs' characterization of this case and argument, to which no  
11 response is required; to the extent a response is deemed required, Defendants deny the  
12 allegations. First sentence, third clause through fourth sentences: Defendants are without  
13 knowledge or information sufficient to admit or deny the allegations contained in this clause and  
14 these sentences.

15 48. Defendants are without knowledge or information sufficient to admit or deny the  
16 allegations contained in paragraph 48 except to admit that Eric Muth was exposed to EA 1476.

17 49. Defendants are without knowledge or information sufficient to admit or deny the  
18 allegations contained in paragraph 49.

19 50. Defendants are without knowledge or information sufficient to admit or deny the  
20 allegations contained in paragraph 50 except to admit that Eric Muth has been assigned a 100%  
21 disability rating by the VA for PTSD.

22 51. First, second, and fifth sentences: Defendants are without knowledge or  
23 information sufficient to admit or deny the allegations contained in these sentences. Third and  
24 fourth sentences: Defendants admit.

25 52. First sentence: Defendants are without knowledge or information sufficient to  
26 admit or deny the allegations contained in this sentence: Second and third sentences: Defendants  
27 admit.  
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1           53.     First and second sentences: Defendants are without knowledge or information  
2 sufficient to admit or deny the allegations contained in these sentences. Third sentence:  
3 Defendants admit.

4           54.     First through fourth and seventh through tenth sentences: Defendants are without  
5 knowledge or information sufficient to admit or deny the allegations contained in these sentences.  
6 Fifth and sixth sentences: Defendants admit.

7           55.     First sentence: Defendants admit. Second and third sentences: Defendants are  
8 without knowledge or information sufficient to admit or deny the allegations contained in these  
9 sentences.

10          56.     Defendants are without knowledge or information sufficient to admit or deny the  
11 allegations contained in paragraph 56 except that DOD admits that Frank Rochelle was exposed  
12 to Compound 302,668.

13          57.     Defendants are without knowledge or information sufficient to admit or deny the  
14 allegations contained in paragraph 57 except that DOD admits that Frank Rochelle was exposed  
15 to EA 2233-1 and EA 2233-2.

16          58.     First and second sentences: Defendants are without knowledge or information  
17 sufficient to admit or deny the allegations contained in these sentences. Third sentence:  
18 Defendants admit that Frank Rochelle served in Vietnam. The remainder of the sentence  
19 constitutes argument, to which no response is required; to the extent a response is deemed  
20 required, Defendants deny the allegations.

21          59.     First through third sentences: Defendants are without knowledge or information  
22 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:  
23 Defendants deny that Frank Rochelle currently receives 80% VA disability compensation, and  
24 Defendants aver that VA records show that Mr. Rochelle currently receives 100% VA disability  
25 compensation

26          60.     First sentence: Defendants are without knowledge or information sufficient to  
27 admit or deny the allegations contained in this sentence except to the extent that Defendants admit  
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1 that Frank Rochelle received a certificate and a letter of commendation on June 2, 1958. Second  
2 sentence: Defendants admit. Third sentence: Defendants are without knowledge or information  
3 sufficient to admit or deny the allegations contained in this sentence.

4 61. Defendants are without knowledge or information sufficient to admit or deny the  
5 allegations contained in paragraph 61.

6 62. Defendants admit.

7 63. First sentence: Defendants admit. Second through fifth sentences: Defendants are  
8 without knowledge or information sufficient to admit or deny the allegations contained in these  
9 sentences.

10 64. Defendants are without knowledge or information sufficient to admit or deny the  
11 allegations contained in paragraph 64 except that DOD admits that Larry Meirow reported to  
12 Edgewood on November 3, 1972.

13 65. First through third sentences: Defendants are without knowledge or information  
14 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:  
15 Defendants are without knowledge or information sufficient to admit or deny the allegations  
16 contained in this sentence except that DOD admits that Larry Meirow was given a medical exam.

17 66. Defendants are without knowledge or information sufficient to admit or deny the  
18 allegations contained in paragraph 66.

19 67. Defendants are without knowledge or information sufficient to admit or deny the  
20 allegations contained in paragraph 67.

21 68. Defendants are without knowledge or information sufficient to admit or deny the  
22 allegations contained in paragraph 68.

23 69. Defendants are without knowledge or information sufficient to admit or deny the  
24 allegations contained in paragraph 69.

25 70. First and fourth sentences: Defendants are without knowledge or information  
26 sufficient to admit or deny the allegations contained in these sentences. Second and third  
27 sentence: Defendants admit.

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71. Defendants admit.

72. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 72.

73. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 73 except admit that David Dufrane was given physical and written tests at Edgewood.

74. First and third sentences: Defendants are without knowledge or information sufficient to admit or deny the allegations contained in these sentences. Second sentence: Defendants admit.

75. First sentence: Defendants admit. Second through seventh sentences: Defendants are without knowledge or information sufficient to admit or deny the allegations contained in these sentences.

76. First sentence: Defendants deny the allegations contained in this sentence except to admit that David Dufrane served at Edgewood in April and May 1965. Second sentence: Defendants deny. Third and fourth sentences: Defendants are without knowledge or information sufficient to admit or deny the allegations contained in these sentences.

77. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 77. To the extent that sentences three through six refer to the discussed releases, Defendants respectfully refer the Court to those documents, which speak for themselves, and deny the allegations in these sentences to the extent they are inconsistent with the documents to which they refer.

78. First sentence: Defendants are without knowledge or information sufficient to admit or deny the allegations contained in this sentence. Second and third sentences: Defendants deny the allegations contained in these sentences.

79. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 79.

1           80.     First through sixth sentences: Defendants are without knowledge or information  
2 sufficient to admit or deny the allegations contained in these sentences. Seventh sentence:  
3 Defendants admit. Eighth sentence: Defendants deny the allegation in this sentence except to  
4 admit that the VA granted David Dufrane a 30% rating for PTSD and a 40% rating for chronic  
5 pain, headaches, dyesthesia in the arms and legs, and arthralgia in all joints, for an overall rating of  
6 60%.

7           81.     Defendants admit paragraph 81.

8           82.     Defendants are without knowledge or information sufficient to admit or deny the  
9 allegations contained in paragraph 82.

10          83.     Defendants are without knowledge or information sufficient to admit or deny the  
11 allegations contained in paragraph 83.

12          84.     First through sixth sentences: Defendants are without knowledge or information  
13 sufficient to admit or deny the allegations contained in these sentences. Seventh sentence:  
14 Defendants admit.

15          85.     First sentence: Defendants admit. Second and third sentences: Defendants are  
16 without knowledge or information sufficient to admit or deny the allegations contained in these  
17 sentences.

18          86.     First sentence: Defendants are without knowledge or information sufficient to  
19 admit or deny the allegations contained in this sentence. Second sentence: Defendants are  
20 without knowledge or information sufficient to admit or deny the allegations in this sentence  
21 except to admit that Wray Forrest did not receive a medal for his service at Edgewood and to  
22 deny that he did not receive any other recognition. Defendants aver Wray Forrest received a  
23 letter of commendation on August 31, 1973. Third sentence: Defendants are without knowledge  
24 or information sufficient to admit or deny the allegations contained in this sentence. Fourth  
25 sentence: Defendants are without knowledge or information sufficient to admit or deny the  
26 allegations contained in this sentence except to admit that a VA outreach letter was sent to Wray  
27 Forrest on May 17, 2007.  
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1           87.     First sentence: Defendants admit that Mr, Forrest is deceased, but lack  
2 information sufficient to admit or deny the remainder of the allegations in that sentence. Second  
3 sentence: Defendants admit that Kathryn McMillan-Forrest has filed a claim with the VA for  
4 accrued disability benefits and dependency and indemnity compensation, and that VA has granted  
5 her substitution for Wray Forrest as a surviving spouse of Wray Forrest The remainder of this  
6 sentence constitutes a characterization of an order of the Court, to which no response is required.

7           88.     First sentence: this sentence contains Plaintiffs' characterization of this case,  
8 argument, and conclusions of law, to which no response is required; to the extent a response is  
9 deemed required, Defendants deny the allegations. Second sentence: Defendants are without  
10 knowledge or information sufficient to admit or deny the allegations contained in this sentence  
11 except to admit that none of the named Plaintiffs are currently active duty service members.

12           89.     First sentence: Defendants admit that VA and DoD are aware of two private laws  
13 passed to compensate two participants for injuries suffered as a result of testing with lysergic acid  
14 diethylamide by the Department of the Army. Defendants are without knowledge or information  
15 sufficient to admit or deny the remaining allegations contained in this sentence. Second and third  
16 sentences: Defendants are without knowledge or information sufficient to admit or deny the  
17 allegations contained in these sentences. Fourth sentence: this sentence contains Plaintiffs'  
18 characterization of this case, to which no response is required; to the extent a response is deemed  
19 required, Defendants deny the allegations except to admit that the CIA has provided some  
20 compensation associated with participation in MKULTRA research and that the VA has provided  
21 some individuals health care related to their service at Edgewood Arsenal.

22           90.     First sentence: this sentence contains Plaintiffs' characterization of this case, to  
23 which no response is required; to the extent a response is deemed required, Defendants deny the  
24 allegations. Second and third sentences: Defendants are without knowledge or information  
25 sufficient to admit or deny the allegations contained in these sentences.

26           91.     Paragraph 91 contains Plaintiffs' characterization of this case and the relief they  
27 seek, to which no response is required; to the extent a response is deemed required, Defendants  
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1 deny the allegations and that Plaintiffs are entitled to the relief requested, or to any relief  
2 whatsoever.

3 92. First through fourth sentences: The first four sentences of this paragraph  
4 constitute Plaintiffs' characterization of the National Security Act. Defendants respectfully refer  
5 the Court to that Act, which speaks for itself, and deny the first four sentences of this paragraph to  
6 the extent they are inconsistent with that Act. Fifth sentence: Defendants deny. Sixth sentence:  
7 this sentence contains argument and legal conclusions, to which no response is required; to the  
8 extent a response is deemed required, Defendants deny the allegations.

9 93. First sentence: Defendants deny the allegations in the first sentence of paragraph  
10 93 and aver that Michael J. Morell is the current Acting Director of the CIA. Second sentence  
11 through the remainder of the paragraph: these sentences constitute Plaintiffs' characterization of  
12 the National Security Act and the Intelligence Reform and Terrorism Prevention Act. Defendants  
13 respectfully refer the Court to those Acts, which speak for themselves, and deny the remainder of  
14 paragraph 93 to the extent it is inconsistent with those Acts.

15 94. Defendants admit paragraph 94.

16 95. First through fourth sentences: Defendants deny the allegations in the first  
17 sentence of paragraph 95 and aver that Leon Panetta is the current Secretary of Defense. Fifth  
18 sentence: this sentence contains Plaintiffs' characterization of this case, argument, and legal  
19 conclusions, to which no response is required; to the extent a response is deemed required,  
20 Defendants deny the allegations except to admit that DOD Instruction 5030.29 in 1964 stated,  
21 "DOD assumes full responsibility for humans involved in research under its sponsorship, whether  
22 this involves investigational drugs or other hazards." Sixth sentence: this sentence contains  
23 Plaintiffs' characterization of this case, to which no response is required; to the extent a response  
24 is deemed required, Defendants deny the allegations except to admit that Defendants agreed to  
25 supply the VA with information to help service members with their claims to the VA. Seventh  
26 and eighth sentences: these sentences constitute Plaintiffs' characterizations of the Bob Stump  
27 National Defense Authorization Act for Fiscal Year 2003. Defendants respectfully refer the  
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1 Court to that Act, which speaks for itself, and deny the seventh and eighth sentences to the extent  
2 they are inconsistent with the Act. Ninth sentence: this sentence constitutes Plaintiffs'  
3 characterizations of the report of the Government Accountability Office ("GAO"). Defendants  
4 respectfully refer the Court to the GAO report, which speaks for itself, and deny the ninth  
5 sentence to the extent it is inconsistent with that report. Tenth sentence: this sentence contains  
6 Plaintiffs' characterization of this case, to which no response is required; to the extent a response  
7 is deemed required, Defendants deny the allegations.

8 96. Defendants admit paragraph 96.

9 97. Defendants deny the allegations in paragraph 97 and aver that John M. McHugh is  
10 the current U.S. Secretary of the Army. Replacing McHugh's name for Geren's throughout  
11 paragraph 97, Defendants aver to the remaining allegations in this paragraph.

12 98. First and second clauses: Defendants admit that Eric Holder, Jr. is the current U.S.  
13 Attorney General and was named in this suit in his official capacity. Third clause: the allegations  
14 concerning "the Attorney General's assumption of responsibility" are Plaintiffs' characterization  
15 of this case and call for legal conclusions, to which no response is required; to the extent a  
16 response is deemed required, Defendants deny the allegations. Defendants further deny that Eric  
17 Holder currently is a defendant in this case because he has been dismissed from this lawsuit.

18 99. Paragraph 99 contains Plaintiffs' characterization of this case, argument, and legal  
19 conclusions, to which no response is required; to the extent a response is deemed required,  
20 Defendants deny the allegations.

21 100. Defendants admit paragraph 100.

22 101. Defendants admit paragraph 101.

23 102. First sentence: Defendants are without knowledge or information sufficient to  
24 admit or deny the allegations contained in this sentence. Second sentence: Defendants admit.

25 103. Paragraph 103 constitutes Plaintiffs' characterizations of the 1976 Army IG  
26 Report. Defendants respectfully refer the Court to that report, which speaks for itself, and deny  
27 paragraph 103 to the extent that it is inconsistent with that report.  
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1           104. Defendants are without knowledge or information sufficient to admit or deny the  
2 allegations contained in paragraph 104.

3           105. First through fourth sentences: Defendants are without knowledge or information  
4 sufficient to admit or deny the allegations contained in these sentences except to admit the  
5 existence of the cited legal authority, which speaks for itself and to which the Court is  
6 respectfully referred for a full and accurate statement of its contents. Fifth and sixth sentences:  
7 these sentences constitute Plaintiffs' characterizations of the cited appendix to Congressional  
8 testimony. Defendants respectfully refer the Court to that appendix, which speaks for itself, and  
9 deny the fifth and sixth sentences to the extent they are inconsistent with that appendix.

10           106. First and second sentence: Defendants are without knowledge or information  
11 sufficient to admit or deny the allegations contained in these sentences. Third and fourth  
12 sentences: Defendants deny except to admit the allegations with respect to DOD. Fifth through  
13 seventh and eleventh sentences: Defendants are without knowledge or information sufficient to  
14 admit or deny the allegations contained in these sentences. Eighth through tenth sentences: these  
15 sentences contain Plaintiffs' characterization of this case and DOD's research programs, to which  
16 no response is required; to the extent a response is deemed required, Defendants deny the  
17 allegations except that Defendants admit that DOD's research programs shifted from offensive to  
18 defensive purposes.

19           107. First sentence: Defendants admit. Second through seventh sentences: Defendants  
20 are without knowledge or information sufficient to admit or deny the allegations contained in  
21 these sentences. Eighth sentence: Defendants deny the allegations except to admit that DOD's  
22 research programs involving human subjects included tests on possible vaccines for biological  
23 warfare agents.

24           108. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
25 which no response is required; to the extent a response is deemed required, Defendants deny the  
26 allegations except that Defendants are without knowledge or information sufficient to admit or  
27 deny the allegations concerning other government agencies. Second sentence: this sentence  
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1 contains Plaintiffs' characterization of this case and argument, to which no response is required;  
2 to the extent a response is deemed required, VA denies the allegations in this sentence except to  
3 admit that, in an August 14, 2006 Undersecretary for Health Information Letter, VA noted that  
4 "[t]he Edgewood-Aberdeen experiments involved at least 6,700 'soldier volunteers' exposed from  
5 about 1955 to 1975 to more than 250 different agents." Defendants aver that DOD has provided  
6 the VA with over 6,000 names of service members who participated in research programs at  
7 Edgewood Arsenal that involved over 254 substances. Third sentence: Defendants are without  
8 knowledge or information sufficient to admit or deny the allegations contained in this sentence.

9 109. Defendants deny the allegations in paragraph 109 except to admit that DOD tested  
10 newer chemical agents including LSD, PCP, and synthetic cannabis analogs. Defendants aver  
11 that DOD's objectives with regards to its activities at Edgewood and Fort Detrick included  
12 understanding both the offensive and defensive uses of LSD.

13 110. First sentence: Defendants deny except to admit that DOD's Edgewood research  
14 program involving human subjects included research on mustard agents. Second sentence:  
15 Defendants deny the allegations except to admit that DoD tested riot control agents at Edgewood  
16 and further admit that, as stated in Volume II of the National Research Council's report entitled  
17 "Possible Long-Term Health Effects of Short-Term Exposure to Chemical Agents," "[f]rom 1958  
18 to 1973, at least 1,366 human subjects underwent experimental exposures to CS at Edgewood.  
19 For 1,073 subjects, there was some type of aerosol exposure, 180 subjects had skin applications,  
20 82 subjects had both skin applications and aerosol exposures, and 31 underwent CS applications  
21 to their eyes." .

22 111. First sentence: Defendants are without knowledge or information sufficient to  
23 admit or deny the allegations contained in this sentence except to admit that DOD performed field  
24 tests as part of its research program. Second sentence: Defendants are without knowledge or  
25 information sufficient to admit or deny the allegations contained in this sentence.

26 112. First sentence: Defendants deny the allegations except to admit that DOD  
27 conducted field tests at Ford Ord using military personnel. Second through fourth sentences:  
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1 Defendants are without knowledge or information sufficient to admit or deny the allegations  
2 contained in these sentences; to the extent that Plaintiffs' allegations rest on the cited  
3 Congressional testimony, Defendants respectfully refer the Court to that testimony, which speaks  
4 for itself, and deny the second, third, and fourth sentences to the extent they are inconsistent with  
5 that testimony.

6 113. First sentence: this sentence contains Plaintiffs' characterization of this case and  
7 government research programs, to which no response is required; to the extent a response is  
8 deemed required, Defendants deny the allegations except that DOD and CIA admit involvement  
9 in research programs involving human subjects. Second sentence: this sentence constitutes  
10 argument and a legal conclusion, to which no response is required; to the extent a response is  
11 deemed required, Defendants deny the allegations except that, to the extent that Plaintiffs'  
12 allegations rest on 50 U.S.C. § 403-3(d)(1), Defendants respectfully refer the Court to that statute,  
13 which speaks for itself, and deny the sentence to the extent it is inconsistent with that statute.

14 114. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
15 which no response is required; to the extent a response is deemed required, Defendants deny the  
16 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the  
17 Memorandum from Richard Helms. Defendants respectfully refer the Court to that  
18 Memorandum, which speaks for itself, and deny this sentence to the extent it is inconsistent with  
19 that Memorandum. Third sentence: Defendants are without knowledge or information sufficient  
20 to admit or deny the allegations contained in this sentence except that CIA admits Richard Helms  
21 was convicted of a crime.

22 115. First sentence: this sentence constitutes Plaintiffs' characterization of the cited  
23 Memorandum from Allen Dulles, to which no response is required; to the extent a response is  
24 deemed required, Defendants respectfully refer the Court to the Memorandum, which speaks for  
25 itself, and deny the first sentence to the extent it is inconsistent with the Memorandum. Second  
26 sentence: this sentence constitutes Plaintiffs' characterizations of the cited Advisory Committee  
27 on Human Radiation Experiments ("ACHRE"), Interim Report. Defendants respectfully refer the  
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1 Court to the Interim Report, which contains the opinion of ACHRE and speaks for itself, and  
2 deny the second sentence to the extent it is inconsistent with the Interim Report. Third and fourth  
3 sentences: Defendants deny.

4 116. First sentence: Defendants deny. Second sentence: Defendants admit. Third and  
5 fourth sentences: these sentences constitute Plaintiffs' characterizations of Dr. Gottlieb's  
6 Congressional testimony. Defendants respectfully refer the Court to that testimony, which speaks  
7 for itself, and deny the third and fourth sentences to the extent they are inconsistent with that  
8 testimony.

9 117. First sentence: Defendants neither admit nor deny on the basis of privilege.  
10 Second sentence: this sentence constitutes Plaintiffs' characterizations of Exhibit B to the Second  
11 Amended Complaint. Defendants respectfully refer the Court to that document, which speaks for  
12 itself, and deny the second sentence to the extent it is inconsistent with the exhibit. Third  
13 sentence: Defendants deny the allegations in this sentence except to admit that MKULTRA is  
14 believed to have had 149 research subprojects. Fourth sentence: this sentence contains Plaintiffs'  
15 characterizations of this case, to which no response is require; to the extent a response is deemed  
16 required, Defendants deny the allegations except to admit that CIA had relationships with  
17 research organizations. These allegations are subject to privileges. Fifth sentence: this sentence  
18 contains Plaintiffs' characterization of this case, to which no response is required; to the extent a  
19 response is deemed required, Defendants deny the allegations.

20 118. Paragraph 118 constitutes Plaintiffs' characterizations of the cited Report on the  
21 Covert Activities of the Central Intelligence Agency. Defendants respectfully refer the Court to  
22 that report, which speaks for itself, and deny paragraph 118 to the extent it is inconsistent with  
23 that report.

24 119. First sentence: to the extent the sentence constitutes Plaintiffs' characterization of  
25 the cited Wilson memorandum, the sentence requires no response; to the extent a response is  
26 deemed required and as to the remainder of the sentence, Defendants deny the allegations in this  
27 sentence, and aver that on February 26, 1953, the Secretary of Defense issued a memorandum,  
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1 also known as the Wilson memorandum, to the service secretaries that incorporated the principles  
2 of the 1947 Nuremberg Code on medical research. Defendants respectfully refer the Court to the  
3 Wilson memorandum, which speaks for itself, and deny the first sentence to the extent it is  
4 inconsistent with the Wilson memorandum. Second sentence, including subparts a–g: this  
5 sentence and its subparts constitute Plaintiffs’ characterizations of Exhibit C to the Second  
6 Amended Complaint. Defendants respectfully refer the Court to the exhibit, which speaks for  
7 itself, and deny the second sentence and its subparts to the extent that they are inconsistent with  
8 the exhibit.

9           120. Defendants are without knowledge or information sufficient to admit or deny the  
10 allegations contained in this paragraph.

11           121. First sentence, first clause: Defendants are without knowledge or information  
12 sufficient to admit or deny the allegations contained in the first clause of this sentence concerning  
13 the reasons for the President’s issuance of Executive Order 11905. First sentence, second clause:  
14 this clause constitutes Plaintiffs’ characterizations of Executive Order 11905. Defendants  
15 respectfully refer the Court to Executive Order 11905, which speaks for itself, and deny the  
16 second clause to the extent it is inconsistent with Executive Order 11905.

17           122. Paragraph 122 constitutes Plaintiffs’ characterizations of the cited report from the  
18 National Commission for the Protection of Human Subjects of Biomedical Research. Defendants  
19 respectfully refer the Court to that report, which speaks for itself, and deny paragraph 122 to the  
20 extent it is inconsistent with that report.

21           123. Paragraph 123 constitutes Plaintiffs’ characterizations of Executive Order 12333.  
22 Defendants respectfully refer the Court to Executive Order 12333, which speaks for itself, and  
23 deny paragraph 123 to the extent it is inconsistent with Executive Order 12333.

24           124. Paragraph 124 constitutes Plaintiffs’ characterizations of Directive No. 3216.2.  
25 Defendants respectfully refer the Court to Directive No. 3216.2, which speaks for itself, and deny  
26 paragraph 124 to the extent it is inconsistent with Directive No. 3216.2.

1           125. Paragraph 125 constitutes Plaintiffs' characterizations of Confidential  
2 Memorandum 3247. Defendants respectfully refer the Court to Confidential Memorandum 3247,  
3 which speaks for itself, and deny paragraph 125 to the extent it is inconsistent with Confidential  
4 Memorandum 3247.

5           126. Paragraph 126 constitutes Plaintiffs' characterizations of Army Regulation 70-25.  
6 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and  
7 deny paragraph 126 to the extent it is inconsistent with that regulation.

8           127. Paragraph 127 constitutes Plaintiffs' characterizations of Army Regulation 70-25.  
9 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and  
10 deny paragraph 127 to the extent it is inconsistent with that regulation.

11           128. Paragraph 128 constitutes Plaintiffs' characterizations of Army Regulation 70-25.  
12 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and  
13 deny paragraph 128 to the extent it is inconsistent with that regulation.

14           129. First sentence: this sentence constitutes Plaintiffs' characterizations of 32 C.F.R.  
15 Part 219. Defendants respectfully refer the Court to 32 C.F.R. Part 219, which speaks for itself,  
16 and deny paragraph 129 to the extent it is inconsistent with 32 C.F.R. Part 219. Second sentence:  
17 Defendants admit.

18           130. First sentence: Defendants admit. Second sentence: Defendants are without  
19 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
20 Third and fourth sentences: these sentences contain Plaintiffs' characterization of this case and  
21 argument, to which no response is required; to the extent a response is deemed required,  
22 Defendants deny the allegations and aver the existence of standards governing the ethical use of  
23 human subjects as discussed above in paragraphs 119–129 of this Answer.

24           131. Paragraph 131 constitutes Plaintiffs' characterization of this case and argument, to  
25 which no response is required; to the extent a response is deemed required, Defendants deny the  
26 allegations except to admit the existence of the quoted memorandum, which speaks for itself and  
27 to which the Court is respectfully referred for a full and accurate statement of its contents;  
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1 Defendants deny the allegations to the extent that they are inconsistent with the quoted  
2 memorandum.

3 132. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
4 which no response is required; to the extent a response is deemed required, Defendants deny the  
5 allegations. Second sentence: this sentence contains Plaintiffs' characterization of this case, to  
6 which no response is required; to the extent a response is deemed required, Defendants deny the  
7 allegations except to admit that the CIA employed Dr. Treichler and to state that Defendants are  
8 without knowledge or information sufficient to admit or deny allegations concerning his place of  
9 employment. Third sentence: Defendants deny. Fourth sentence: this sentence contains  
10 Plaintiffs' characterization of this case, to which no response is required; to the extent a response  
11 is deemed required, Defendants deny the allegations. CIA avers that it provided funding to a  
12 research project at Edgewood as a part of Project OFTEN. Fifth sentence: Defendants are  
13 without knowledge or information sufficient to admit or deny the allegations contained in this  
14 sentence. Sixth sentence: this sentence contains Plaintiffs' characterization of this case, to which  
15 no response is required; to the extent a response is deemed required, Defendants deny the  
16 allegations. Seventh and eighth sentences: these sentences contain Plaintiffs' characterization of  
17 this case, argument, and legal conclusion, to which no response is required; to the extent a  
18 response is deemed required, Defendants deny the allegations.

19 133. Paragraph 133 constitutes Plaintiffs' characterizations of the cited 1963 CIA IG  
20 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for  
21 itself, and deny paragraph 133 to the extent that it is inconsistent with that report.

22 134. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
23 which no response is required; to the extent a response is deemed required, Defendants deny the  
24 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the 1963  
25 CIA IG Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks  
26 for itself, and deny this sentence to the extent that it is inconsistent with that report.  
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1           135. Paragraph 135 contains Plaintiffs' characterizations of the cited 1963 CIA IG  
2 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for  
3 itself, and deny paragraph 135 to the extent that it is inconsistent with that report.

4           136. Paragraph 136 constitutes Plaintiffs' characterizations of Exhibit B to the  
5 Complaint. Defendants respectfully refer the Court to that exhibit, which speaks for itself, and  
6 deny paragraph 136 to the extent that it is inconsistent with that exhibit.

7           137. First sentence, first and second clause: these clauses constitute Plaintiffs'  
8 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that  
9 exhibit, which speaks for itself, and deny this sentence to the extent that it is inconsistent with that  
10 exhibit. Subpart a: this subpart constitutes Plaintiffs' characterizations of Exhibit B to the  
11 Complaint, the cited ACHRE Interim Report, and the cited Memorandum from Allen Dulles.  
12 Defendants respectfully refer the Court to that exhibit and those reports, which speak for  
13 themselves, and deny subpart a to the extent that it is inconsistent with the cited exhibit and  
14 reports. Subpart b: Defendants are without knowledge or information sufficient to admit or deny  
15 the allegations in this subpart except CIA admits that it provided a small grant to Dr. Cameron.  
16 Subparts c–f: these subparts constitute Plaintiffs' characterizations of Exhibit B to the Complaint.  
17 Defendants respectfully refer the Court to that exhibit, which speaks for itself, and deny subparts  
18 c–f to the extent that they are inconsistent with that exhibit.

19           138. First sentence: this sentence contains Plaintiffs' characterization of MKULTRA,  
20 to which no response is required; to the extent a response is deemed required, Defendants deny.  
21 Second sentence: this sentence constitutes Plaintiffs' characterizations of Exhibit B to the  
22 Complaint and the cited report "Project MKULTRA, The CIA's Program of Research in  
23 Behavior Modification." Defendants respectfully refer the Court to that exhibit and report, which  
24 speak for themselves, and deny the second sentence to the extent that it is inconsistent with that  
25 exhibit and report. Third and fourth sentences: these sentences constitute Plaintiffs'  
26 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that  
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1 exhibit, which speaks for itself, and deny the third and fourth sentences to the extent that they are  
2 inconsistent with that exhibit.

3 139. First sentence: Defendants deny. Second and third sentences: Defendants are  
4 without knowledge or information sufficient to admit or deny the allegations contained in these  
5 sentences except to admit that Dr. Van Sim was involved in experiments at Edgewood.

6 140. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
7 which no response is required; to the extent a response is deemed required, Defendants deny the  
8 allegations except to admit that DOD administered LSD and other drugs to test subjects at  
9 Edgewood and other locations. Second sentence: Defendants deny that certain test subjects were  
10 not given specific information about the nature of the drugs they were receiving, and otherwise  
11 are without knowledge or information sufficient to admit or deny the allegations contained in the  
12 remainder of this sentence.

13 141. First sentence: Defendants deny. Second and third sentences: Defendants are  
14 without knowledge or information sufficient to admit or deny the allegations in these sentences  
15 except that CIA denies employing Paul Hoch as a CIA consultant; to the extent that Plaintiffs'  
16 allegations rest on the cited legal authority, Defendants respectfully refer the Court to that  
17 authority, which speaks for itself, and deny the sentences to the extent they are inconsistent with  
18 that authority. Fourth sentence, first clause: this clause contains a legal conclusion, to which no  
19 response is required; to the extent a response is deemed required, Defendants deny. Fourth  
20 sentence, second clause: this clause contains Plaintiffs' characterization of Dr. Olson's death, to  
21 which no response is required; to the extent a response is deemed required, CIA admits that Dr.  
22 Olson jumped out of a window to his death subsequent to receiving a dose of LSD. Fifth  
23 sentence: this sentence constitutes Plaintiffs' characterizations of the cited 1994 GAO Report.  
24 Defendants respectfully refer the Court to the 1994 GAO Report, which speaks for itself, and  
25 deny the fifth sentence to the extent that it is inconsistent with that report.

26 142. First sentence: Defendants are without knowledge or information sufficient to  
27 admit or deny whether sporadic information regarding Defendants activities began to circulate.  
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1 The remainder of this sentence constitutes Plaintiffs' characterization of the cited 1963 CIA IG  
2 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for  
3 itself, and deny the first sentence to the extent it is inconsistent with that report. Second sentence:  
4 Defendants deny the allegations in this sentence except to admit the existence of MKSEARCH.  
5 Third sentence: Defendants deny.

6 143. First sentence: Defendants are without knowledge or information sufficient to  
7 admit or deny the allegations contained in this sentence, except that DOD denies the allegations  
8 that it adopted a policy to create only "sparse documentation" of its test programs. Second  
9 sentence: this sentence contains Plaintiffs' characterization of this case and conclusions of law, to  
10 which no response is required; to the extent a response is deemed required, Defendants deny the  
11 allegations. Third sentence: this sentence constitutes Plaintiffs' characterization of Exhibit B to  
12 the Complaint. Defendants respectfully refer the Court to that exhibit, which speaks for itself,  
13 and deny the third sentence to the extent it is inconsistent with that exhibit. Fourth sentence:  
14 Defendants are without knowledge or information sufficient to admit or deny the allegations  
15 contained in this sentence. Fifth sentence: Defendants deny the allegations in this sentence  
16 except to admit that Director Helms authorized the destruction of certain documents relating to  
17 MKULTRA in 1973. Sixth sentence: this sentence contains Plaintiffs' characterization of this  
18 case, to which no response is required; to the extent a response is deemed required, Defendants  
19 deny the allegations except to admit that many documents relating to MKULTRA were destroyed  
20 in 1973.

21 144. Paragraph 144 contains legal conclusions, to which no response is required; to the  
22 extent a response is deemed required, Defendants deny the allegations.

23 145. First sentence: this sentence constitutes Plaintiffs' characterizations of the cited  
24 1947 Haywood memo. Defendants respectfully refer the Court to the 1947 Haywood memo,  
25 which speaks for itself, and deny the first sentence to the extent it is inconsistent with that memo.  
26 Second sentence: this sentence constitutes Plaintiffs' characterizations of the cited CIA Inspector  
27 General's Survey of Technical Services Division. Defendants respectfully refer the Court to the  
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1 CIA Inspector General's Survey of Technical Services Division, which speaks for itself, and deny  
2 the second sentence to the extent it is inconsistent with that survey. Third sentence: this sentence  
3 constitutes Plaintiffs' characterizations of the cited July 26, 1963 Memorandum. Defendants  
4 respectfully refer the Court to the July 26, 1963 Memorandum, which speaks for itself, and deny  
5 the third sentence to the extent it is inconsistent with that Memorandum.

6 146. Paragraph 146 constitutes Plaintiffs' characterizations of the cited CIA's  
7 Memorandum from WVB. Defendants respectfully refer the Court to the CIA's Memorandum  
8 from WVB, which speaks for itself, and deny paragraph 146 to the extent it is inconsistent with  
9 that Memorandum.

10 147. First sentence, introductory language: this sentence contains Plaintiffs'  
11 characterization of this case and argument, to which no response is required; to the extent a  
12 response is deemed required, Defendants deny the allegations. Subpart a: Defendants deny the  
13 allegations in this subparagraph except to admit the existence of the MKULTRA and  
14 MKSEARCH projects. Subpart b: Defendants deny the allegations in this subparagraph except  
15 to admit the existence of the OFTEN and CHICKWIT projects. Subpart c: Defendants deny the  
16 allegations in this subparagraph except to admit the existence of the BLUEBIRD and  
17 ARTICHOKE projects. Subpart d: Defendants deny the allegations in this subparagraph except  
18 to admit the existence of the MKDELTA project. Subpart e: Defendants deny the allegations in  
19 this subparagraph except to admit the existence of the MKNAOMI project. Subpart f:  
20 Defendants are without knowledge or information sufficient to admit or deny the allegations  
21 contained in this subparagraph. Subpart g, first sentence: Defendants are without knowledge or  
22 information sufficient to admit or deny the allegations contained in this sentence. Subpart g,  
23 second sentence: this sentence contains Plaintiffs' characterization of this case, to which no  
24 response is required; to the extent a response is deemed required, Defendants deny the  
25 allegations.

26 148. Defendants deny.  
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149. First sentence: this sentence constitutes Plaintiffs' characterization of the cited Memorandum for the Record re MKULTRA Subproject 119. Defendants respectfully refer the Court to the Memorandum for the Record re MKULTRA Subproject 119, which speaks for itself, and deny the first sentence to the extent it is inconsistent with that Memorandum. Second sentence: this sentence constitutes Plaintiffs' characterization of the cited Proposal Materials. Defendants respectfully refer the Court to the Proposal Materials, which speak for themselves, and deny the second sentence to the extent it is inconsistent with those materials. Third sentence: this sentence constitutes Plaintiffs' characterization of the cited U.S. Army Med. Dep't, LSD Follow-Up Study Report. Defendants respectfully refer the Court to that Report, which speaks for itself, and deny the third sentence to the extent it is inconsistent with that report. Fourth sentence: Defendants deny. Fifth sentence: Defendants are without knowledge or information sufficient to admit or deny the allegations concerning "Agency Top Secret" classification, and Defendants deny the remaining allegations in this sentence.

150. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 150.

151. Paragraph 151 contains Plaintiffs' characterizations of the book "Physical Control of the Mind, Toward a Psychocivilized Society," which speaks for itself, and deny paragraph 151 to the extent it is inconsistent with that book.

152. Defendants deny the allegations in paragraph 152 except that the CIA admits it provided a small grant to Dr. Cameron.

153. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 153.

154. Defendants are without knowledge or information sufficient to admit or deny the allegations in paragraph 154 except to admit that the CIA financed some MKULTRA research at Stanford University.

1           155. Paragraph 155 contains Plaintiffs' characterization of this case, argument, and  
2 conclusions of law, to which no response is required; to the extent a response is deemed required,  
3 Defendants deny the allegations.

4           156. First sentence: Defendants deny the allegations in this paragraph to the extent it  
5 pertains to volunteer service members who participated in the test programs at issue in this case,  
6 but are without knowledge or information sufficient to admit or deny whether other service  
7 members were asked to sign an agreement containing the quoted text. Defendants further aver  
8 that most of the named volunteer service members who participated in the test programs signed a  
9 volunteer participation agreement, but that agreement does not contain any information or  
10 reference to an alleged secrecy oath. Second sentence: Defendants deny the allegations in this  
11 sentence except to admit that plaintiffs' personnel records contain copies of signed forms  
12 consenting to the videotaping of experiments.

13           157. Paragraph 157 contains Plaintiffs' characterization of this case, to which no  
14 response is required; to the extent a response is deemed required, Defendants deny the  
15 allegations.

16           158. First sentence: this sentence contains Plaintiffs' characterization of this case and  
17 legal conclusions, to which no response is required; to the extent a response is deemed required,  
18 Defendants deny the allegations in this sentence and further aver that some of the named  
19 Plaintiffs have sought medical care and other services for more than a decade. Second and third  
20 sentences: Defendants are without knowledge or information sufficient to admit or deny the  
21 allegations contained in these sentences.

22           159. Defendants admit that Plaintiffs have quoted a portion of a document that VA  
23 published in 2003 and refer the Court to that document for a full and complete statement of its  
24 content. Defendants deny this allegation to the extent that there are inconsistencies in the quote.

25           160. First sentence: Defendants admit. Second sentence: this sentence contains  
26 Plaintiffs' characterization of this case, to which no response is required; to the extent a response  
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1 is deemed required, Defendants deny the allegations except to admit that DOD maintains a  
2 website regarding its research programs involving human subjects.

3 161. Paragraph 161 contains Plaintiffs' characterization of this case, argument, and  
4 legal conclusions, to which no response is required; to the extent a response is deemed required,  
5 Defendants deny the allegations.

6 162. First sentence: this sentence contains Plaintiffs' characterization of this case and  
7 legal conclusions, to which no response is required; to the extent a response is deemed required,  
8 Defendants deny the allegations. Second sentence: Defendants deny the allegations contained in  
9 this sentence and aver that many service members, including the named Plaintiffs, have requested  
10 and received their Edgewood medical records.

11 163. First sentence: this sentence constitutes Plaintiffs' characterization of the cited  
12 1958 Army publication. Defendants respectfully refer the Court to that publication, which speaks  
13 for itself, and deny the allegations to the extent that they are inconsistent with that publication.  
14 Second sentence: this sentence constitutes Plaintiffs' characterization of the cited 1972 Army  
15 publication. Defendants respectfully refer the Court to that publication, which speaks for itself,  
16 and deny the allegations to the extent that they are inconsistent with that publication.

17 164. Paragraph 164 constitutes Plaintiffs' characterization of the 1976 Army IG Report.  
18 Defendants respectfully refer the Court to the 1976 Army IG Report, which speaks for itself, and  
19 deny paragraph 164 to the extent that it is inconsistent with that report.

20 165. First through fourth sentences: these sentences constitute Plaintiffs'  
21 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976  
22 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they  
23 are inconsistent with that report. Fifth sentence: this sentence contains Plaintiffs'  
24 characterizations of this case, argument, and legal conclusions, to which no response is required;  
25 to the extent a response is deemed required, Defendants deny the allegations in this sentence.

26 166. First through fourth sentences: these sentences constitute Plaintiffs'  
27 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976  
28



1 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they  
2 are inconsistent with that report. Fifth sentence: Defendants admit.

3 167. Defendants are without knowledge or information sufficient to admit or deny the  
4 allegations contained in paragraph 167.

5 168. First through third sentences: these sentences constitute Plaintiffs'  
6 characterizations of the 1976 Army IG Report. Defendants respectfully refer the Court to the  
7 1976 Army IG Report, which speaks for itself, and deny the first three sentences to the extent that  
8 they are inconsistent with that report. Fourth sentence: this sentence contains Plaintiffs'  
9 characterizations of this case and conclusions of law, to which no response is required; to the  
10 extent a response is deemed required, Defendants deny the allegations in this sentence. Fifth  
11 sentence: Defendants deny except to admit that DOD drew volunteers from Army bases  
12 throughout the country. Sixth sentence: this sentence contains Plaintiffs' characterizations of this  
13 case and its expectations with regard to discovery, to which no response is required; to the extent  
14 a response is deemed required, Defendants deny the allegations in this sentence except that they  
15 are without knowledge or information regarding Plaintiffs' expectations with regard to discovery.  
16 Seventh sentence: Defendants admit that VA sent 135 letters dated September 14, 2006, to  
17 identifiable test subjects residing in California.

18 169. Paragraph 169 constitutes Plaintiffs' characterizations of the cited 1993 GAO  
19 Report. Defendants respectfully refer the Court to the 1993 GAO Report, which speaks for itself,  
20 and deny paragraph 169 to the extent it is inconsistent with that report.

21 170. Defendants admit that Plaintiffs have quoted a portion of a document that VA  
22 published in 2003 and refer the Court to that document for a full and complete statement of its  
23 content. Defendants deny this allegation to the extent that there are inconsistencies in the quote.

24 171. Paragraph 171 constitutes Plaintiffs' characterization of the cited CIA's  
25 Memorandum for the Record from William V. Broe. Defendants respectfully refer the Court to  
26 the CIA's Memorandum for the Record from William V. Broe, which speaks for itself, and deny  
27 paragraph 171 to the extent it is inconsistent with that memorandum.  
28

1           172. First sentence: this sentence contains Plaintiffs' characterization of this case and  
2 conclusions of law, to which no response is required; to the extent a response is deemed required,  
3 Defendants deny this sentence. Second sentence: Defendants deny that certain test participants  
4 were not told, both before and after the tests, the chemical or biological agents they would be  
5 administered and the potential side effects they might experience; otherwise Defendants are  
6 without knowledge or information sufficient to admit or deny the allegations contained in this  
7 sentence.

8           173. Paragraph 173 contains Plaintiffs' characterization of this case and conclusions of  
9 law, to which no response is required; to the extent a response is deemed required, Defendants  
10 deny the allegations.

11           174. Paragraph 174 contains Plaintiffs' allegations regarding the proposed class, to  
12 which no response is required; to the extent a response is deemed required, Defendants state that  
13 Plaintiffs' allegations concerning a proposed class are moot in light of the Court's Order  
14 concerning class certification.

15           175. Paragraph 175 contains Plaintiffs' allegations regarding the proposed class  
16 representatives, to which no response is required; to the extent a response is deemed required,  
17 Defendants state that Plaintiffs' allegations concerning a proposed class are moot in light of the  
18 Court's Order concerning class certification.

19           176. Paragraph 176 contains Plaintiffs' characterization of this case and a legal  
20 conclusion, to which no response is required; to the extent a response is deemed required,  
21 Defendants deny the allegations.

22           177. Paragraph 177 contains legal conclusions, to which no response is required; to the  
23 extent a response is deemed required, Plaintiffs' allegations concerning a proposed class are moot  
24 in light of the Court's Order concerning class certification.

25           178. Paragraph 178 contains Plaintiffs' characterization of this case and legal  
26 conclusions, to which no response is required; to the extent a response is deemed required,  
27

1 Plaintiffs' allegations concerning a proposed class are moot in light of the Court's Order  
2 concerning class certification.

3 179. Paragraph 179 contains legal conclusions, to which no response is required; to the  
4 extent a response is deemed required, Plaintiffs' allegations concerning a proposed class are moot  
5 in light of the Court's Order concerning class certification.

6 180. Paragraph 180 contains legal conclusions, to which no response is required; to the  
7 extent a response is deemed required, Plaintiffs' allegations concerning a proposed class are moot  
8 in light of the Court's Order concerning class certification.

9 181. Paragraph 181 contains legal conclusions, to which no response is required; to the  
10 extent a response is deemed required, Plaintiffs' allegations concerning a proposed class are moot  
11 in light of the Court's Order concerning class certification.

12 182. Defendants incorporate by reference the responses set forth in paragraphs 1  
13 through 181, inclusive.

14 183. Paragraph 183 constitutes Plaintiffs' prayer for relief on their first claim for relief,  
15 to which no response is required. To the extent a response is required, the paragraph is denied.

16 184. Paragraph 184 consists of conclusions of law and/or statements of Plaintiffs' case  
17 to which no response is required. To the extent a response is deemed necessary, the paragraph is  
18 denied.

19 185. Paragraph 185 consists of conclusions of law and/or statements of Plaintiffs' case  
20 to which no response is required. To the extent a response is deemed necessary, the paragraph is  
21 denied.

22 186. Paragraph 186 consists of conclusions of law and/or statements of Plaintiffs' case  
23 to which no response is required. To the extent a response is deemed necessary, the paragraph is  
24 denied.

25 187. Paragraph 187 constitutes Plaintiffs' prayer for relief on their first claim for relief,  
26 to which no response is required. To the extent a response is required, the paragraph is denied.  
27  
28

1           188. Defendants incorporate by reference the responses set forth in paragraphs 1  
2 through 187, inclusive.

3           189. Paragraph 189 constitutes Plaintiffs' prayer for relief on their second claim for  
4 relief, to which no response is required. To the extent a response is required, the paragraph is  
5 denied.

6           190. Defendants incorporate by reference the responses set forth in paragraphs 1  
7 through 189, inclusive.

8           191. First sentence: Defendants admit that Wray Forrest is deceased, but are without  
9 knowledge or information sufficient to admit or deny the remainder of the allegations contained  
10 in the first sentence. Second sentence: the second sentence constitutes a characterization of  
11 Plaintiffs' claim and of this Court's Order, to which no response is required.

12           192. Defendants admit.

13           193. Defendants are without knowledge or information sufficient to admit or deny the  
14 allegations contained in paragraph 193 except to the extent that Defendants admit that Mr.  
15 Josephs was assigned to Fort Benning after Officer Candidate School.

16           194. Defendants are without knowledge or information sufficient to admit or deny the  
17 allegations contained in paragraph 194.

18           195. Defendants are without knowledge or information sufficient to admit or deny the  
19 allegations contained in this sentence except to admit that Mr. Josephs received a letter of  
20 commendation signed by Dr. Frederick R. Sidell.

21           196. First sentence: Defendants admit that Mr. Josephs signed a document titled  
22 "Volunteer's Participation Agreement" on January 3, 1968. Defendants admit that the  
23 "Volunteer's Participation Agreement" does not list the "drugs or substances to be given."  
24 Second and fourth sentences: Defendants are without knowledge or information sufficient to  
25 admit or deny the allegations contained in these sentences. Third sentence: Defendants deny the  
26 allegations contained in this sentence.

1           197. Defendants are without knowledge or information sufficient to admit or deny the  
2 allegations contained in paragraph 197.

3           198. Defendants are without knowledge or information sufficient to admit or deny the  
4 allegations contained in paragraph 198 except that Mr. Josephs was given physical tests on  
5 January 4, 1968 and written screening questionnaires on November 14, 1967.

6           199. First sentence: Defendants are without knowledge or information sufficient to admit  
7 or deny the allegations contained in the first sentence except to admit that as a test volunteer Mr.  
8 Josephs participated in chemical agent tests while assigned to Edgewood Arsenal. Second and  
9 third sentences: Defendants are without knowledge or information sufficient to admit or deny the  
10 allegations contained in these sentences.

11           200. Defendants are without knowledge or information sufficient to admit or deny the  
12 allegations contained in paragraph 200.

13           201. Defendants admit that on 17 September 1975 an official assigned to Edgewood  
14 Arsenal responded to correspondence from Mr. Josephs and informed Mr. Josephs that he had  
15 been exposed to the following substances: pyridine-2-aldoxime methane sulfate, scopolamine,  
16 and Prolixin. Plaintiffs further admit that information contained in the Chemical and Biological  
17 Tests Repository indicates Mr. Josephs was exposed to Artane, Cogentin, and saline. Defendants  
18 are without knowledge or information sufficient to admit or deny the remaining allegations  
19 contained in paragraph 201.

20           202. Defendants admit that information contained in the Chemical and Biological Tests  
21 Repository indicates Mr. Josephs received 9.0 grams of P2S-RA on February 1, 1968.  
22 Defendants are without knowledge or information sufficient to admit or deny the remaining  
23 allegations contained in paragraph 202.

24           203. First sentence: Defendants admit that Mr. Josephs received prolixin on 20 February  
25 1968. Defendants further admit that Mr. Josephs experienced “muscle spasms” after receiving  
26 prolixin. Second sentence: Defendants admit that Mr. Josephs received Cogentin and Artane.  
27 Defendants further admit that Mr. Josephs’ symptoms subsided. Defendants are without  
28

1 knowledge or information sufficient to admit or deny the remaining allegations contained in  
2 paragraph 203.

3 204. Defendants are without knowledge or information sufficient to admit or deny the  
4 allegations contained in paragraph 204.

5 205. Defendants are without knowledge or information sufficient to admit or deny the  
6 allegations contained in paragraph 205.

7 206. First sentence: Defendants admit. Second sentence: Defendants admit that Mr.  
8 Josephs was treated for “nerves” at Fort Benning, Georgia on 4 March 1968. First sentence:  
9 Defendants are without knowledge or information sufficient to admit or deny the allegations  
10 contained in this sentence.

11 207. First sentence: Defendants admit that Mr. Josephs served in Thailand between  
12 August 1968 and August 1969. Defendants further admit that Mr. Josephs was honorably  
13 discharged in August 1969. Defendants are without knowledge or information sufficient to admit  
14 or deny the remaining allegations contained in this sentence. Second sentence: Defendants deny  
15 the allegations contained in this sentence.

16 208. Defendants are without knowledge or information sufficient to admit or deny the  
17 allegations contained in paragraph 208.

18 209. First sentence: Defendants admit that officials at Edgewood received a letter from  
19 Mr. Josephs concerning his participation in “drug experiments at Edgewood Arsenal, Maryland.”  
20 Defendants are without knowledge or information sufficient to admit or deny the allegations  
21 contained in the remainder of the first sentence. Second sentence: Defendants are without  
22 knowledge or information sufficient to admit or deny the allegations contained in the second  
23 sentence, except to admit that Dr. C. McClure sent Mr. Josephs a letter dated 17 September 1975  
24 informing Mr. Josephs that he had been exposed to pyridine-2-aldoxime methane sulfate,  
25 scopolamine, and prolixin during his service at Edgewood Arsenal. Third and fourth sentences:  
26 Defendants are without knowledge or information sufficient to admit or deny the allegations  
27 contained in these sentences.  
28

1           210. First sentence: Defendants are without knowledge or information sufficient to admit  
2 or deny the allegations contained in this sentence. Second sentence: Defendants admit that Mr.  
3 Josephs' was exposed to Cogentin and Artane while at Edgewood Arsenal. Defendants deny that  
4 Mr. Josephs was given any substances other than those listed in paragraph 201 of Defendants  
5 answer. Third sentence: Defendants are without knowledge or information sufficient to admit or  
6 deny the allegations contained in this sentence.

7           211. Defendants admit that Mr. Josephs received 9 grams of P2S-RA while at Edgewood  
8 Arsenal. Defendants are without knowledge or information sufficient to admit or deny the  
9 remaining allegations contained in paragraph 211.

10           212. First sentence: Defendants admit that Mr. Josephs applied for enrollment in the VA  
11 health care system on November 5, 2009, and that VA denied enrollment in a November 16,  
12 2009, letter because Mr. Josephs' income exceeded the threshold amount for Priority Group 8, as  
13 provided in 38 C.F.R. § 17.36(b)(8)(iv). Defendants further admit that VA granted service  
14 connection for disabilities related to Parkinson's Disease rated at 40%, effective March 31, 2010,  
15 and that Mr. Josephs is enrolled in Priority Category 2 for VA medical care. Second sentence:  
16 Defendants are without knowledge or information sufficient to admit or deny the allegations  
17 contained in this sentence.

18           213. Defendants are without knowledge or information sufficient to admit or deny the  
19 allegations contained in paragraph 213.

20           214. First sentence: Defendants admit. Second sentence: Defendants deny except to  
21 admit that Mr. Blazinski reported to Edgewood Arsenal for temporary duty on 29 February 1968  
22 and remained at Edgewood for temporary duty until 30 April 1968. Third and fourth sentences:  
23 Defendants admit.

24           215. Defendants are without knowledge or information sufficient to admit or deny the  
25 allegations contained in paragraph 215.

26           216. First sentence: Defendants admit that Mr. Blazinski completed a "Medical  
27 Volunteer Information" form on 11 January 1968 before his duty at Edgewood began.  
28

1 Defendants further admit that Mr. Blazinski completed the Minnesota Multiphasic Personality  
2 Inventory on 25 January 1968 before his duty at Edgewood began. Defendants are without  
3 knowledge or information sufficient to admit or deny the remaining allegations contained in this  
4 sentence. Second sentence: Defendants admit that Mr. Blazinski completed a “Volunteer’s  
5 Participation Agreement” on 1 March 1968. Defendants are without knowledge or information  
6 sufficient to admit or deny the remaining allegations contained in this sentence. Third sentence:  
7 Defendants are without knowledge or information sufficient to admit or deny the allegations  
8 contained in this sentence. Fourth sentence: Defendants are without knowledge or information  
9 sufficient to admit or deny the allegations contained in this sentence. Fifth sentence: Defendants  
10 admit that Mr. Blazinski was assigned volunteer number 5031.

11 217. First sentence: Defendants admit that Mr. Blazinski participated in five experiments  
12 while on temporary duty at Edgewood Arsenal. Second sentence: Defendants admit that Mr.  
13 Blazinski was exposed to CS during three tests. Third sentence: Defendants are without  
14 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
15 Fourth sentence: Defendants admit that volunteers were instructed to remain in the exposure  
16 facility for as long as tolerable, but no longer than 600 seconds. Fifth sentence: Defendants  
17 admit that Mr. Blazinski remained in the exposure facility for 600 seconds for each of the three  
18 tests. Defendants are without knowledge or information sufficient to admit or deny the remaining  
19 allegations in this sentence.

20 218. First sentence: Defendants are without knowledge or information sufficient to admit  
21 or deny the allegations contained in this sentence. Second sentence: Defendants admit that Mr.  
22 Blazinski participated in a test during which he received scolpolamine and physostigmine.  
23 Defendants further admit that part of the test occurred in a padded area. Defendants are without  
24 knowledge or information sufficient to admit or deny the remaining allegations contained in this  
25 sentence. Third sentence: Defendants are without knowledge or information sufficient to admit  
26 or deny the allegations contained in this sentence. Fourth sentence: Defendants are without  
27 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
28



1 Fifth sentence: Defendants are without knowledge or information sufficient to admit or deny the  
2 allegations contained in this sentence. Six sentence: Defendants are without knowledge or  
3 information sufficient to admit or deny the allegations contained in this sentence. Seventh  
4 sentence: This sentence contains characterizations to which no answer is required except to admit  
5 that Mr. Blazinski wore glasses to help him see during the test. Eighth sentence: Defendants  
6 admit that Mr. Blazinski at lunch during the test. Ninth sentence: Defendants are without  
7 knowledge or information sufficient to admit or deny the allegations contained in this sentence.

8  
9 219. First sentence: This sentence contains characterizations to which no response is  
10 required except to admit that Mr. Blazinski participated in a Cutaneous Communications test in  
11 which he had electrodes attached to his forearms. Defendants further admit that current was  
12 applied to the electrodes so that the stimulation pulse was increased to the level of feeling.  
13 Defendants further admit that the current level was then increased 25% and then reduced to the  
14 point of no feeling. Second sentence: Defendants admit that some test participants received  
15 “drugs” on their forearms before the electrodes were applied. Defendants are without knowledge  
16 or information sufficient to admit or deny the remaining allegations contained in this sentence.

17 220. Defendants admit.

18 221 First sentence: Defendants admit that Mr. Blazinski has been diagnosed with  
19 chronic lymphocytic leukemia and ulcerative colitis. Second sentence: Defendants are without  
20 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
21 Third sentence: Defendants are without knowledge or information sufficient to admit or deny the  
22 allegations contained in this sentence. Fourth sentence: Defendants admit that in 2008, VA  
23 notified Mr. Blazinski that his claim for service connection for colitis and leukemia was denied.

24 222. Paragraph 222 contains a characterization and a legal conclusion to which no  
25 response is required. To the extent a response is required, Defendants deny.

26 223. First sentence: Defendants incorporate by reference the responses set forth in  
27 paragraphs 1 through 222, inclusive, subject to this Court’s rulings in its January 19, 2010, Order  
28 Granting in Part and Denying in Part Defendants’ Motions to Dismiss and Denying Defendants’

1 Alternative Motion for Summary Judgment (Docket No. 59) and its Order Granting in Part and  
2 Denying in Part Defendants' Motion to Dismiss in Part Plaintiffs' Third Amended Complaint and  
3 Denying Plaintiffs' Motion to Strike (Docket No. 233).

4           224. First sentence: This sentence constitutes Plaintiffs' characterizations of 38 U.S.C.  
5 §§ 301, 1110, 1131, 1310, and 1710. Defendants respectfully refer the Court to 38 U.S.C.  
6 §§ 301, 1110, 1131, 1310, and 1710, which speak for themselves, and deny these sentences to the  
7 extent they are inconsistent with those statutes. Second sentence: this sentence constitutes  
8 Plaintiffs' characterizations of 38 U.S.C. §§ 1710, 7301, 7701, and 7703. Defendants respectfully  
9 refer the Court to 38 U.S.C. §§ 1710, 7301, 7701, and 7703, which speak for themselves, and  
10 deny these sentences to the extent they are inconsistent with those statutes. Third sentence:  
11 Defendants admit.

12           225. First sentence: Defendants deny. Second sentence: This sentence constitutes  
13 Plaintiffs' characterization of documents produced in discovery; those documents speak for  
14 themselves. To the extent a response is required, because Plaintiffs have failed to identify the  
15 specific documents that they are referring to in this sentence, Defendants are without knowledge  
16 or information sufficient to admit or deny the allegations contained in this sentence. Third  
17 sentence: This sentence contains Plaintiffs' characterization of this case and argument, to which  
18 no response is required; to the extent a response is deemed required, Defendants are without  
19 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
20 Fourth sentence: Defendants deny. Fifth sentence: Defendants deny. Sixth sentence:  
21 Defendants are without knowledge or information sufficient to admit or deny the allegations  
22 contained in this sentence.

23           226. First sentence: This sentence contains Plaintiffs' characterization of this case and  
24 argument, to which no response is required; to the extent a response is deemed required,  
25 Defendants admit that VA regularly conducts extensive medical research pursuant to 38 U.S.C.  
26 § 7303, and that VHA Handbook 1200.06 contains safety and security protocols that envision the  
27 possibility of handling substances similar to those used in the Army's testing program;  
28

1 Defendants are otherwise without knowledge or information sufficient to admit or deny the  
2 allegations contained in this sentence. Second sentence: Defendants admit that VA tested LSD on  
3 veterans in the past, outside of the Army's test program, dating back at least to the late 1950s.  
4 Third sentence: Defendants neither admit nor deny on the basis of privilege. Fourth sentence:  
5 Defendants are without knowledge or information sufficient to admit or deny the allegations  
6 contained in this sentence. Fifth sentence: Defendants admit that tests conducted in VHA  
7 research facilities include anthrax. Defendants are without knowledge or information sufficient to  
8 admit or deny the other allegations contained in this sentence.

9  
10 227. First sentence: Defendants are without knowledge or information sufficient to  
11 admit or deny the allegations contained in this sentence except to admit that, in approximately  
12 2005-2006, VA became involved in outreach activities and notification concerning a DoD  
13 database containing the names of veterans who had participated in chemical and biological testing  
14 programs at Edgewood Arsenal. Second sentence: Defendants deny. Third sentence: This  
15 sentence contains characterizations to which no response is required. To the extent a response is  
16 required, Defendants admit that, according to the September 2009 report on outreach activities by  
17 the VA Compensation and Pension Service, there were 4,495 veterans in a mustard gas and  
18 lewisite database provided by DoD to VA. Fourth sentence: This sentence contains  
19 characterizations to which no response is required. To the extent a response is required,  
20 Defendants deny that VA compiled a database of veterans exposed to chemical or biological  
21 substances at Edgewood Arsenal. Defendants admit that VA was provided with a DoD database  
22 of 10,528 individuals, some of whom were test participants who were exposed to chemical or  
23 biological substances at Edgewood Arsenal. Fifth sentence: Defendants deny that VA knew that  
24 the DoD database omitted all veterans exposed before 1954. Defendants are without knowledge  
25 or information sufficient to admit or deny the allegation regarding the number of veterans  
26 exposed before 1954.

27 228. First sentence: Defendants deny. Second sentence: Defendants are without  
28 knowledge or information sufficient to admit or deny the allegations contained in this sentence.

1 Third sentence: Defendants deny the generalized assertion that VA has not contacted survivors of  
2 deceased veterans who may be entitled to DIC. Defendants admit that VA has not initiated a  
3 separate process to contact the survivors of deceased veterans whose names were included in the  
4 DoD database of veterans exposed to chemical and biological agents at Edgewood Arsenal,  
5 although such contacts may have occurred in the processing of claims and death notices in  
6 individual cases. Fourth sentence: This sentence contains Plaintiffs' characterization of this case  
7 and argument, to which no response is required; to the extent a response is deemed required, VA  
8 is without knowledge or information sufficient to admit or deny the allegations contained in this  
9 sentence.

10 229. First sentence: Defendants admit that, according to the September 2009 report on  
11 outreach activities by the VA Compensation and Pension Service, almost half of the Veterans in  
12 the Mustard Gas database were deceased. Defendants deny the remaining allegations in the first  
13 sentence. Second sentence: Defendants are without knowledge or information sufficient to admit  
14 or deny the allegations contained in this sentence except to admit that, as of the release of the  
15 September 2009 report on outreach activities by the VA Compensation and Pension Service, VA  
16 had found addresses of 371 Veterans in the Mustard Gas Group. Third sentence: Defendants  
17 admit that, as reflected in the September 2009 report on outreach activities by the VA  
18 Compensation and Pension Service, VA had received 1518 mustard gas claims, 142 of which  
19 were pending. Fourth sentence: Defendants admit. Fifth sentence: Defendants deny.

20 230. First sentence: This sentence contains characterizations to which no response is  
21 required. To the extent a response is required, Defendants deny except to aver that as the  
22 September 2009 report on outreach activities by the VA Compensation and Pension Service  
23 reflects, VA had notified 3,218 of the 10,528 individuals contained in DoD's database, some of  
24 whom were test subjects exposed to chemical or biological substances at Edgewood Arsenal.  
25 Second sentence: Defendants are without knowledge or information sufficient to admit or deny  
26 the allegations contained in this sentence except to admit that VA has attempted to notify veterans  
27 whose names were included in the database compiled by DoD. Third sentence: Defendants deny  
28

1 except to admit that, according to the September 2009 report on outreach activities by the VA  
2 Compensation and Pension Service: VA had received 87 chem-bio claims and VA had issued  
3 two decisions granting service connection. Fourth sentence: This sentence contains  
4 characterizations to which no response is required. To the extent a response is required,  
5 Defendants deny.

6 231. First sentence: Defendants admit that the VA notice letter included Frequently  
7 Asked Questions (FAQs) and a DOD Deployment Health Support Directorate Fact Sheet.  
8 Second sentence: This sentence contains Plaintiffs' characterization of this case and argument, to  
9 which no response is required; to the extent a response is deemed required, Defendants deny the  
10 allegations. Third sentence: This sentence constitutes argument and Plaintiffs' characterization of  
11 the VA notice letter, FAQs, and DoD Deployment Health Support Directorate Fact Sheet to  
12 which no response is required. To the extent a response is required, Defendants respectfully refer  
13 the Court to the notice letter, FAQs, and Fact Sheet, which speak for themselves, and deny this  
14 sentence to the extent it is inconsistent with the letter, FAQs, or Fact Sheet. To the extent this  
15 sentence alleges that such statements are misrepresentations, Defendants deny. Fourth sentence:  
16 This sentence constitutes Plaintiffs' characterization of the FAQs. Defendants respectfully refer  
17 the Court to the FAQs, which speak for themselves, and deny this sentence to the extent it is  
18 inconsistent with the FAQs. Fifth sentence: Defendants deny.

19 232. Paragraph 232 contains Plaintiffs' characterization of this case, argument, and  
20 legal conclusions, to which no response is required; to the extent a response is deemed required,  
21 Defendants deny the allegations.

22 233. Paragraph 233 contains Plaintiffs' characterization of this case, argument, and  
23 legal conclusions, to which no response is required; to the extent a response is deemed required,  
24 Defendants deny.

25 234. Paragraph 234 contains Plaintiffs' characterization of this case, argument, and  
26 legal conclusions, to which no response is required; to the extent a response is deemed required,  
27 Defendants deny.  
28

1 Defendants hereby deny all allegations in Plaintiffs' Complaint not expressly admitted or  
2 denied or otherwise responded to.

3 **AFFIRMATIVE AND OTHER DEFENSES**

4 **First Affirmative Defense**

5 The Court lacks subject matter jurisdiction.

6 **Second Affirmative Defense**

7 The Fourth Amended Complaint fails to state a claim upon which relief can be granted.

8 **Third Affirmative Defense**

9 One or more Plaintiffs are barred from asserting any claims against DoD or CIA by virtue  
10 of the applicable statute of limitations, 28 U.S.C. § 2401(a). One or more Plaintiffs have been  
11 aware of the facts underlying such claims for more than six years prior to the filing of the  
12 Complaint.  
13

14 **Fourth Affirmative Defense**

15 Plaintiffs are barred from asserting any claims by laches. One or more Plaintiffs have  
16 been aware of the facts underlying their claims for an unreasonable period of time, and in some  
17 circumstances, decades, without timely bringing a lawsuit. Given the staleness of such claims,  
18 and the difficulty in identifying and obtaining potentially relevant information, Defendants have  
19 been, and continue to be, prejudiced by Plaintiffs unreasonable delay in bringing their lawsuit.  
20

21 **Fifth Affirmative Defense**

22 Plaintiff Bruce Price is barred from asserting any causes of action against the CIA and  
23 DoD by res judicata because he has previously brought claims against the United States. The  
24 claims in his prior action are the same as those in the present one; the prior suit resulted in final  
25 judgment on the merits; and both suits involved the same parties or their privities.  
26

1 WHEREFORE, having fully answered, Defendants deny that Plaintiff are entitled to the  
2 relief requested or to any relief whatsoever, and request that this action be dismissed in its entirety  
3 with prejudice and that Defendants be given such other relief as this Court deems proper,  
4 including costs and disbursements.  
5

6  
7 Dated: November 16, 2012

Respectfully submitted,

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9 Deputy Assistant Attorney General  
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