

# Exhibit B

**Exhibit B**

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

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

Case No. CV 09-0037-CW

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

24  
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 26  
 27 Defendants Central Intelligence Agency and its Director Leon Panetta (collectively,  
 28 "CIA"); United States Department of Defense and its Secretary, Robert M. Gates, and the United

1 States Army and its Secretary, Pete Geren (collectively, "DoD"); and United States Department  
2 of Justice and the Attorney General of the United States (collectively, "DOJ") in this civil action,  
3 by and through undersigned counsel, hereby submit the following responses to Plaintiffs'  
4 Interrogatories based on the searches conducted to date and further recognize their duty to  
5 supplement these responses according to Federal Rule of Civil Procedure 26(e)(1):  
6

7 **GENERAL RESPONSES**

8 1. The information submitted herewith is being provided in accordance with the  
9 Federal Rules of Civil Procedure which permit the discovery of any matter not privileged that is  
10 relevant to the subject matter of this civil action. Fed. R. Civ. P. 26(b)(1). Accordingly,  
11 Defendants do not, by providing such information, waive any objection to its admissibility on the  
12 grounds of relevance, materiality, or other appropriate ground.  
13

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

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

23 **GENERAL OBJECTIONS**

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

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

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

24  
25           4. In light of the concerns discussed in General Objection 3 and because most  
26 potentially responsive records are wholly unrelated to the subjects of this litigation, Defendants  
27 have limited both their search for information responsive to Plaintiffs' interrogatories and their  
28

1 corresponding responses to relevant information pertaining to the specified test programs and  
2 other chemical or biological testing involving service members conducted in conjunction with the  
3 Edgewood Arsenal area of Aberdeen Proving Ground, Maryland, Fort Detrick, Maryland and Fort  
4 Ord, California. In addition, Defendant CIA conducted searches regarding CIA research  
5 programs, and provided corresponding responses to Plaintiffs' interrogatories, limited to relevant  
6 information pertaining to Project OFTEN, the only CIA program known to CIA to have  
7 contemplated testing on military personnel.  
8

9         5. Defendants object to identifying or providing any files, records, reports, and any  
10 other papers and documents pertaining to any individual other than the individually named  
11 Plaintiffs to the extent that such information is protected by the Privacy Act, 5 U.S.C. § 552a, the  
12 Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. § 1320d-2,  
13 the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164.  
14

15         6. Defendants further object to Plaintiffs' request for identification of documents to  
16 the extent they seek information protected from disclosure by the attorney-client privilege, the  
17 work product doctrine, deliberative process, or any other applicable privilege or immunity  
18 recognized under statute, regulation or applicable case law. In conformance with Fed. Rule Civ.  
19 P. 26(b)(5), Defendants will describe the nature of any documents that are withheld as privileged  
20 or subject to protection as attorney work product.  
21

22         7. Defendants object to Plaintiffs' Interrogatories to the extent they seek information  
23 from any individual or entity other than Defendants or to the extent they seeks information that is  
24 publicly available, and/or that is equally or more readily available to Plaintiffs. Defendants object  
25 to Plaintiffs' Interrogatories to the extent they demand the identification of documents or  
26 information not within the possession, custody, or control of Defendants.  
27  
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1           8.       Defendants object to Plaintiffs' Interrogatories to the extent that they seek  
2 information that is classified pursuant to Executive Order 12,958, its predecessor, or its  
3 successors, and subject to the state secrets privilege or otherwise subject to the state secrets  
4 privilege.

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

12           10.      Defendant DOJ objects to Plaintiffs' Interrogatories to the extent they demand that  
13 DOJ identify documents or information not relevant to the claims against DOJ and the Attorney  
14 General. Plaintiffs' Second Amended Complaint ("SAC") references the DOJ or Attorney  
15 General in only three paragraphs, and all three paragraphs pertain solely to Plaintiffs' claims  
16 regarding the identification and notification of participants in government test programs. Second  
17 Am. Compl. ¶¶13, 14, 98. Paragraph 13 alleges both that the CIA testified that it was working  
18 with the Attorney General regarding the identification of test participants and that the Attorney  
19 General participated in efforts to locate test participants. *Id.* ¶ 13. Paragraph 14 characterizes a  
20 DOJ opinion regarding whether the CIA had a duty to locate participants in the CIA's  
21 MKULTRA program. *Id.* ¶ 14. Paragraph 98 then expressly states that the Attorney General "is  
22 named solely in his official capacity and in connection with the Attorney General's assumption of  
23 responsibility to notify the victims of biological and chemical weapons tests." *Id.* ¶ 98. It would  
24 be unduly burdensome and not reasonably calculated to lead to the discovery of admissible  
25 evidence to require DOJ to search for documents and information not relevant to the claims  
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1 specifically pertaining to DOJ or the Attorney General. Based on Plaintiffs' claims in the SAC,  
2 therefore, Defendant DOJ has limited its search and response to information relevant to the  
3 allegations in the SAC that pertain to DOJ and the Attorney General.  
4

5  
6 **SPECIFIC OBJECTIONS AND RESPONSES TO REQUESTS  
FOR PRODUCTION**  
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8 Each of the foregoing statements and/or objections is incorporated by reference into each and  
9 every specific response set forth below, and Defendants response below is not a waiver of any of  
10 their General Objections.

11 **INTERROGATORY NO. 1:**

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

14 **OBJECTION**

15  
16 Defendants object to this Interrogatory for the reasons described in General Objections 3–  
17 4, 6, and 8–10. Defendants further object to Plaintiffs' request as overly broad and not reasonably  
18 calculated to lead to the discovery of admissible evidence, and protected from disclosure by one  
19 or more privileges or immunities.

20 **RESPONSE**

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

- 23
- 24 • DoD: DoD does not have a roster or list of all the individuals who directed,  
25 designed or carried out experiments, though some names may appear in documents  
26 or reports produced March 25, 2010.
  - 27 • CIA: Pursuant to General Objection 9, CIA has no response to this interrogatory.  
28

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

5                   **INTERROGATORY NO. 2:**

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

7                   OBJECTION

8                   Defendants object to this Request on the ground that it seeks information protected by the  
9                   Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996  
10                  ("HIPAA"), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,  
11                  and for the reasons described in General Objections 3–5, 7, and 10. Defendants further object to  
12                  Plaintiffs' request as overly broad, irrelevant to the claims remaining in this action, and not  
13                  reasonably calculated to lead to the discovery of admissible evidence.  
14

15                  RESPONSE

16                  Subject to these objections and Defendants' General Objections above, Defendants  
17                  respond as follows:  
18

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

- 4 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information  
5 related to this interrogatory.  
6

7  
8 **INTERROGATORY NO. 3:**

9 For each TEST SUBJECT, IDENTIFY the TEST PROGRAM project and/or sub-project  
10 in which the TEST SUBJECT was involved.  
11

12 **OBJECTION**

13 Defendants object to this Request on the ground that it seeks information protected by the  
14 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996  
15 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,  
16 and for the reasons described in General Objections 3–5 and 10. Defendants further object to  
17 Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, and not  
18 reasonably calculated to lead to the discovery of admissible evidence.  
19

20 **RESPONSE**

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

- 23 • DoD: DoD categorized its tests involving military service members based on the  
24 chemical agent involved, rather than by specific projects or test programs.  
25 Information on the chemical agents involved would be contained in the DoD  
26 chem-bio database (VVA 029358), which DoD produced as of March 2010. This  
27 database identifies each service member participant, albeit not by name, the  
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1 substance(s) tested, and provides additional information about the tests, including  
2 the amount administered and route of administration (e.g., oral or percutaneous),  
3 where available. Additionally, while information concerning Seventh Day  
4 Adventist test volunteers in Fort Detrick's biological agent test program is  
5 contained in the chem-bio database, these individuals were grouped together under  
6 the label "Project Whitecoat."  
7

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

13  
14 **INTERROGATORY NO. 4:**

15 Please IDENTIFY all COMMUNICATIONS between YOU and any TEST SUBJECT or  
16 other former service members whom YOU believe or understand to have participated in the  
17 TEST PROGRAMS.  
18

19 **OBJECTION**

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

3 RESPONSE

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

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

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

16 OBJECTION

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

22 RESPONSE

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

- 25 • DoD: DoD produced a copy of the DoD chem-bio database (VVA 029358) as of  
26 March 2010 that identifies each service member participant, albeit not by name,  
27 the substance(s) tested, and provides additional information about the tests,  
28

1 including the amount administered and route of administration (e.g., oral or  
2 percutaneous), where available. DoD also previously produced documents  
3 responsive to RFP ## 3, 17, 20, 25, 32, 57, 67, 72, and 73. DoD also received six  
4 classified DoD documents that were in the possession of the CIA; DoD will  
5 conduct a classification review of those documents and determine whether they are  
6 responsive and/or duplicate information previously released by DoD.  
7

- 8 • CIA: CIA provided to Plaintiffs documents in its initial disclosures that may be  
9 responsive, and CIA transferred the six documents described above to DoD.
- 10 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information  
11 related to this interrogatory.  
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13  
14 **INTERROGATORY NO. 6:**

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

17 **OBJECTION**

18  
19 Defendants object to this Interrogatory for the reasons described in General Objections 2–  
20 5 and 7. Defendants further object to Plaintiffs’ request as overly broad and not reasonably  
21 calculated to lead to the discovery of admissible evidence. Finally, Defendants object on the  
22 ground that the term “repositories” is not defined.

23 **RESPONSE**

24 Subject to these objections and Defendants’ General Objections above, Defendants  
25 respond as follows:  
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- DoD: DoD previously produced documents responsive to RFP ## 3 and 26. Additionally, the National Archives of the United States serves as a depository for DoD documents.
- CIA: The National Archives of the United States serves as a depository for CIA documents.
- DOJ: For the period at issue, any records of the Attorney General, Deputy Attorney General, or the Associate Attorney General would have been paper records and would have been accessioned by the National Archives of the United States. Based on the searches conducted to date, the Office of Legal Counsel has identified an internal electronic database that allows OLC personnel to locate a large number of unclassified documents prepared by OLC from 1945 to the present.

**INTERROGATORY NO. 7:**

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

**OBJECTION**

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

**RESPONSE**

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

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

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11 **INTERROGATORY NO. 8:**

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

17  
18 **OBJECTION**

19 Defendants object to this Request on the ground that it seeks information protected by the  
20 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996  
21 ("HIPAA"), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,  
22 and for the reasons described in General Objections 3-5. Defendants further object for the  
23 reasons identified in General Objection 7 in so far as the requested information is in the  
24 possession of a third party, the VA. Finally, Defendants object to Plaintiffs' request as overly  
25 broad, irrelevant to the claims remaining in this action, and not reasonably calculated to lead to  
26 the discovery of admissible evidence.  
27

28 **RESPONSE**

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

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

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

22 **OBJECTION**

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

1           RESPONSE

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

- 4
- 5           • DoD: DoD produced the contents of its chem-bio database (VVA 029358) as of  
6           March 2010. The purpose of the database is to identify each service member  
7           participant, though names have been redacted pursuant to the objections above, the  
8           substance(s) tested, and any additional information about the tests, including the  
9           amount administered and route of administration (e.g., oral or percutaneous),  
10          where available. DoD maintains the names of test participants for Mustard Gas  
11          and Lewisite tests, and test participants for Project 112 / SHAD tests in the same  
12          chem-bio database.
  - 13
  - 14          • CIA: CIA has a copy of certain potentially responsive, classified DoD information  
15          contained on magnetic tapes that are unreadable to CIA. CIA also has printout of  
16          classified DoD information that it believes to be the contents of the magnetic  
17          tapes. CIA will return both the tapes and the printout to DoD for a classification  
18          review and determination of whether DoD possesses the hardware to read the  
19          tapes. Pursuant to General Objection 8, CIA has no further response to this  
20          interrogatory.
  - 21
  - 22          • DOJ: Pursuant to General Objection 10, DOJ did not search for information  
23          related to this interrogatory as it pertains to "TEST PROGRAMS." With regard to  
24          this request as it pertains to "TEST SUBJECTS," DOJ is not aware of any  
25          databases that existed for the Attorney General, Deputy Attorney General, or  
26          Associate Attorney General at that time; records were maintained in paper format.  
27          DOJ's Executive Secretariat maintains a correspondence tracking system, which  
28



1 reflects the dates of correspondence. Based on the searches conducted to date, the  
2 Office of Legal Counsel has identified an internal electronic database that allows  
3 OLC personnel to locate a large number of unclassified documents prepared by  
4 OLC from 1945 to the present.  
5

6  
7 **INTERROGATORY NO. 10:**

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

13 **OBJECTION**

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

20 **RESPONSE**

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

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

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

- 3
- 4 • CIA: Any responsive documents in the CIA’s care, custody, or control are  
5 protected from disclosure by one or more privileges or immunities, the reasons  
6 stated in General Objections 8 and 9, and because such a request would be unduly  
7 burdensome.
  - 8 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information  
9 related to this interrogatory.
- 10

11

12 **INTERROGATORY NO. 11:**

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

15 **OBJECTIONS**

16 Defendants object to this Interrogatory for the reasons described in General Objections 2–,  
17 4 and 10. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the claims  
18 remaining in this action, and not reasonably calculated to lead to the discovery of admissible  
19 evidence.  
20

21 **RESPONSE**

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

- 24
- 25 • DoD: DoD previously produced documents responsive to RFP # 2.
  - 26 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find  
27 information that is responsive to this request.
- 28

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

5 **INTERROGATORY NO. 12:**

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

9 **OBJECTION**

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

16 **RESPONSE**

17                   Subject to these objections and Defendants’ General Objections above, Defendants  
18 respond as follows:  
19

- 20                   • DoD: DoD conducted a search, as outlined in General Objection 4, and did not  
21 find information that is responsive to this request.  
22                   • CIA: Project OFTEN involved a joint testing program with Edgewood Arsenal  
23 Research Laboratories and CIA between approximately 1967 and 1973. Though  
24 this program contemplated testing on volunteer military personnel, CIA’s past  
25 reviews determined that the CIA ceased its funding for the testing program prior to  
26 the advancement of the program to the human testing phase. Defendants produced  
27 a copy of “Historical Documentation of the [CIA’s] Role in the Human Subject  
28

1 Test Program at Edgewood Arsenal Research Laboratories” (Oct. 21, 1994) as part  
2 of their initial disclosures. (VVA 023789-023965)

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

6

7 **INTERROGATORY NO. 13:**

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

12

13 **OBJECTION**

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

18

19 **RESPONSE**

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

- 22
- 23 • DoD: DoD conducted a search, as outlined in General Objection 4, and did not  
24 find information that is responsive to this request.
  - 25 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find  
26 information that is responsive to this request.
  - 27 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information  
28 related to this interrogatory.

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**INTERROGATORY NO. 14:**

Please IDENTIFY all TEST SUBJECTS who, after signing a consent to participate in the TEST PROGRAMS, revoked consent or refused to continue participation, and summarize the outcome of each case.

**OBJECTION**

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

**RESPONSE**

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

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

**INTERROGATORY NO. 15:**

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

**OBJECTION**

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

4 RESPONSE

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

- 8 • DoD: Documents previously provided by DoD indicate the text of the consent  
9 forms used and the time period they were operative. DoD also previously  
10 provided the consent forms signed by all the named Plaintiffs. See documents  
11 DoD previously produced responsive to RFP ## 10 and 73.
- 12 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find  
13 information that is responsive to this request.
- 14 • DOJ: Pursuant to General Objection 10, DOJ has not searched for information  
15 related to this interrogatory.  
16

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19 INTERROGATORY NO. 16:

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

22 OBJECTION

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

3 RESPONSE

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

- 6
- 7 • DoD: DoD conducted a follow-up study on forty test volunteers and published a  
8 report in 1972. DoD conducted interviews with and laboratory tests on all forty  
9 subjects. Additionally, DoD conducted a follow-up study on the effects of LSD on  
10 test volunteers and published a report in 1980. DoD received responses from 320  
11 test volunteers: 100 provided answers to written questionnaires and 220 reported  
12 to military medical facilities for testing. Additionally, in the 1990s, DoD provided  
13 a list of names of test subjects with exposure to mustard to the VA. From 2000 to  
14 2003, DoD provided the VA with a list of service members exposed to chemical  
15 and biological warfare agents and stimulants during the 1960s and 1970s. DoD  
16 provided an additional list of service members participating in testing on  
17 identifying and treating exposures to chemical and biological warfare agents to the  
18 VA in 2004, and updates that list monthly based on reports from Batelle.
  - 19 • CIA: CIA efforts to locate human subjects of Project OFTEN determined that the  
20 CIA's funding of the program ceased before it progressed to human subject  
21 testing. CIA also provided documents in its initial disclosures that may be  
22 responsive. Pursuant to General Objection 8-9, no further information may be  
23 provided.
  - 24 • DOJ: Based on the searches conducted to date, as outlined in General Objection 4,  
25 DOJ has identified no information that is responsive to this request.  
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**INTERROGATORY NO. 17:**

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

**OBJECTION**

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

**RESPONSE**

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

**INTERROGATORY NO. 18:**

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

**OBJECTION**

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



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

3 RESPONSE

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

7  
8 INTERROGATORY NO. 19:

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

16 OBJECTION

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

26 RESPONSE  
27  
28

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

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

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11 **INTERROGATORY NO. 20:**

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

15 **OBJECTION**

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

20

21 **RESPONSE**

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

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

- DOJ: Pursuant to General Objection 10, DOJ has not searched for information related to this interrogatory.

**INTERROGATORY NO. 21:**

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

**OBJECTION**

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

**RESPONSE**

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

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

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

- 4 • CIA: CIA conducted a search, as outlined in General Objection 4, and did not find  
5 information that is responsive to this request other than the six documents  
6 discussed above.
- 7 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information  
8 related to this interrogatory.  
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12 **INTERROGATORY NO. 22:**

13 Please IDENTIFY each and every statute, regulation, directive, policy, or instruction  
14 governing YOUR conduct and execution of the TEST PROGRAMS, including, without  
15 limitation, each statute, regulation, directive, or instruction CONCERNING the provision of  
16 information to TEST SUBJECTS CONCERNING any risks associated with their participation in  
17 the TEST PROGRAMS, the procurement or evaluation of the informed consent of any PERSON  
18 participating in the TEST PROGRAMS, and the provision of medical care and evaluations for  
19 any PERSON participating in the TEST PROGRAMS.  
20

21 **OBJECTION**

22 Defendants object to this Interrogatory for the reasons described in General Objections 3–  
23 4, 7, and 10. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the  
24 claims remaining in this action, protected from disclosure by one or more privileges or  
25 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.  
26

27 **RESPONSE**

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

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

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

20 **OBJECTION**

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

26 **RESPONSE**

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

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

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

8 OBJECTION

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

14 RESPONSE

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

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

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

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

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13 **INTERROGATORY NO. 25:**

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

18

19 **OBJECTION**

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

24

25 **RESPONSE**

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

28



1 • DoD: DoD conducted a search, as outlined in General Objection 4, and did not  
2 find information that is responsive to this request.

3 • CIA provided documents in its initial disclosures that may be responsive.  
4

5 Pursuant to General Objection 8–9, no further information may be provided.

6 • DOJ: DOJ has identified to date six documents related to Exhibit A of the First  
7 Amended Complaint. Pursuant to General Objection 6, no further information  
8 may be provided at this time beyond the details below:

9 ○ Memorandum, August 10, 1977, John M. Harmon, for the Attorney  
10 General, concerning MKULTRA.

11 ○ Letter, September 9, 1977, John M. Harmon, to Benjamin R. Civiletti,  
12 concerning MKULTRA.

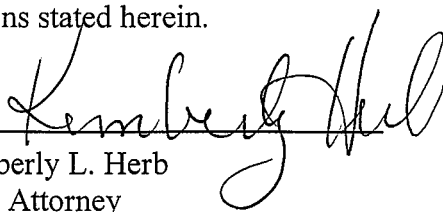
13 ○ Letter, December 20, 1977, John N. Gavin, to John M. Harmon,  
14 concerning MKULTRA.

15 ○ Letter, January 5, 1978, John M. Harmon, to Benjamin R. Civiletti,  
16 concerning MKULTRA.

17 ○ Letter, January 24, 1979, Larry A. Hammond, for the Attorney General,  
18 concerning MKULTRA.

19 ○ Letter, January 25, 1979, Griffin B. Bell, to Stansfield Turner, concerning  
20 MKULTRA.  
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24 To the best of my knowledge, I assert the objections stated herein.

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26   
27 Kimberly L. Herb  
28 Trial Attorney  
Department of Justice

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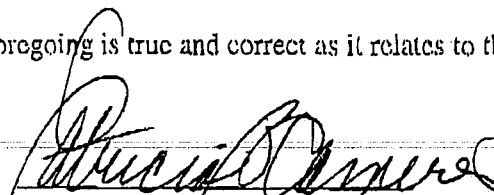
I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Justice, Executive Secretariat.



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Dana E Paige  
Departmental Executive Secretariat  
Department of Justice

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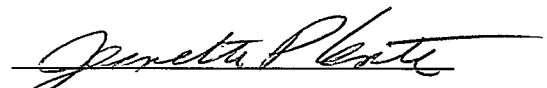
I declare under penalty of perjury that the foregoing is true and correct as it relates to the Central Intelligence Agency.



Patricia B. Camerese  
Central Intelligence Agency

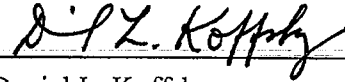
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I declare under penalty of perjury that the foregoing is true and correct as it relates to the offices of the Attorney General, Deputy Attorney General, and Associate Attorney General.

  
Jeanette Plante  
Office of Records Management Policy  
Department of Justice

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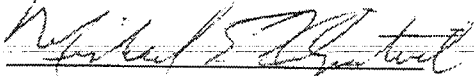
I declare under penalty of perjury that the foregoing is true and correct as it relates to the Office of Legal Counsel, Department of Justice.



Daniel L. Koffsky  
Office of Legal Counsel  
Department of Justice

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



Michael E. Kilpatrick, MD, FACP  
Department of Defense

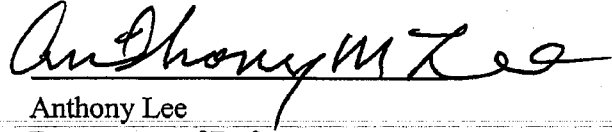
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For Interrogatories 7, 8, 13, 14, 15, 19, 20, 22, 23, and 25, I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Defense and U.S. Army.



Arthur O. Anderson, MD  
Department of Defense

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

3 

4 Anthony Lee  
5 Department of Defense

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