Exhibit M

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Civil Division
Federal Programs Branch

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December 13, 2010

Via E-mail

Mr. Gordon Erspamer
Morrison & Foerster, LLP
425 Market Street
San Francisco, CA 94105-2482

RE: *Vietnam Veterans of America, et al. v. CIA, et al.*, No. CV 09 0037-CW (N.D. Cal.)

Dear Mr. Erspamer:

I write in response to your December 10, 2010 letter, which purports to respond to my December 7, 2010 letter to your colleague, Mr. Blakely.

Initial Disclosures

My December 7, 2010 letter to Mr. Blakely identified specific shortcomings in Plaintiffs' Rule 26(a)(1) initial disclosures. Your December 10, 2010 fails to address certain of these key shortcomings.

First, as I identified in my December 7, 2010 letter, you have repeatedly indicated in meet and confers, to the Court, and in other contexts, that you have documentation upon which you intend to rely, but which you refuse to produce despite your automatic obligation to do so under Rule 26. In fact, plaintiffs have acknowledged that they have obtained documents from the National Archives, and have used documents obtained there at depositions, yet have not produced these documents to the government. Your letter fails to address this legitimate concern. Accordingly, I again request that you either produce immediately all documents that you intend to rely upon to support your claims, as required by Rule 26(a)(1), or confirm in writing that you have no documents beyond those which you have already produced that support your claims in this case.

Second, my December 7, 2010 letter notes that plaintiffs' initial disclosures fail to identify ***by name*** individuals from the two organizational plaintiffs, Vietnam Veterans of America and Swords to

Plowshares. Your December 10, 2010 letter does not dispute this. Rather, you make the rather odd suggestion that Defendants somehow have knowledge as to who in the organizational plaintiffs have knowledge on the topics identified in plaintiffs' initial disclosures. Pls' Ltr. at 3. This assertion is puzzling. Defendants have no knowledge as to identity of the individual members of the plaintiff service organizations who plaintiffs intend to rely upon to support their claims in this litigation. This information is plainly within the sole possession of plaintiffs. Accordingly, I once again request that you immediately comply with your Rule 26(a)(1) obligations and identify, ***by name***, the specific individuals from Vietnam Veterans of America and Swords to Plowshares that possess the information identified in your initial disclosures.

Rather than address the legitimate concerns raised in my December 7, 2010 letter, your letter instead alleges – for the first time – that Defendants' initial disclosures are "completely inadequate." Pls' Ltr. at 3. As an initial matter, to the extent you are taking the position that you are somehow excused from providing complete disclosures because of perceived deficiencies in the government's disclosures, such a position is without merit. *See* Rule 26(a)(1)(E) ("A party is not excused from making its disclosures because . . . it challenges the sufficiency of another party's disclosures."). To the extent you are basing your non-compliance with your mandatory automatic disclosure obligations under Rule 26 on perceived non-compliance by the government, I ask you to please reconsider that position.

More importantly, your letter fails to identify any deficiencies in the government's initial disclosures. As your letter acknowledges, the government has produced "tens of thousands of pages of documents," *see* Pls' Ltr. at 1, and is in the process of producing a substantial additional volume of materials on a rolling basis in the future as those documents are identified and processed. You have failed to identify any documents upon which the government intends to rely upon to support its defenses in this case that have not already been produced.

You also allege that the government has somehow failed to identify those individuals in their initial disclosures that provided declarations in support of discovery motions practice. Pls' Ltr. at 3. Putting to one side the issue of whether these individuals provided substantive information that was used to support a defense of the government in this case, your letter fails to recognize that supplementation of initial disclosures under Rule 26(e) is required only "if the additional or corrective information has not otherwise been made known to the other parties during the discovery process." It is beyond dispute that the identity of these declarants was made known to plaintiffs during the discovery process, and your contention that the lack of identification of these declarants in the government's initial disclosure constitutes some sort of deficiency in the government's initial disclosures is both unwarranted and legally incorrect.

Dates for Plaintiffs' Depositions

In my December 7, 2010 letter, I reiterated the imminently reasonable request that I repeatedly have made to Mr. Blakely for dates for plaintiffs' depositions in this case. In your December 10 letter you propose that the parties develop a comprehensive schedule for depositions in this case. Your proposal is a reasonable one, and I suggest that you provide dates and proposed locations for the individual plaintiffs' depositions and identify those individuals from the defendants whom you wish to depose so that we may provide you with available dates. Consistent with the parties' stipulation

entered by the Court, defendants will identify individuals and dates for purposes of the government's Rule 30(b)(6) deponents after the agreed-to meeting of counsel expected to be held sometime in January 2011.

Interrogatory Responses

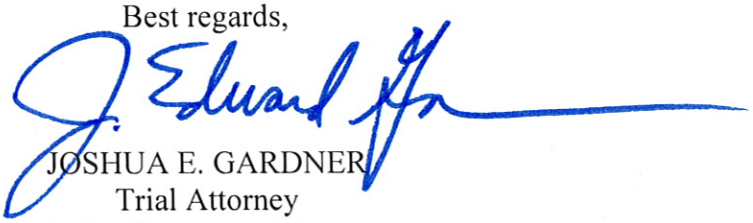
You have requested that the government provide revised responses to plaintiffs' interrogatory responses "within seven calendar days." Pls' Ltr. at 2. While Defendants believe that supplementation at this juncture would be both premature and unproductive for all of the reasons I have previously articulated to Mr. Blakely, in the spirit of cooperation Defendants intend to provide supplemental and revised responses, where appropriate, simultaneously with the governments' response to Plaintiffs' "narrowed" set of document production requests, which are currently due on January 6, 2011.[1]

* * * *

Finally, you have requested a time to meet and confer about the issues identified in my December 7 letter and your December 10 letter. To the extent you believe a meet and confer is still necessary in light of this letter, we propose Thursday, December 16, 2010 at 2 pm EST for such a telephonic meeting. To the extent that date and time do not work, we propose Friday, December 17, 2010 at any time from 1 pm EST to 4 pm EST. In addition, I reiterate the request that I previously have made to Mr. Blakely for dates in January to conduct the case management and discovery meeting between the parties.

Please do not hesitate to contact me with any questions or concerns.

Best regards,



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1 Your assertion that the government has somehow used as a "ruse" the difficulties associated with providing meaningful, substantive responses to plaintiffs' interrogatories as a basis to provide affirmative discovery requests to the plaintiffs, *see* Pls' Ltr. at 2, is both unsupported and unwarranted. The fact of the matter is that plaintiffs have chosen to bring a lawsuit seeking information that, in many circumstances, is over 50 years old. Locating and obtaining that information is obviously a substantial challenge and burden, and the fact that documents will largely form the basis for responses to interrogatories seeking such ancient information should hardly come as a surprise given the lack of individuals at the agencies that have personal knowledge on the narrow issues that remain in this litigation. More to the point, the fact that the Defendants have served modest written discovery seeking information from plaintiffs that is plainly germane to this case is clearly within Defendants' rights under the Federal Rules and can hardly be criticized.