

# **EXHIBIT E**

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 11

12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

14 VIETNAM VETERANS OF AMERICA, *et al.*,  
 15 Plaintiffs,  
 16 v.  
 17 CENTRAL INTELLIGENCE AGENCY, *et al.*,  
 18 Defendants.

CV 09-0037-CW

**PLAINTIFFS' SUPPLEMENTAL  
 NOTICE OF DEPOSITIONS TO  
 CENTRAL INTELLIGENCE AGENCY  
 PURSUANT TO FED. R. CIV. P.  
 30(b)(6)**

1 TO THE CENTRAL INTELLIGENCE AGENCY AND ITS ATTORNEY(S) OF  
2 RECORD:

3 PLEASE TAKE NOTICE THAT, pursuant to Rule 30(b)(6) of the Federal Rules of Civil  
4 Procedure, plaintiffs Vietnam Veterans of America (“VVA”), Swords to Plowshares: Veterans  
5 Rights Organization (“Swords”), and six individual veterans will conduct depositions upon oral  
6 examination of Defendant Central Intelligence Agency (“CIA”) beginning July 27, 2010,  
7 commencing at 9:30 a.m., and continuing from that time until complete, at the law offices of  
8 Morrison & Foerster LLP, 2000 Pennsylvania Avenue, NW, Suite 6000, Washington, DC 20006.  
9 The depositions will be recorded stenographically, and will be taken before a court reporter or  
10 other person authorized to administer oaths, and will be conducted in accordance with the Federal  
11 Rules of Civil Procedure. Please be advised that the depositions may be recorded on video and/or  
12 audio tape and/or LiveNote in addition to stenographic recording. The depositions will continue  
13 from day to day, Saturday, Sundays, and holidays excepted until completed or adjourned.

14 Pursuant to the provisions of Rule 30(b)(6), Defendant CIA is hereby directed to designate  
15 one or more of its officers, directors, managing agents, employees, or agents who consent to  
16 testify and who are the most knowledgeable and competent to testify regarding the following  
17 topics. Please provide such designations for each subject matter no later than thirty days of  
18 service of this request.

19 Plaintiffs reserve the right to take subsequent depositions, not just on all material issues,  
20 but also on those issues raised by documents produced by Defendant CIA and witnesses  
21 identified in discovery.

## 22 DEFINITIONS

23 Unless otherwise indicated, the following definitions shall apply:

24 1. “COMMUNICATION” or “COMMUNICATIONS” means, unless otherwise  
25 specified, any of the following: (a) any written letter, memorandum, DOCUMENT or any other  
26 writing; (b) any telephone call between two or more PERSONS, whether or not such call was by  
27 chance or prearranged, formal or informal; and (c) any conversation or MEETING between two  
28 or more PERSONS, whether or not such contact was by chance or prearranged, formal or

1 informal, including without limitation, conversations or MEETINGS occurring via telephone,  
2 teleconference, video conference, electronic mail (e-mail) or instant electronic messenger.

3 2. "CONCERNING" means constituting, summarizing, memorializing, referring to,  
4 regarding and/or relating to.

5 3. "DOCUMENT" or "DOCUMENTS" means any tangible thing upon which any  
6 expression, COMMUNICATION or representation has been recorded by any means, including  
7 but not limited to, handwriting, typewriting, printing, photostating, photographing, magnetic  
8 impulse or mechanical or electronic recording and any non-identical copies (whether different  
9 from the original because of notes made on such copies, because of indications that said copies  
10 were sent to different individuals than were the originals or because of any other reason),  
11 including but not limited to, working papers, preliminary, intermediate or final drafts,  
12 correspondence, memoranda, charts, notes, records of any sort of MEETINGS, invoices, financial  
13 statements, financial calculations, diaries, reports of telephone or other oral conversations, desk  
14 calendars, appointment books, audio or video tape recordings, e-mail or electronic mail,  
15 electronic folders, microfilm, microfiche, computer tape, computer disk, computer printout,  
16 computer card and all other writings and recordings of every kind that are in YOUR actual or  
17 constructive possession, custody or control.

18 4. "IDENTIFY" or "IDENTITY" means:

19 a. with respect to a PERSON, to state the PERSON's full name, current or  
20 last known employer, that employer's address and telephone number, the PERSON's title and/or  
21 position with that employer, and the PERSON's current or last known home address and  
22 telephone number;

23 b. with respect to a DOCUMENT, to state the type of DOCUMENT (i.e.,  
24 letter, memorandum, telephone note, computer floppy or hard disk, magnetic tape, etc.), the title  
25 of the DOCUMENT (if any), the date it was created, the author, all intended recipients including  
26 the addressee and any and all copyees, a brief description of the subject matter of the  
27 DOCUMENT, the present and/or last known location of the DOCUMENT, and to IDENTIFY all  
28 present or last known person in possession, custody or control of the DOCUMENT;

1 c. with respect to a COMMUNICATION to state the name and affiliation of  
2 all PERSONS participating in, or present for, the COMMUNICATION, the date of the  
3 COMMUNICATION, and whether it was conducted in person or by other means (such as  
4 telephone, correspondence, e-mail), and whether it was recorded (e.g., stenographically or by  
5 audio or videotape);

6 d. with respect to a MEETING to state the names and affiliations of all  
7 PERSONS participating in, or present for, the MEETING, the date of the MEETING, and the  
8 location of the MEETING and the purpose of the MEETING.

9 5. "MEETING" or "MEETINGS" means any coincidence of, or presence of, or  
10 telephone, television, video teleconferencing, radio or other electronic communication between or  
11 among persons, whether such was by chance or prearranged, informal or formal, as well as the  
12 results of or actions to be taken following such communication.

13 6. "PERSON" or "PERSONS" means, unless otherwise specified, any natural person,  
14 firm, entity, corporation, partnership, proprietorship, association, joint venture, other form of  
15 organization or arrangement and government and government agency of every nature and type.

16 7. "YOU" or "YOUR" means the Defendant agency in this action, and all of its past  
17 and present offices, departments, organizations, administrations, boards, commissions, task  
18 forces, management, and past and present employees and service members. These terms also  
19 include any representatives or agents acting on YOUR behalf, including without limitation,  
20 attorneys, investigators or consultants.

### 21 SPECIAL DEFINITIONS

22 Unless otherwise indicated, the following special definitions shall apply:

23 1. "CIA" means the Central Intelligence Agency of the United States, and all its past  
24 and present offices, departments, organizations, administrations, boards, commissions, task  
25 forces, management, and past and present employees and service members.

26 2. "DAIG" means the Department of the Army Inspector General, and all its past and  
27 present offices, departments, organizations, administrations, boards, commissions, task forces,  
28 management, and past and present employees.

1           3.       “DEPARTMENT OF DEFENSE” or “DoD” means the United States Department  
2 of Defense, and all its past and present offices, departments, organizations, administrations,  
3 boards, commissions, task forces, management, and past and present employees and service  
4 members.

5           4.       “DEPARTMENT OF THE ARMY” or “DoA” means the United States  
6 Department of the Army, and all its past and present offices, departments, organizations,  
7 administrations, boards, commissions, task forces, management, and past and present employees  
8 and service members.

9           5.       “EDGEWOOD ARSENAL” means the southern sector of the military installation  
10 located northeast of Baltimore, Maryland, in the Northern Chesapeake Bay along a neck of land  
11 between the Gunpowder and Bush rivers.

12           6.       “GAO” means the United States Government Accountability Office and all its  
13 predecessors, offices, departments, organizations, administrations, boards, commissions, task  
14 forces, management, and past and present employees.

15           7.       “IOM” means the Institute of Medicine, a branch of the National Academies, and  
16 all its predecessors, offices, departments, organizations, administrations, boards, commissions,  
17 task forces, management, and past and present employees.

18           8.       “NRC” means the National Research Council, a branch of the National  
19 Academies, and all its predecessors, offices, departments, organizations, administrations, boards,  
20 commissions, task forces, management, and past and present employees.

21           9.       “NAS” means the National Academy of Sciences, a branch of the National  
22 Academies, and all its predecessors, offices, departments, organizations, administrations, boards,  
23 commissions, task forces, management, and past and present employees.

24           10.      “VA” or “DVA” means the United States Department of Veterans Affairs, and all  
25 its predecessors (including the Veterans Administration) and its past and present offices,  
26 departments, organizations, administrations, boards, consultants, commissions, task forces,  
27 management, and past and present employees.

1           11.     “TEST PROGRAMS” means each of the projects identified in the First Amended  
2 Complaint, including without limitation, the Human Test Series identified in Paragraph 140 of the  
3 First Amended Complaint, including Projects “BLUEBIRD,” “ARTICHOKE,” “MKDELTA,”  
4 “MKULTRA,” “MKNAOMI,” “MKSEARCH,” “MKCHICKWIT,” “MKOFTEN,” and any  
5 other program of experimentation involving human testing of any substance, including but not  
6 limited to, “MATERIAL TESTING PROGRAM EA 1729.” TEST PROGRAMS shall include  
7 any and all sub-projects related to any program of human testing conducted by YOU.

8           a.     “BLUEBIRD” means, including without limitation, the official code name  
9 given in or around 1950 to the secret test program conducted by one or  
10 more of YOU CONCERNING special interrogation methods, including the  
11 use of drugs, hypnosis and isolation upon human test subjects.

12           b.     “ARTICHOKE” means, including without limitation, the official code  
13 name given in or around 1951 to the secret test program conducted by one  
14 or more of YOU CONCERNING the study of special interrogation  
15 techniques and the use of chemicals, among other methods, to produce  
16 amnesia and other vulnerable states in human test subjects.

17           c.     “MKDELTA” means, including without limitation, the official code name  
18 given in or around 1952 to the secret test program conducted by one or  
19 more of YOU CONCERNING the use of biochemicals in clandestine  
20 military operations.

21           d.     “MKULTRA” means, including without limitation, the official code name  
22 given in or around 1953 to the secret test program conducted by one or  
23 more of YOU CONCERNING the surreptitious use of many types of  
24 drugs, as well as other methods, to manipulate individual mental states and  
25 to alter brain function, and that continued at least through the late 1960s.

26           e.     “MKNAOMI” means, including without limitation, the official code name  
27 given to the secret test program conducted by one or more of YOU  
28 CONCERNING the stockpiling of severely incapacitating and lethal

1 materials and the development of gadgetry for the dissemination of these  
2 materials.

3 f. "MKSEARCH" means, including without limitation, the official code  
4 name given in or around 1964 to the secret test program conducted by one  
5 or more of YOU CONCERNING the development of methods to  
6 manipulate human behavior through the use of drugs and other chemical  
7 substances.

8 g. "MKCHICKWIT" or "CHICKWIT" means, including without limitation,  
9 the official code name given to the secret test program conducted by one or  
10 more of YOU CONCERNING the identification of new drugs in Europe  
11 and Asia and collection of information and samples CONCERNING same.

12 h. "MKOFTEN" means, including without limitation, the official code name  
13 given to the secret test program conducted by one or more of YOU  
14 CONCERNING the behavioral and toxicological effects of certain drugs  
15 on animals and humans.

16 i. "MATERIAL TESTING PROGRAM EA 1729" means, including without  
17 limitation, the official code name given to the secret test program by one or  
18 more of YOU CONCERNING the testing of lysergic acid diethylamide  
19 ("LSD") as an intelligence-gathering technique.

20 12. "TEST SUBJECT" or "TEST SUBJECTS" means, unless otherwise specified, any  
21 person who, while an active duty member of the U.S. Military or a member of the reserves of any  
22 branch of the U.S. Military, participated in any experiment that was part of, or related to, the  
23 TEST PROGRAMS. For purposes of this definition, TEST SUBJECTS shall be deemed to have  
24 participated in an experiment even if the TEST SUBJECT received only a placebo or if the TEST  
25 SUBJECT declined to participate or withdrew "consent" after being initially selected for  
26 participation. "TEST SUBJECTS" shall not, unless otherwise specified, include civilians who  
27 participated in the TEST PROGRAMS.

28



**CONSTRUCTION**

The following rules of construction shall also apply:

1. “All” or “each” shall be construed as “all and each.”
2. “Any” should be understood to include and encompass “all;” “all” should be understood to include and encompass “any.”
3. “And” or “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
4. The use of the singular form of any word shall include the plural and vice versa.

**TOPICS**

Pursuant to Federal Rule of Civil Procedure 30(b)(6), Defendant’s designee(s) shall be prepared to testify regarding the following subjects, all with respect to Defendant’s search for and production of DOCUMENTS:

1. YOUR policy for retaining DOCUMENTS relating to the TEST PROGRAMS.
2. YOUR destruction of DOCUMENTS prior to the inception of this lawsuit, and the IDENTITY of DOCUMENTS destroyed.
3. The scope of YOUR collection of documents relating to all experiments, field testing, or other activities that were part of the TEST PROGRAMS.
4. The scope of YOUR search for documents relating to all experiments, field testing, or other activities that were part of the TEST PROGRAMS.
5. The scope of YOUR production of documents relating to all experiments, field testing, or other activities that were part of the TEST PROGRAMS.
6. YOUR policy for retaining handbooks, guidelines, and memoranda distributed to “volunteers” who participated in the TEST PROGRAMS, including but not limited to, all versions and drafts of the DOCUMENTS titled “Medical Research Volunteer Program” and “Medical Volunteer Handbook.”
7. Steps taken to identify handbooks, guidelines, and memoranda distributed to “volunteers” who participated in the TEST PROGRAMS, including but not limited to, all

1 versions and drafts of the DOCUMENTS titled “Medical Research Volunteer Program” and  
2 “Medical Volunteer Handbook.”

3 8. Steps taken to identify fields, data, printouts, information and instructions  
4 concerning the database identified in the May 6, 1974 CIA Inspector General Report.

5 9. Steps taken to identify the types, properties and health effects of all substances  
6 tested or used on human subjects, including without limitation, the projects identified in the  
7 Second Amended Complaint at or in connection with any of the military facilities in the Second  
8 Amended Complaint, including but not limited to, at the EDGEWOOD ARSENAL.

9 10. Steps taken to identify DOCUMENTS sent, loaned, or shown to any  
10 Congressional Committee, member of Congress, or Congressional staff CONCERNING the  
11 TEST PROGRAMS.

12 11. Steps taken to identify DOCUMENTS concerning the installation or use of septal  
13 implants upon human subjects, including but not limited to Bruce Price.

14 12. YOUR destruction of DOCUMENTS as described in Paragraph 143 of the Second  
15 Amended Complaint, and the IDENTITY of DOCUMENTS destroyed, and all MEETINGS and  
16 COMMUNICATIONS CONCERNING the same that mention any one or more of the individual  
17 plaintiffs.

18 13. Steps taken to identify ALL DOCUMENTS CONCERNING any TEST  
19 SUBJECT, including but not limited to, military service records, physical or mental health  
20 records, correspondence and records CONCERNING all COMMUNICATIONS with any TEST  
21 SUBJECT.

22 14. Steps taken to identify ALL DOCUMENTS CONCERNING any of the individual  
23 plaintiffs, including but not limited to, military service records, physical or mental health records,  
24 correspondence and records CONCERNING all COMMUNICATIONS with any individual  
25 plaintiff.

26 15. Method used and records searched to identify all deaths, injuries, and negative  
27 health effects, or suspected deaths, injuries, and negative health effects attributable in whole or in  
28 part to the effects of any substance administered during the TEST PROGRAMS.

1           16.     Steps taken to identify studies, reports, surveys, or other analyses of the health  
2 effects of any exposure to substances used or administered during the TEST PROGRAMS.

3           17.     Steps taken to identify copies of all participant agreements and consent forms  
4 prepared for, given to or received from TEST SUBJECTS in the TEST PROGRAMS, including  
5 but not limited to, all participant agreements or consent forms signed by participants in the TEST  
6 PROGRAMS.

7           18.     Steps taken to identify all tabulations, summaries, analyses or descriptions of the  
8 types of medical problems (both physical and mental) experienced by participants in the TEST  
9 PROGRAMS.

10          19.     Steps taken to identify all analyses, discussions or summaries CONCERNING the  
11 frequency with which particular medical problems or conditions (whether physical or mental)  
12 occur amongst participants in the TEST PROGRAMS and/or the cause and effect relationship  
13 between exposures and particular diseases or conditions.

14          20.     Steps taken to identify the dose-relationship CONCERNING drugs, chemicals  
15 and/or biological substances tested upon human subjects at the EDGEWOOD ARSENAL or  
16 under YOUR control, funding, supervision or direction.

17          21.     Steps taken to identify all DOCUMENTS CONCERNING the statement issued on  
18 or about October 3, 1995 by former President William J. Clinton CONCERNING human  
19 experimentation conducted during the Cold War, as well as MEETINGS and  
20 COMMUNICATIONS CONCERNING the same.

21          22.     The scope of information protected by the Privacy Act, 5 U.S.C. § 552a, the  
22 Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), 42 U.S.C. § 1320d-2,  
23 the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164.

24          23.     The scope of information protected by the attorney-client privilege, the work  
25 product doctrine, deliberative process, or any other applicable privilege or immunity recognized  
26 under statute, regulation or applicable case law.

27          24.     The scope of information classified pursuant to Executive Order 12,958 and  
28 subject to the state secrets privilege or otherwise subject to the state secrets privilege.

1           25.    The scope of information protected pursuant to the Central Intelligence Agency  
2 Act of 1949, 50 U.S.C. § 403g.

3           26.    YOUR efforts to redact documents CONCERNING the TEST PROGRAMS.

4           27.    YOUR efforts to log documents CONCERNING the TEST PROGRAMS withheld  
5 on grounds of privilege or work product.

6           28.    YOUR efforts to collect, review, produce, or log any DOCUMENTS created by,  
7 maintained by, or transmitted to YOU that relate to the TEST PROGRAMS.

8           29.    Deletion or destruction of any DOCUMENTS since this lawsuit commenced or  
9 since deponent received notification about litigation or pending litigation.

10  
11           Plaintiffs reserve the right to supplement these topics following receipt and review of  
12 Defendants' responses to Interrogatories and Requests for Production propounded by Plaintiffs.

13  
14 Dated: June 16, 2010

GORDON P. ERSPAMER  
TIMOTHY W. BLAKELY  
ADRIANO HRVATIN  
STACEY M. SPRENKEL  
DIANA LUO  
MORRISON & FOERSTER LLP

15  
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17  
18 By:   
19       Gordon P. Erspamer  
20       [GErspamer@mof.com]

21 Attorneys for Plaintiffs  
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**PROOF OF SERVICE**

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California 94105-2482. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on June 16, 2010, I served a copy of:

**NOTICE OF DEPOSITION OF CENTRAL INTELLIGENCE AGENCY**

**BY U.S. MAIL [Code Civ. Proc sec. 1013(a)]** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California 94105-2482 in accordance with Morrison & Foerster LLP's ordinary business practices.

I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

Caroline Lewis-Wolverton, Esq.  
Kimberly L. Herb, Esq.  
United States Department of Justice  
Civil Division, Federal Programs Branch  
P.O. Box 883  
Washington, D.C. 20044

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this 16th day of June, 2010.

N.E. Marcus



(signature)