

EXHIBIT 58

**BRIEFING BOOK FOR 28 SEPTEMBER 1994 HEARING BEFORE THE
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF
THE COMMITTEE ON GOVERNMENT OPERATIONS**

**VOLUME II: CHEMICAL AND BIOLOGICAL WARFARE AND
DRUG TESTING**

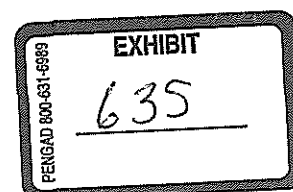


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- Tab J Report: The U.S. Army Research & Development Program in Chemical,
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On 28 June 1918, the President of the United States directed the organization of the Chemical Warfare Service (CWS), under the Secretary of War. In October 1922, the CWS created a Medical Research Division to conduct research directed at providing therapeutic and prophylactic defense measures against chemical agents.

The evidence from this period indicates that volunteer employees of Edgewood Arsenal were the subjects used in various tests of mustard, phosgene, and other chemical agents. In early 1941, the threat of war caused greater urgency for the development of protective items and consequently a larger source of volunteers was needed. The first recorded recruiting arrangement was a request made to all technical and officer personnel at Edgewood Arsenal to participate in various tests. A method which soon proved to be unsatisfactory. Generally, it was considered that repeated exposure to agents was hazardous because the cumulative effects of the compounds were not known, and many of the volunteers, because of their technical qualifications had preconceived opinions as to the reactions they should have to certain agents and thus were considered biased.

The documentation from this World War II period does not show who authorized the use of human volunteers, or if it was a point of concern. If a source of authority did exist, it was probably informal and rested with the local commander. June 1942 records reflect that the Secretary of War was requested to rule on the permissibility of using enlisted men for detail testing of mustard type agents. Reportedly, the Acting Secretary approved the test in principle and granted authorization. Large-scale human experimentation was thereafter conducted at Edgewood Arsenal, as well as at field laboratories located at Camp Siebert, Alabama, Bushnell, Florida, Dugway Proving Ground, Utah, and San Jose Island.

The Army's World War II mustard agent test program tested protective clothing, equipment, and antivesicant ointments. In addition, the Army developed and tested offensive chemical weapons and evaluated the effectiveness and persistency of mustard agents in different environments. Test documents show that gas chamber tests and skin tests were conducted at Edgewood Arsenal, Maryland, and that field tests were conducted at Bushnell Field, Florida, Fort Pierce, Florida, Dry Tortugas, Florida Keys, San Jose Island, Panama Canal Zone, Camp Siebert, Alabama, Dugway Proving Grounds, Utah, Camp Polk, Louisiana, Gulfport, Mississippi, El Centro, California, San Carlos, California, Fort Richardson, Alaska, and New Guinea.

The Army's records of mustard agent test activities do not identify soldiers who participated in World War II chemical tests. However, the review of "Medical Research in Chemical Warfare," estimates that the number of participants to be in the thousands. The history shows that over 1000 soldiers were commended for their participation in tests in which they subjected themselves to "pain, discomfort, and possible permanent injury for the advancement of research in protection of our armed force." The records do not indicate however what types of tests these soldiers participated in. According to the report 200 and 300 soldiers were available at Edgewood and Dugway Proving Grounds to participate in experiments from December 1944 until the end of the war.

Following WW II, it was clear that Germany had stockpiled organic phosphate compounds (nerve agents) far more deadly than chemical agents in the Allied arsenal. This developed a new series of

challenges for the Corps. Discovering methods to counteract the lethal effects of these compounds became a primary goal of the medical research. American researchers were unable to locate any usable research evidence that the Germans had conducted meaningful human experimentation's with the nerve agents. Thus it was necessary to spend the next several years confirming German research data by animal experimentation and by compiling sufficient information to determine the safe experimental dose for man. When the necessary animal experiments had been concluded and the Chemical Corps investigators were confident of their ability to safely conduct experiments in man, the question again surfaced as to where the volunteers would come from.

In the early 1950's, the Army Chemical Corps began a classified medical research program for developing incapacitating agents that continued until 1975. This program involved testing chemicals including nerve agents, nerve agent antidotes, psychochemicals, irritants, and vesicant agents. Human volunteer nerve agent testing with G-agents was conducted during the early 1950's. In the late 1950's after approval by the Secretary of the Army, testing with V-agent began. The chemicals were given to volunteer service members at Edgewood Arsenal, Maryland, Dugway Proving Grounds, Utah, and Forts Benning, Bragg, and McClellan.

The Army conducted an extensive human testing program at Edgewood from 1955 to 1975. Human volunteers were exposed to chemical agents to see how that agent might affect humans and how such affected humans might respond to therapy. The program consisted of a wide variety of tests including: chemical agents, treatment drugs for chemical agents, personnel protective equipment, skin penetration, irritant agents, and personnel performance measurements. Approximately 7,000 soldiers took part in this program. The percentage of volunteer hours were broken down according to experimental categories: incapacitating compound - 29.9%, lethal compounds (anticholinesterases, cyanide) - 14.5%, riot control compounds - 14.2%, protective equipment and clothing (masks and climatic effects) - 13.2%, effects of drugs and environmental stress on human physiological mechanisms - 6.4%, development evaluation and test procedures (compounds in body fluids, stress condition) - 12.5%, human factors tests (ability of volunteers to follow instructions) - 2.1%, other (visual studies, sleep deprivation, incapacitating compounds effect on rifle team) - 7.2%.

Of the 34,500 compounds studied by the Chemical Corps, approximately 150 chemicals were used in the human volunteer program, of which approximately 50 were therapeutic agents approved by the Food and Drug Administration or are well known solvents and nutrients. The Army's Medical Research and Development Command, Fort Detrick, Maryland, maintains records of the test participants and the chemicals to which they were exposed.

The chemical compounds used in Human Testing at Edgewood Arsenal from 1955 to 1975 include: Anticholinergic - Scopolamine, BZ, Ditran, "several numbered"; Barbiturates - Amytal, Nembutal, Phenobarbital, Seconal; Diagnostic - Antipyrine, Sulfobromophthaleim, Indocardin green, Sodium Aminohippurate; Anticholinesterase Agents - DFP, Physostigmine, Prostigmine, GD, Malathion, GA, GF, VX, GB, G-V; Antidotes - Atropine, Benactyzine, Homatropine, Sodium Nitrite, Vasoxyl, Methscopolamine, BOL, metatropine, THA, BTA; Oximes - Protopam chloride, P2S, TMB4, Toxogonin; Irritants - DMHP, DEP, "several numbered"; Miscellaneous -

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Adrenalin, Alcohol, Amyl Nitrite, Artane, Ammonium Chloride, Benadryl, Caffeine, Compazine, Cogentin, Curate, Dapsone, Dexedrine, Dilantin, Dibenzylinc, Heparin, Inderal, Isuprel, Lanoxin, Lidocaine, Maisilid, Mecholy Chloride, Meprobamate, Mylaxin, PABA, Propylene glycol, Prolixin, Pryibenzamine, Reserpine, Ritalin, Sodium Bicarbonate, Thiamin, Thorazine, Urecholin, Valium, ACTII, Nitrogen Dioxide, Sernyl, LSD, SHTP, Mustard, and N-Octylamine.

In addition to the testing previously discussed, field testing was also conducted on small military units to examine the effects of psychochemical agents on military operations. These tests were conducted at Fort Bragg, North Carolina; Fort McClellan, Alabama; Fort Benning, Georgia; and Dugway Proving Ground, Utah. The Army also conducted field testing in the late 1950's and early 1960's using a wide range of chemical compound, at Dugway Proving Ground, Utah; Edgewood Arsenal, Maryland; England; Hawaii; Horn Island, Mississippi; Marshall Islands; Maryland; San Jose Island, Panama; USAATC, Fort Greely, Alaska; Water Island, Virgin Islands; and Yuma Proving Ground, Arizona. Since that time limited field testing without human test subjects has been done at Dugway Proving Ground.

A 1975 Department of the Army Inspector General report, concluded that, "the evidence clearly reflected that every possible medical consideration was observed by the professional investigators at the Medical Research Laboratories." The report also states, "(the) volunteers were not fully informed, as required, prior to their participation; and the methods of procuring their services, in many cases, appeared not to have been in accord with the intent of (the) Department of the Army policies governing (the) use of volunteers in research." On 28 July 1975 Acting Secretary of the Army Norman R. Augustine suspended testing of chemical compounds on human volunteers at Edgewood Arsenal.

Prepared by CPT Barnett/77001

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(3 pages)*

Thank you for the opportunity to tell you what the Department of Defense is doing to identify and support military or civilian personnel who were exposed to chemical weapons agents as part of Defense research programs during and after World War II.

On March 9, 1993, Dr. Perry directed the Department to take immediate steps to determine the extent of the potential human exposure to chemical weapons agents through our testing program and to identify the individuals exposed. He immediately declassified all relevant information concerning chemical weapons testing programs that were conducted prior to 1968, and directed the Department to begin the declassification process for all programs since 1968. He also released any individuals who participated in testing, production, transportation, or storage associated with any chemical weapons research from any oaths of secrecy or non-disclosure restrictions concerning their participation in such testing.

Our first efforts focused on two things: first, a definition of the kinds of data we were seeking on the testing programs and on the individuals exposed; and second, identification of places where such information would be found. Unfortunately, there is no central repository for information concerning historical data on our chemical weapons testing programs. We worked with representatives from Veterans Affairs to ensure that we would collect information that would support their efforts to appropriately identify and compensate veterans exposed.

In addition to the National Archives in Suitland and St. Louis, we have identified five major DoD records holding sites and one University site where large volumes of records are stored. They are: Edgewood Arsenal, in Maryland; the Naval Research Laboratory, in Maryland; Dugway Proving Ground, in Utah; the Army Chemical School Library, in Alabama; Rocky Mountain Arsenal, in Colorado; and the University of

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Chicago. We also believe that additional records may be stored at other contractor facilities and universities that we have not identified.

In general, these records are not indexed or sorted. They consist of thousands of linear feet of paper in filing cabinets or boxes, and thousands of sets of microfiche. They are in historical library collections, warehouse holding areas, and technical libraries. The files also contain weapons schematics, technical drawings, and operational directions as well as scientific formulae. Personnel information can sometimes be extracted from scientific notebooks, operational orders and plans, administrative correspondence, technical reports, personnel rosters, or medical records. Because of national security, foreign diplomacy, and personal privacy issues, review of this information can only be completed by personnel with appropriate security clearances and technical background, as well as knowledge of personnel issues. Each piece of paper in every collection must be reviewed page by page.

The records at the contractor-operated Chemical and Biological Information Analysis Center at Edgewood are completely automated. We contracted with them to perform a key words search on their records. The resulting report contains over 2,000 entries for about 500 sites. The sites include locations where chemical and biological agents were tested, produced, stored, or shipped. We are currently enhancing this report with additional information from on-site manual searches using contractor and DoD personnel.

One of our sources of information is correspondence from veterans and others who participated in or know something about the tests. We follow up on individual claims forwarded to us from Veterans Affairs and on phone conversations and letters. These contacts have resulted in identification of additional storage and testing sites.

We now have about 12,000 names of individuals who may have been exposed, including 504 from the Bari Harbor incident. We do not have complete information on all of them and not all of them are confirmed exposures.

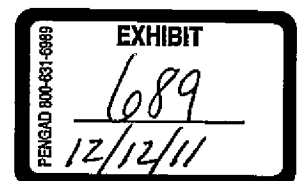
The Department is committed to supporting these individuals, and we will continue to pursue review of records and follow-up on letters from veterans and personal conversations with veterans and former DoD employees.

EXHIBIT 59

**HEARING ON EXPERIMENTS WITH HUMAN TEST SUBJECTS
BRIEFING BOOK FOR APRIL 27, 1994**

ALPHABETICAL INDEX OF TOPICS

Bills to Compensate or Recognize Persons Exposed to Radiation or Mustard Gas
Biological Warfare Research and Chemical Experiments
Chemical Weapons Exposure Study Task Force
Chemical Weapons Testing Sites Using Human Test Subjects
Clinton reply to Congressman Browder - February 1993
Database - Chemical and Biological Weapons Site Locations
Database - Personnel
Edgewood Data on Experiments & Subjects
GAO Report - February, 1993
Goss letter to President Clinton - January 1994
Identification of Individuals Exposed
Human Experimentation Regulations
Montgomery Letter to SECDEF - January, 1993
NAS Report - January, 1993
Nuclear Test Personnel Review (NTPR)
DepSecDef Letter to Montgomery - March 9, 1993
DepSecDef Letter to DoD Components - March 9, 1993
Records Repositories
Records Review
Resources
Security and Privacy Act Issues
Unit Records of WWII Chemical Warfare Service
Update of Chemical Weapons Exposure for Congressional Staff - July 93
Utah News Releases
VA Sharing



RECORDS REPOSITORY CONTENTS OF SITES VISITED

Dugway Proving Ground

Technical Library holds over 60,000 documents, mostly paper.
Records Holding Area Contains Over 400 Boxes of Material Including Scientific Notebooks (Over 6,000 paper records)

Aberdeen Proving Ground/Edgewood Arsenal

8,465 linear feet (filing cabinets and boxes), paper
29 linear feet index cards
6,776 reels of microforms
288 gigabytes electronic records
Some of this documentation is located at Rocky Mountain Arsenal

U. S. Army Training Command Chemical Center, Fort McClellan, AL

735 linear feet (filing cabinets and boxes), paper
Large Library collection of books, manuals, etc.

U. S. Army Medical Research and Development Command, Ft. Detrick, MD

100 linear feet (filing cabinets and boxes), paper
7000 sets of microfiche
200 minutes of film media

Naval Research Laboratory

11 Scientific Notebooks from 1942-45 (2,300 names extracted)
Large volume of technical reports, papers, etc.

Washington National Records Center, Suitland, MD

13 Boxes of Army Surgeon General Files
Over 100 linear feet (filing cabinets and boxes) of Army Chemical Corps Records

National Personnel Records Center, St. Louis, MO

Extensive collection of personnel and organizational files from early 1900's to present
fire in 1973 destroyed: Army personnel records, 1912 - 1960
USAF personnel records, 1947-1963
(to date, have completed about 20% reconstruction of records)
Extensive collection of morning reports and unit information

University of Chicago

82 Boxes of Records from Vice President for Special Projects from WWII DoD Contracts

CBIAC (Chemical Warfare/Chemical & Biological Defense Information Analysis Center) Edgewood, MD

Responsible for collection, review, analysis, appraisal and summary of available CW/CBD information and data and for providing these data to interested users in support of DoD CW/CBD research and development.

RECORDS REPOSITORY CONTENTS OF SITES VISITED(cont)

Rocky Mountain Arsenal, Denver, Colorado

10,184 linear feet paper

29 linear feet index cards

6,776 reels of microforms



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RECORDS REVIEW

Except for the National Personnel Records Center in St. Louis, the collections are not composed of personnel or medical records.

Personnel identifications have to be extracted from scientific notebooks; plans and operational orders; administrative correspondence such as interagency letters, memos, and messages; technical reports, personnel rosters, and morning reports.

Documentation is stored in historical library collections, technical libraries, and records holding warehouses.

Many records are not indexed or sorted. A large percentage (75%) of two of the collections is still classified, which makes it necessary to review each piece of paper, letter, report, and page of each notebook in the collections.

Example of size of task: one collection consists of over 400 boxes of records; one technical library has over 60,000 documents with only about 80% still in hard copy form; another installation has 8,465 linear feet of paper or over 4,000 file drawers of material.

Many records are still classified because they contain weapons schematics, technical drawings and treatises, operational plans and directives, and scientific formulas.

Some of the information still has national security implications as well as foreign diplomacy implications since some refers to or describes agreements made with and operations carried out with foreign countries.

In addition to OASD efforts the Military Departments have made internal efforts to further identify test sites and human exposure information. These efforts are closely coordinated with our OASD (P&R) and communication is daily.

A Chemical Weapons Officer will report on board next week for a one year assignment to support review of technical information in archived documents.

*Description of
Records Review
Process & Problems*



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SECURITY AND PRIVACY ACT CONSIDERATIONS

Information in Personnel & Medical Records protected by Privacy Act.

Personal information in administrative records has Privacy Act implications.

At two of the DoD installations about 75% of the documentation is still classified.

Declassification of the documents and analysis of information for national security concerns will require review of every piece of paper by authorized and knowledgeable security and records management personnel.

Review of records collections has provided references to programs conducted with the U. S. intelligence community and several foreign governments (Canada, Great Britain, and Australia).

Relocation of all records to a centralized location will require a detailed audit trail and measures to ensure continuity of the chain of custody.

EXHIBIT 60

**OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
PERSONNEL AND READINESS**

**CHEMICAL WEAPONS EXPOSURE STUDY UPDATE
JULY 1993**

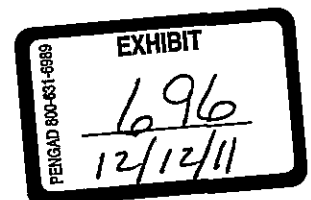
Prepared for:

**Staff & Members
House Committee on Veterans' Affairs**

Prepared by:

**Office of the Director, Information Resources Management
Office of the Assistant Secretary of Defense
(Personnel & Readiness)**

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OASD (P&R)

DEPARTMENT OF DEFENSE

CHEMICAL WEAPONS EXPOSURE STUDY

UPDATE FOR JULY 1993

SECTION ONE

CHEMICAL WEAPONS SITE LOCATION DATABASE

SECTION TWO

CHEMICAL WEAPONS TEST DOCUMENT REPOSITORIES

SECTION THREE

CHEMICAL WEAPONS EXPOSURE PERSONNEL DATABASE

SECTION FOUR

ATTACHMENTS

SECTION ONE

CHEMICAL WEAPONS SITE LOCATION DATABASE

SUMMARY

OASD (P&R) 7/93

CHEMICAL WEAPONS EXPOSURE SITE DATABASE

The attached Site Location Database Summary was compiled by the Chemical Warfare/Chemical and Biological Defense Information Analysis Center (CBIAC). CBIAC is under the direction of Defense Technical Information Center (DTIC).

The Database Summary includes 117 entries, some of which are duplicate due to names changes or reorganizations (example: Camp Detrick is listed, as is the current organization Fort Detrick).

The sites where most of the testing using human subjects was conducted, and where most of the records originated or are still stored are:

Edgewood Arsenal, MD

Dugway Proving Ground, UT

Naval Research Laboratory, MD

Fort Detrick, MD

Fort McClellan, AL

Sites where field testing was conducted, or where documented incidents of exposure have been found, are listed below. The sites with an asterisk denote sites that are no longer in use:

*Bushnell Field, FL

*San Jose Island, Panama (also listed as Fort Clayton)

*Camp Sibert, AL

Huntsville Arsenal, AL

*Horn Island Installation, MS

Tooele Army Depot, UT

Great Lakes Naval Training Center, IL

EXHIBIT 61

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16
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 18 NORTHERN DISTRICT OF CALIFORNIA
 19 OAKLAND DIVISION

20 VIETNAM VETERANS OF AMERICA, *et*
al.,

21 Plaintiffs,

22 v.

23 CENTRAL INTELLIGENCE AGENCY, *et*
al.,

24 Defendants.
 25

Case No. CV 09-0037-CW

**DEFENDANTS DEPARTMENT OF
DEFENSE AND DEPARTMENT OF
THE ARMY'S OBJECTIONS AND
RESPONSES TO PLAINTIFFS'
AMENDED SET OF REQUESTS FOR
ADMISSION**

26 Pursuant to Rule 36 of the Federal Rules of Civil Procedure, and in accordance with the
 27 parties' agreement of July 12, 2011, as memorialized in email between counsel of that date,
 28 Defendants Department of Defense and Department of the Army (collectively, "DoD"), by and
 DFS' OBJECTIONS AND RESPONSES TO PLTS' AMENDED SET OF RFAs, Case No. CV 09-0037-
 CW

1 through undersigned counsel, hereby submit the following responses to Plaintiffs' "Amended Set
2 of Requests for Admissions";

3 **GENERAL OBJECTIONS**

4 1. DoD objects to the definition of "VA" or "DVA" to the extent it includes
5 consultants.

6 2. DoD objects to the definition of "TEST PROGRAMS" as overly broad, as a number
7 of the locations identified in the definition do not appear in Plaintiffs' Third Amended Complaint
8 and/or they have no nexus to the testing of volunteer service members. DoD further objects to
9 the definition of "TEST PROGRAMS" to the extent it seeks to include pre-1953 testing because
10 it is beyond the scope of this litigation. DoD further objects to the definition of "TEST
11 PROGRAMS" to the extent it includes non-service members – testing that is beyond the scope of
12 this litigation.

13 3. DoD objects to the definition of "TEST SUBSTANCES" as exceeding the agreed-
14 upon scope of test substances at issue in this case, as reflected in Plaintiffs' March 21, 2011 letter
15 and attached list. DoD also objects to the definition of "TEST SUBSTANCES" to the extent it
16 incorporates the phrase "TEST PROGRAMS" and "TEST SUBJECTS," which are objectionable
17 for the reasons stated above.

18 4. DoD objects to the definition of "TEST SUBJECT" or "TEST SUBJECTS" to the
19 extent it incorporates the definition of "TEST PROGRAMS," which is objectionable for the
20 reasons stated above. DoD further objects to the term "TEST SUBJECT" or "TEST
21 SUBJECTS" to the extent it includes non-service members, as such a definition exceeds the
22 proper scope of the claims in this case.

23 5. DoD further objects to the extent that Plaintiffs have failed to specify a time
24 limitation in their requests for admissions. DoD's responses shall be limited to the time period
25 1953 to the present, unless otherwise specified in its responses.
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OBJECTIONS TO INSTRUCTIONS

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1. DoD objects to Instruction 1 as imposing an obligation in excess of those required by the Federal Rules of Civil Procedures and the Local Rules of the United States District Court for the Northern District of California to the extent that it requires that, "[i]f information is not known, then state and describe the efforts made to obtain it."

SPECIFIC OBJECTIONS AND RESPONSES TO PLAINTIFFS' AMENDED REQUESTS FOR ADMISSION

Each of the foregoing statements and/or objections is incorporated by reference into each and every specific response set forth below, and DoD's response below is not a waiver of any of its General Objections.

REQUEST TO ADMIT NO. 1:

Admit that neither DOD nor DOA has provided health care to TEST SUBJECTS for health effects possibly resulting from their participation in and/or exposures during the TEST PROGRAMS.

RESPONSE: DoD objects to the phrases "TEST SUBJECTS" and "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and without waiving these objections, DoD admits in part, and denies in part Plaintiffs' request for admission no. 1. Denied to the extent that, as reflected in the volunteer test participants' service files, DoD has provided health care to test participants in need of such care during the course of, or immediately after, the testing while those participants were still on active duty. Admitted to the extent that DoD is not aware of having provided health care to veterans who participated in the TEST PROGRAMS in the absence of those participants being retirees of the military, medical retirees, reservists or active duty military.

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3 **REQUEST TO ADMIT NO. 2:**

4 Admit that neither DOD nor DOA has provided NOTICE to TEST SUBJECTS of the
5 types of substances used during the TEST PROGRAMS.

6 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
7 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
8 without waiving these objections, DoD denies Plaintiffs' request for admission no. 2.

9 **REQUEST TO ADMIT NO. 3:**

10 Admit that neither DOD nor DOA has provided NOTICE to TEST SUBJECTS of the
11 doses of substances used during the TEST PROGRAMS.

12 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
13 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
14 without waiving these objections, DoD admits in part, and denies in part Plaintiffs' request for
15 admission no. 3. Denied to the extent that a number of the volunteer test participants – including
16 each of the named plaintiffs in this case – have received their service member test files from
17 DoD, and these files reflect the doses to which they were exposed, where that information is
18 available. DoD further denies this request to the extent that the Fact Sheet prepared by DoD
19 disclosed that the "study objectives were to determine specific health effects associated with
20 exposure (particularly at low dosages) . . ." In addition, DoD further denies this request on the
21 grounds that a number of additional volunteer participants have received notice by the DoD of
22 the doses of the substances used during the TEST PROGRAMS. Admitted to the extent that
23 some portion of the volunteer service members may not have received notice from DoD of the
24 exact doses of the substances used on these volunteers during the testing.

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3 **REQUEST TO ADMIT NO. 4:**

4 Admit that neither DOD nor DOA has provided NOTICE to TEST SUBJECTS of the
5 possible health effects that may result from their participation in and/or exposures during the
6 TEST PROGRAMS.

7 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
8 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
9 without waiving these objections, DoD denies Plaintiffs' request for admission no. 4.

10 **REQUEST TO ADMIT NO. 5:**

11 Admit that DOD believes that it does not have a legally enforceable duty to provide
12 health care to TEST SUBJECTS for health effects possibly resulting from their participation in
13 and/or exposures during the TEST PROGRAMS.

14 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
15 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
16 without waiving these objections, DoD admits in part, and denies in part Plaintiffs' request for
17 admission no. 5. DoD admits that it has no legally enforceable duty to provide health care to
18 volunteer service members decades after their termination of activity military service for health
19 effects possibly resulting from participation or exposure during chemical or biological agent
20 testing. Denied to the extent a volunteer test participant had acute health effects during that
21 participant's time in military service, or to the extent that the participant is a military retiree
22 entitled to retirement pay and benefits under statute.

23 **REQUEST TO ADMIT NO. 6:**

24 Admit that DOA believes that it does not have a legally enforceable duty to provide
25 health care to TEST SUBJECTS for health effects possibly resulting from their participation in
26 and/or exposures during the TEST PROGRAMS.

1 **RESPONSE:** DoA objects to the phrases "TEST SUBJECTS" and "TEST
2 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
3 without waiving these objections, DoA admits in part, and denies in part Plaintiffs' request for
4 admission no. 5. DoA admits that it has no legally enforceable duty to provide health care to test
5 subjects decades after their termination of activity military service for health effects possibly
6 resulting from participation or exposure during chemical or biological agent testing. Denied to
7 the extent a volunteer test participant had acute health effects during that participant's time in
8 military service, or to the extent that the participant is a military retiree entitled to retirement pay
9 and benefits under statute.

10
11 **REQUEST TO ADMIT NO. 7:**

12 Admit that neither DOD nor DOA has any agreements with the Department of Veterans
13 Affairs ("DVA") for the DVA to provide health care specifically to TEST SUBJECTS for health
14 effects possibly resulting from their participation in and/or exposures during the TEST
15 PROGRAMS.

16 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
17 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
18 phrase "agreements" as undefined and vague. Notwithstanding and without waiving these
19 objections, DoD admits in part, and denies in part Plaintiffs' request for admission no. 7.
20 Admitted to the extent that neither DoD nor DoA has any formalized, written agreements with
21 VA for VA to provide health care specifically to TEST SUBJECTS. Denied to the extent that, in
22 discussions between DoD and VA, VA agreed that it was the appropriate federal agency to
23 provide health care for veterans who may be entitled to such care.

24
25 **REQUEST TO ADMIT NO. 8:**

26 Admit that, for any agreements between the DOD and/or DOA for the DVA to provide
27 NOTICE to TEST SUBJECTS related to the TEST PROGRAMS, the DOD and DOA still have
28

1 an enforceable duty to monitor and ensure that the DVA's provision of notice fully informs the
2 TEST SUBJECTS of the types of substances, doses, and possible health effects that may result
3 from their participation in and/or exposures during the TEST PROGRAMS.

4 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
5 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
6 phrase "monitor" as undefined and vague. DoD further objects on the grounds that it calls for a
7 legal conclusion. Notwithstanding and without waiving these objections, DoD denies Plaintiffs'
8 request for admission no. 8.

9
10 **REQUEST TO ADMIT NO. 9:**

11 Admit that, if the Court finds that DEFENDANTS have an enforceable duty under the
12 Administrative Procedures Act ("APA") to provide NOTICE to TEST SUBJECTS of the types
13 of substances, doses, and possible health effects that may result from their participation in and/or
14 exposures during the TEST PROGRAMS, DEFENDANTS have not fulfilled that duty.

15 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
16 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
17 term "DEFENDANTS" in this request for admission because the Court has rejected any APA
18 claims directed to either CIA or VA concerning "NOTICE" to "TEST SUBJECTS." DoD
19 further objects to the request for admission to the extent it calls for a legal conclusion.
20 Notwithstanding and without waiving these objections, DoD admits in part, and denies in part
21 Plaintiffs' request for admission no. 9. Denied as to the types of substances and possible health
22 effects. Further denied to the extent that DoD has provided notice to a number of volunteer
23 service members as to the specific doses they received during the test program. Admitted to the
24 extent that DoD has not provided all volunteer test participants with the specific doses that they
25 have received during the test program.

1 **REQUEST TO ADMIT NO. 10:**

2 Admit that, if the Court finds that DEFENDANTS have an enforceable duty under the
3 APA to provide health care to TEST SUBJECTS for health effects possibly resulting from their
4 participation in and/or exposures during the TEST PROGRAMS, DEFENDANTS have not
5 fulfilled that duty.

6 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
7 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
8 term "DEFENDANTS" in this request for admission because the Court has rejected any APA
9 claims directed to either CIA or VA concerning health care. DoD further objects to this
10 admission to the extent it calls for a legal conclusion. Notwithstanding and without waiving
11 these objections, DoD admits in part, and denies in part Plaintiffs' request for admission no. 10.
12 Denied to the extent a volunteer test participant is also a military retiree or medical retiree.
13 Admitted to the extent that an individual is a volunteer test participant who subsequently leaves
14 the service and is not a military retiree entitled to military retirement pay and benefits under
15 statute.

16
17 **REQUEST TO ADMIT NO. 11:**

18 Admit that TEST SUBJECTS in the TEST PROGRAMS were told that violations of their
19 secrecy oaths or non-disclosure obligations would render them liable to punishment under the
20 provisions of the Uniform Code of Military Justice.

21 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
22 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
23 request for admission because it is not reasonably calculated to lead to the discovery of
24 admissible evidence concerning any claim remaining in this case. Notwithstanding and without
25 waiving these objections, DoD states that after a reasonably diligent review, including a review
26 of the discovery produced in this case, the information DoD knows or that is reasonably
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1 available to it is insufficient to allow DoD to either admit or deny Plaintiffs' request for
2 admission no. 11.

3
4 **REQUEST TO ADMIT NO. 12:**

5 Admit that members of the U.S. military may not be punished under the Uniform Code of
6 Military Justice after they are discharged from the U.S. military.

7 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
8 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
9 case. DoD further objects to the term "discharged" as vague and undefined, and, in the absence
10 of any definition, will construe the term consistent with a standard dictionary. DoD further
11 objects to this request for admission because it calls for a legal conclusion. Notwithstanding and
12 without waiving these objections, DoD admits in part and denies in part Plaintiffs' request for
13 admission No. 12. Admitted to the extent that a discharged service member does not meet the
14 jurisdictional requirements described in Article 2 of the Uniform Code of Military Justice
15 ("UCMJ"). Denied to the extent that a discharged service member meets the jurisdictional
16 requirements described in Article 2 of the UCMJ.

17
18 **REQUEST TO ADMIT NO. 13:**

19 Admit that the Memorandum from William Perry, Deputy Secretary of Defense, to the
20 Secretaries of the Military Departments, SUBJECT: Chemical Weapons Research Programs
21 Using Human Test Subjects, March 9, 1993 (VET001_011171-72) ("the Perry Memo") has
22 released any TEST SUBJECTS who participated in testing, production, transportation or storage
23 associated with any chemical weapons research conducted prior to 1968 from any non-disclosure
24 restrictions or written or oral prohibitions (e.g., oaths of secrecy) that may have been placed on
25 them concerning their possible exposure to any chemical weapons agents.

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RESPONSE: DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in General Objections 2 and 4. Notwithstanding and without waiving this objection, DoD admits Plaintiffs' request for admission No. 13.

REQUEST TO ADMIT NO. 14:

Admit that the Perry Memo did NOT release any individuals who participated in testing, production, transportation or storage associated with any chemical weapons research conducted after 1968 from any non-disclosure restrictions or written or oral prohibitions (e.g., oaths of secrecy) that may have been placed on them concerning their possible exposure to any chemical weapons agents.

RESPONSE: Admitted, but further state that the Perry Memo tasked the Secretaries of the Military Departments with "initiat[ing] procedures to declassify documents with respect to the issues listed above for chemical weapons research studies conducted after 1968, and to release participants from any non-disclosure restrictions (e.g. oaths of secrecy) that may have been placed on them concerning their possible exposure to any chemical weapons agents during testing, production, or transportation of such chemicals."

REQUEST TO ADMIT NO. 15:

Admit that the January 11, 2011 Memorandum from the Deputy Secretary of Defense regarding "Release from 'Secrecy Oaths' Under Chemical and Biological Weapons Human Subject Research Program" (VET021-000001) ("January 2011 Secrecy Oaths Memo") released all TEST SUBJECTS who had participated as chemical or biological agent research volunteers from non-disclosure restrictions, including secrecy oaths.

RESPONSE: DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in General Objections 2 and 4. Notwithstanding and without waiving this objection, DoD admits that the January 11, 2011 "Secrecy Oaths Memo" released military chemical or biological

1 research volunteers from non-disclosure restrictions to the extent those restrictions pertained to
2 addressing health concerns or seeking benefits from the Department of Veterans Affairs.

3
4 **REQUEST TO ADMIT NO. 16:**

5 Admit that the release provided for in the January 2011 Secrecy Oaths Memo only
6 pertains to COMMUNICATIONS necessary to address health concerns or to seek benefits from
7 the DVA.

8 **RESPONSE:** Admitted that the January 2011 Memo released chemical or biological
9 research volunteers "from non-disclosure restrictions, including secrecy oaths, which may have
10 been placed on them. This release pertains to addressing health concerns and to seeking benefits
11 from the Department of Veterans Affairs. Veterans may discuss their involvement in chemical
12 and biological agent research programs for these purposes. This release does not affect the
13 sharing of any technical reports or operational information concerning research results, which
14 should appropriately remain classified."

15
16 **REQUEST TO ADMIT NO. 17:**

17 Admit that the DEFENDANTS have not notified former TEST SUBJECTS of their
18 release from secrecy oaths pursuant to the Perry Memo and the January 2011 Secrecy Oaths
19 Memo.

20 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
21 General Objections 2 and 4. Notwithstanding and without waiving this objection, DoD admits in
22 part, and denies in part Plaintiffs' request for admission no. 17. Denied to the extent that DoD
23 has provided notice to former volunteer test participants of their release from secrecy oaths
24 pursuant to the Perry Memo. Admitted to the extent that DoD has not provided notice to former
25 volunteer test participants of their release from secrecy oaths pursuant to the January 11 Secrecy
26 Oath Memo. DoD further states that, after reasonable inquiry, including a review of the
27 discovery produced in this case, the information that DoD knows or can readily obtain is
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1 insufficient to either admit or deny this request with respect to actions VA or CIA may have
2 undertaken.

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4 **REQUEST TO ADMIT NO. 18:**

5 Admit that DOD has not provided full information to the DVA regarding the possible
6 health effects that may result from TEST SUBJECTS' participation in and/or exposures during
7 the TEST PROGRAMS.

8 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
9 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
10 request for admission because the phrase "full information" is undefined and vague.
11 Notwithstanding and without waiving these objections, DoD denies Plaintiffs' request for
12 admission no. 18.

13
14 **REQUEST TO ADMIT NO. 19:**

15 Admit that, during the time of the TEST PROGRAMS, the CIA provided funding to the
16 DOA and/or DOD to support research into chemical and/or biological warfare agents.

17 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in
18 General Objections 2 and 4. DoD further objects to this request for admission because it is not
19 reasonably calculated to lead to the discovery of admissible evidence concerning any claim
20 remaining in this case. DoD also objects to this request for admission as overbroad to the extent
21 it requests information beyond tests concerning volunteer service members, and DoD will
22 construe this request as being limited to the funding of testing concerning volunteer service
23 members. Notwithstanding and subject to this objection, DoD states that after reasonable
24 inquiry, including a review of the discovery produced in this case, the information that DoD
25 knows or can readily obtain is insufficient to either admit or deny this request. DoD further
26 states that in September 1977, DoD's General Counsel reached the conclusion that the CIA
27 transferred to DoD \$37,000 for the testing of EA 3167. Although most of that testing was
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1 devoted to animal testing, DoD's General Counsel reached a conclusion that one experiment in
2 June 1973 involved two military volunteers. However, CIA reached a different conclusion and
3 determined that the CIA did not provide funding for those two human tests.
4

5 **REQUEST TO ADMIT NO. 20:**

6 Admit that during the time of the TEST PROGRAMS, the CIA provided funding to (a)
7 the DOA and (b) DOD to support research into (1) chemical weapons candidates and (2)
8 biological weapons candidates.

9 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in
10 General Objections 2 and 4. DoD further objects to the terms "chemical weapons candidates"
11 and "biological weapons candidates" as undefined and vague. DoD further objects to this
12 request for admission because it is not reasonably calculated to lead to the discovery of
13 admissible evidence concerning any claim remaining in this case. Notwithstanding and without
14 waiving these objections, DoD states that after a reasonably diligent review, including a review
15 of the discovery produced in this case, the information DoD knows or that is reasonably
16 available to it is insufficient to allow DoD to either admit or deny Plaintiffs' request for
17 admission no. 20.
18

19 **REQUEST TO ADMIT NO. 21:**

20 Admit that through Project OFTEN, TEST SUBJECTS were exposed to at least one
21 TEST SUBSTANCE as part of a CIA program.

22 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
23 SUBSTANCES" for the reasons stated in General Objections 2 and 4. DoD further objects to
24 the phrase "CIA program" as undefined and vague. DoD further objects to this request for
25 admission because it is not reasonably calculated to lead to the discovery of admissible evidence
26 concerning any claim remaining in this case. Notwithstanding and without waiving these
27 objections, DoD states that after a reasonably diligent review, the information DoD knows or that
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1 is reasonably available to it is insufficient to allow DoD to either admit or deny Plaintiffs'
2 request for admission no. 21. DoD states that, in September 1977, the DoD's General Counsel
3 concluded that the CIA transferred to DoD \$37,000 for the testing of EA 3167. Although most
4 of that testing was devoted to animal testing, DoD's General Counsel reached a conclusion that
5 one experiment in June 1973 involved two military volunteers. However, CIA reached a
6 different conclusion and determined that the CIA did not provide funding for those two human
7 tests.

8
9 **REQUEST TO ADMIT NO. 22:**

10 Admit that, during the time of the TEST PROGRAMS, the CIA and the DOA jointly
11 funded research into the identification of new drugs with behavioral effects.

12 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in
13 General Objections 2 and 3. DoD further objects to this request for admission because it is not
14 reasonably calculated to lead to the discovery of admissible evidence concerning any claim
15 remaining in this case. Notwithstanding and without waiving these objections, DoD admits
16 Plaintiffs' request for admission no. 22 to the extent that DoD's General Counsel concluded in
17 1977 that, in 1967, as part of CHICKWIT, the CIA and the Army apparently jointly funded the
18 collection of information regarding the identification of new drugs with behavioral effects. This
19 project was involved solely with the collection of information; no testing on human subjects was
20 conducted. Beyond this qualified admission, DoD states that after reasonable inquiry, including
21 a review of the discovery produced in this case, the information that DoD knows or can readily
22 obtain is insufficient to either admit or deny the remainder of this request.

23
24 **REQUEST TO ADMIT NO. 23:**

25 Admit that during the 1980's Notice Program, neither the DOD nor the DOA provided
26 actual NOTICE to TEST SUBJECTS of the types of substances, doses, and possible health

1 effects that may result from their participation in and/or exposures during the TEST
2 PROGRAMS.

3 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
4 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects
5 because the phrase "1980's Notice Program" is an undefined, uncommon and vague term. In the
6 absence of some definition or explication, DoD cannot properly respond to Plaintiffs' request for
7 admission no. 23.

8
9 **REQUEST TO ADMIT NO. 24:**

10 Admit that the CIA did not, at any time, provide NOTICE to any TEST SUBJECTS
11 CONCERNING any testing as part of the TEST PROGRAMS.

12 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
13 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
14 request for admission because it is not reasonably calculated to lead to the discovery of
15 admissible evidence concerning any claim remaining in this case. Notwithstanding and without
16 waiving these objections, DoD states that after reasonable inquiry, including a review of the
17 discovery produced in this case, the information that DoD knows or can readily obtain is
18 insufficient to either admit or deny this request.

19
20 **REQUEST TO ADMIT NO. 25:**

21 Admit that no DEFENDANT disclosed to the TEST SUBJECTS any involvement by the
22 CIA in the TEST PROGRAMS.

23 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
24 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
25 request for admission because it is not reasonably calculated to lead to the discovery of
26 admissible evidence concerning any claim remaining in this case. Notwithstanding and without
27 waiving these objections, DoD states that after reasonable inquiry, including a review of the
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1 discovery produced in this case, the information that DoD knows or can readily obtain is
2 insufficient to either admit or deny this request.

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4 **REQUEST TO ADMIT NO. 26:**

5 Admit that the DOA Surgeon General is required to direct medical follow-up on TEST
6 SUBJECTS to ensure that any long-range problems possibly resulting from TEST SUBJECTS'
7 participation in and/or exposures during the TEST PROGRAMS are detected and treated.

8 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
9 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects on the
10 grounds that responding to what the DOA Surgeon General is "required to" do calls for a legal
11 conclusion. DoD further objects on the grounds that the term "required" is undefined and vague.
12 Absent some definition, DoD interprets "required" to mean "legally obligated." Notwithstanding
13 and without waiving these objections, DoD denies Plaintiffs' request for admission no. 26.

14
15 **REQUEST TO ADMIT NO. 27:**

16 Admit that the DOA conducted dermal tests with EA 3167 at the CIA's direction.

17 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
18 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
19 case. Notwithstanding and subject to this objection, DoD admits Plaintiffs' request for
20 admission no. 27 in part, and denies it in part. Admitted to the extent that DoD's General
21 Counsel reached a conclusion in 1977 that the Department of the Army conducted one
22 experiment concerning dermal tests with EA 3167 involving two military volunteers, but that the
23 CIA concluded that no such testing occurred. Deny that this testing was at the CIA's "direction."
24

25 **REQUEST TO ADMIT NO. 28:**

26 Admit that the CIA funded DOA conducted dermal tests with EA 3167.
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1 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
 2 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
 3 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
 4 including a review of the discovery produced in this case, the information that DoD knows or
 5 can readily obtain is insufficient to either admit or deny this request. DoD further states that in
 6 September 1977, DoD's General Counsel reached the conclusion that the CIA transferred to
 7 DoD \$37,000 for the testing of EA 3167. Although most of that testing was devoted to animal
 8 testing, DoD's General Counsel reached a conclusion that one experiment in June 1973 involved
 9 two military volunteers. However, CIA reached a different conclusion and determined that the
 10 CIA did not provide funding for those two human tests.

11
 12 **REQUEST TO ADMIT NO. 29:**

13 Admit that the DOA developed a substance called "The Boomer" at the request of the
 14 CIA.

15 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
 16 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
 17 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
 18 including a review of the discovery produced in this case, the information that DoD knows or
 19 can readily obtain is insufficient to either admit or deny this request.

20
 21 **REQUEST TO ADMIT NO. 30:**

22 Admit that the CIA conducted tests on service members at EDGEWOOD ARSENAL.

23 **RESPONSE:** Denied.

24
 25 **REQUEST TO ADMIT NO. 31:**

26 Admit that relevant documents to this action within the meaning of the Federal Rules of
 27 Civil Procedure were destroyed by the CIA at the direction of Richard Helms.

1 **RESPONSE:** After reasonable inquiry, including a review of the discovery produced in
2 this case, the information that DoD knows or can readily obtain is insufficient to either admit or
3 deny this request.
4

5 **REQUEST TO ADMIT NO. 32:**

6 Admit that relevant documents to this action within the meaning of the Federal Rules of
7 Civil Procedure were destroyed by the CIA at the direction of Sidney Gottlieb.

8 **RESPONSE:** After reasonable inquiry, including a review of the discovery produced in
9 this case, the information that DoD knows or can readily obtain is insufficient to either admit or
10 deny this request.
11

12 **REQUEST TO ADMIT NO. 33:**

13 Admit that the impetus for the CIA's destruction of documents under the direction of
14 Richard Helms explained in Request to Admit No. 39 was the leakage of information regarding
15 the TEST PROGRAMS to Congress and the resulting interest by Congress to investigate the
16 TEST PROGRAMS.

17 **RESPONSE:** DoD objects to the reference to "Request to Admit No. 39" as
18 nonsensical. DoD further objects to the phrase "TEST PROGRAMS" for the reasons stated in
19 General Objections 2 and 4. Notwithstanding and subject to these objections, DoD states that,
20 after reasonable inquiry, including a review of the discovery produced in this case, the
21 information that DoD knows or can readily obtain is insufficient to either admit or deny this
22 request.
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24 **REQUEST TO ADMIT NO. 34:**

25 Admit that the impetus for the CIA's destruction of documents under the direction of
26 Sidney Gottlieb explained in Request to Admit No. 40 was the leakage of information regarding
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1 the TEST PROGRAMS to Congress and the resulting interest by Congress to investigate the
2 TEST PROGRAMS.

3 **RESPONSE:** DoD objects to the reference to "Request to Admit No. 40" as
4 nonsensical. DoD further objects to the phrase "TEST PROGRAMS" for the reasons stated in
5 General Objections 2 and 4. Notwithstanding and subject to these objections, DoD states that,
6 after reasonable inquiry, including a review of the discovery produced in this case, the
7 information that DoD knows or can readily obtain is insufficient to either admit or deny this
8 request.

9
10 **REQUEST TO ADMIT NO. 35:**

11 Admit that neither DOD nor DOA conducted regular follow-up with TEST SUBJECTS
12 after they left EDGEWOOD ARSENAL.

13 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
14 General Objections 2 and 4. DoD further objects to the phrase "regular follow-up" as undefined
15 and vague. Notwithstanding and subject to these objections, DoD denies Plaintiffs' request for
16 admission no. 35.

17
18 **REQUEST TO ADMIT NO. 36:**

19 Admit that the 2006 advisory summary of the TEST PROGRAMS sent to TEST
20 SUBJECTS (VET001_014415) does not include unwitting tests.

21 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" and "TEST
22 SUBJECTS" for the reasons stated in General Objections 2 and 4. DoD also objects to the
23 phrase "unwitting tests" to the extent it is vague and calls for a legal conclusion.
24 Notwithstanding and subject to this objection, DoD admits Plaintiffs' request for admission no.
25 36 to the extent that the 2006 advisory summary references the fact that "the Army conducted
26 testing on approximately 7,000 volunteers at Edgewood Arsenal. These studies exposed
27 participants, with their consent, to a number of different chemicals."
28

1 **REQUEST TO ADMIT NO. 37:**

2 Admit that the 2006 advisory summary of the TEST PROGRAMS sent to TEST
3 SUBJECTS (VET001_014415) does not include testing that occurred before 1953.

4 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
5 SUBJECTS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
6 request for admission because it is not reasonably calculated to lead to the discovery of
7 admissible evidence concerning any claim remaining in this case. Notwithstanding and subject
8 to these objections, DoD admits Plaintiffs' request for admission no. 37.

9
10 **REQUEST TO ADMIT NO. 38:**

11 Admit that the 2006 advisory summary of the TEST PROGRAMS sent to TEST
12 SUBJECTS (VET001_014415) does not include field testing.

13 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
14 SUBJECTS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject
15 to these objections, DoD denies Plaintiffs' request for admission no. 38.

16
17 **REQUEST TO ADMIT NO. 39:**

18 Admit that exposure to LSD can cause flashbacks.

19 **RESPONSE:** Admitted to the extent that, as a general matter, it is possible that LSD can
20 cause flashbacks. DoD further states that, of the volunteer military service member test
21 population, only 8 percent of those who participated in follow-up medical evaluations reported
22 having flashbacks as a result of being tested with LSD.

23
24 **REQUEST TO ADMIT NO. 40:**

25 Admit that repeat CS exposure can cause long-term allergic contact dermatitis.

26 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the NRC
27 study concluded that "[r]epet exposures to CS may cause allergic contact dermatitis in many of
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1 the Edgewood subjects.” Denied to the extent that, of the volunteer test population, DoD’s
2 studies concluded that it is unlikely that there are long-term health effects from exposure to CS.

3
4 **REQUEST TO ADMIT NO. 41:**

5 Admit that repeat CS exposure can cause long-term allergic pneumonitis.

6 **RESPONSE:** After reasonable inquiry, including a review of the discovery produced in
7 this case, the information that DoD knows or can readily obtain is insufficient to either admit or
8 deny this request. The conclusion reached by the NRC follow-up study was that “[o]ne could
9 speculate that repeat exposures to CS may also induce . . . allergic pneumonitis in some persons,
10 although no evidence of this exists with the Edgewood subjects.” DoD is unaware of any
11 medical evidence that would suggest this is anything beyond speculation.
12

13 **REQUEST TO ADMIT NO. 42:**

14 Admit that repeat CS exposure can cause hepatitis.

15 **RESPONSE:** After reasonable inquiry, including a review of the discovery produced in
16 this case, the information that DoD knows or can readily obtain is insufficient to either admit or
17 deny this request. The conclusion reached by the NRC follow-up study was that “[o]ne could
18 speculate that repeat exposures to CS may also induce idiosyncratic hepatitis . . . in some
19 persons, although no evidence of this exists with the Edgewood subjects.” DoD is unaware of
20 any medical evidence that would suggest this is anything beyond speculation.
21

22 **REQUEST TO ADMIT NO. 43:**

23 Admit that exposure to mustard agents can cause nasopharyngeal respiratory cancer.

24 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
25 NAS study concluded that there was a causal relationship between full-body exposure to mustard
26 agents and nasopharyngeal respiratory cancer. Denied to the extent that the three-volume
27 National Research Council long-term follow-up study concluded that “serious long-term effects
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1 in the small number of soldiers who received one or a few low-dose exposures [of mustard
2 agents] at Edgewood seem unlikely (except for possible skin tumors and some cases of
3 permanent scarring).”

4
5 **REQUEST TO ADMIT NO. 44:**

6 Admit that exposure to mustard agents can cause laryngeal respiratory cancer.

7 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
8 NAS study concluded that there was a causal relationship between full-body exposure to mustard
9 agents and laryngeal respiratory cancer. Denied to the extent that the three-volume National
10 Research Council long-term follow-up study concluded that “serious long-term effects in the
11 small number of soldiers who received one or a few low-dose exposures [to mustard agents] at
12 Edgewood seem unlikely (except for possible skin tumors and some cases of permanent
13 scarring).”

14
15 **REQUEST TO ADMIT NO. 45:**

16 Admit that exposure to mustard agents can cause lung cancer.

17 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
18 NAS study concluded that there was a causal relationship between full-body exposure to mustard
19 agents and lung cancer. Denied to the extent that the three-volume National Research Council
20 long-term follow-up study concluded that “serious long-term effects in the small number of
21 soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
22 unlikely (except for possible skin tumors and some cases of permanent scarring).”

23
24 **REQUEST TO ADMIT NO. 46:**

25 Admit that exposure to mustard agents can cause skin cancer.

26 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
27 NAS study concluded that there was a causal relationship between full-body exposure to mustard
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1 agents and skin cancer. Denied to the extent that the three-volume National Research Council
2 long-term follow-up study concluded that "serious long-term effects in the small number of
3 soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
4 unlikely (except for possible skin tumors and some cases of permanent scarring)."
5

6 **REQUEST TO ADMIT NO. 47:**

7 Admit that exposure to mustard agents can cause pigmentation abnormalities of the skin.

8 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
9 NAS study concluded that there was a causal relationship between acute, severe exposure to
10 mustard agents and pigmentation abnormalities of the skin. Denied to the extent that the three-
11 volume National Research Council long-term follow-up study concluded that "serious long-term
12 effects in the small number of soldiers who received one or a few low-dose exposures [to
13 mustard agents] at Edgewood seem unlikely (except for possible skin tumors and some cases of
14 permanent scarring)."
15

16 **REQUEST TO ADMIT NO. 48:**

17 Admit that exposure to mustard agents can cause leukemia.

18 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
19 NAS study concluded that there was a causal relationship between full-body exposure to mustard
20 agents and leukemia (typically acute non-lymphocytic type, nitrogen mustard). Denied to the
21 extent that the three-volume National Research Council long-term follow-up study concluded
22 that "serious long-term effects in the small number of soldiers who received one or a few low-
23 dose exposures [to mustard agents] at Edgewood seem unlikely (except for possible skin tumors
24 and some cases of permanent scarring)."
25

26 **REQUEST TO ADMIT NO. 49:**

27 Admit that exposure to mustard agents can cause asthma.
28

1 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
2 NAS study concluded that there was a causal relationship between full-body exposure to mustard
3 agents and asthma. Denied to the extent that the three-volume National Research Council long-
4 term follow-up study concluded that "serious long-term effects in the small number of soldiers
5 who received one or a few low-dose exposures [to mustard agents] at Edgewood seem unlikely
6 (except for possible skin tumors and some cases of permanent scarring)."
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8 **REQUEST TO ADMIT NO. 50:**

9 Admit that exposure to mustard agents can cause chronic bronchitis.

10 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
11 NAS study concluded that there was a causal relationship between full-body exposure to mustard
12 agents and chronic bronchitis. Denied to the extent that the three-volume National Research
13 Council long-term follow-up study concluded that "serious long-term effects in the small number
14 of soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
15 unlikely (except for possible skin tumors and some cases of permanent scarring)."
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17 **REQUEST TO ADMIT NO. 51:**

18 Admit that exposure to mustard agents can cause emphysema.

19 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
20 NAS study concluded that there was a causal relationship between full-body exposure to mustard
21 agents and emphysema. Denied to the extent that the three-volume National Research Council
22 long-term follow-up study concluded that "serious long-term effects in the small number of
23 soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
24 unlikely (except for possible skin tumors and some cases of permanent scarring)."
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26 **REQUEST TO ADMIT NO. 52:**

27 Admit that exposure to mustard agents can cause chronic obstructive pulmonary disease.
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1 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
2 NAS study concluded that there was a causal relationship between full-body exposure to mustard
3 agents and chronic obstructive pulmonary disease. Denied to the extent that the three-volume
4 National Research Council long-term follow-up study concluded that "serious long-term effects
5 in the small number of soldiers who received one or a few low-dose exposures [to mustard
6 agents] at Edgewood seem unlikely (except for possible skin tumors and some cases of
7 permanent scarring)."

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9 **REQUEST TO ADMIT NO. 53:**

10 Admit that exposure to mustard agents can cause chronic laryngitis.

11 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
12 NAS study concluded that there was a causal relationship between full-body exposure to mustard
13 agents and chronic laryngitis. Denied to the extent that the three-volume National Research
14 Council long-term follow-up study concluded that "serious long-term effects in the small number
15 of soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
16 unlikely (except for possible skin tumors and some cases of permanent scarring)."

17
18 **REQUEST TO ADMIT NO. 54:**

19 Admit that exposure to Lewisite can cause asthma.

20 **RESPONSE:** Admitted to the extent that the 1993 NAS study concluded that there was
21 a causal relationship between sufficient concentrations of Lewisite and asthma.

22
23 **REQUEST TO ADMIT NO. 55:**

24 Admit that exposure to Lewisite can cause chronic bronchitis.

25 **RESPONSE:** Admitted to the extent that the 1993 NAS study concluded that there was
26 a causal relationship between sufficient concentrations of Lewisite and chronic bronchitis.

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REQUEST TO ADMIT NO. 56:

Admit that exposure to Lewisite can cause emphysema.

RESPONSE: Admitted to the extent that the 1993 NAS study concluded that there was a causal relationship between sufficient concentrations of Lewisite and emphysema.

REQUEST TO ADMIT NO. 57:

Admit that exposure to Lewisite can cause chronic obstructive pulmonary disease.

RESPONSE: Admitted to the extent that the 1993 NAS study concluded that there was a causal relationship between sufficient concentrations of Lewisite and obstructive pulmonary disease.

REQUEST TO ADMIT NO. 58:

Admit that exposure to Lewisite can cause chronic laryngitis.

RESPONSE: Admitted to the extent that the 1993 NAS study concluded that there was a causal relationship between sufficient concentrations of Lewisite and laryngitis.

REQUEST TO ADMIT NO. 59:

Admit that exposure to mustard agents can cause recurrent corneal ulcerative disease.

RESPONSE: Admitted in part, and denied in part. Admitted to the extent that the 1993 NAS study concluded that there was a causal relationship between full-body exposure to mustard agents and recurrent corneal ulcerative disease, delayed recurrent keratitis of the eye, and chronic conjunctivitis. Denied to the extent that the three-volume National Research Council long-term follow-up study concluded that "serious long-term effects in the small number of soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem unlikely (except for possible skin tumors and some cases of permanent scarring)."

REQUEST TO ADMIT NO. 60:

Admit that exposure to Lewisite can cause acute severe injuries to the eye.

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RESPONSE: Admitted in part, and denied in part. Admitted to the extent that the 1993 NAS study concluded that any corneal scarring or vascularization that occurred soon after Lewisite exposure would persist. Denied to the extent that the 1993 NAS study concluded that evidence in laboratory animals indicated no causal relation between exposure to Lewisite and any long-term ocular disease process.

REQUEST TO ADMIT NO. 61:

Admit that exposure to mustard agents can cause delayed recurrent keratitis of the eye.

RESPONSE: Admitted in part, and denied in part. Admitted to the extent that the 1993 NAS study concluded that there was a causal relationship between full-body exposure to mustard agents and recurrent keratitis of the eye. Denied to the extent that the three-volume National Research Council long-term follow-up study concluded that "serious long-term effects in the small number of soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem unlikely (except for possible skin tumors and some cases of permanent scarring)."

REQUEST TO ADMIT NO. 62:

Admit that exposure to mustard agents can cause chronic conjunctivitis.

RESPONSE: Admitted in part, and denied in part. Admitted to the extent that the 1993 NAS study concluded that there was a causal relationship between full-body exposure to mustard agents and conjunctivitis. Denied to the extent that the three-volume National Research Council long-term follow-up study concluded that "serious long-term effects in the small number of soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem unlikely (except for possible skin tumors and some cases of permanent scarring)."

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3 **REQUEST TO ADMIT NO. 63:**

4 Admit that exposure to mustard agents can cause bone marrow depression and resulting
5 immunosuppression.

6 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
7 NAS study concluded that there was a causal relationship between full-body exposure to mustard
8 agents and bone marrow depression and resulting immunosuppression. Denied to the extent that
9 the three-volume National Research Council long-term follow-up study concluded that "serious
10 long-term effects in the small number of soldiers who received one or a few low-dose exposures
11 [to mustard agents] at Edgewood seem unlikely (except for possible skin tumors and some cases
12 of permanent scarring)."

13 **REQUEST TO ADMIT NO. 64:**

14 Admit that exposure to mustard agents can cause mood disorders.

15 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
16 NAS study concluded that there was a causal relationship between the experiences of the
17 subjects in chamber and field tests of mustard agents and the development of mood disorders.
18 DoD further states that the 1993 NAS study concluded that it was not possible to draw any
19 conclusions about specific physiological conditions and their possible psychological
20 concomitants or causes. Denied to the extent that the three-volume National Research Council
21 long-term follow-up study concluded that "serious long-term effects in the small number of
22 soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
23 unlikely (except for possible skin tumors and some cases of permanent scarring)."
24

25 **REQUEST TO ADMIT NO. 65:**

26 Admit that exposure to mustard agents can cause anxiety disorders.
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1 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
 2 NAS study concluded that there was a causal relationship between the experiences of the
 3 subjects in chamber and field tests of mustard agents and the development of anxiety disorders.
 4 DoD further states that the 1993 NAS study concluded that it was not possible to draw any
 5 conclusions about specific physiological conditions and their possible psychological
 6 concomitants or causes. Denied to the extent that the three-volume National Research Council
 7 long-term follow-up study concluded that "serious long-term effects in the small number of
 8 soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
 9 unlikely (except for possible skin tumors and some cases of permanent scarring)."

10
 11 **REQUEST TO ADMIT NO. 66:**

12 Admit that exposure to mustard agents can cause traumatic stress disorders, including
 13 post-traumatic stress disorder.

14 **RESPONSE:** Admitted to the extent that the 1993 NAS study concluded that there was
 15 a causal relationship between the experiences of the subjects in chamber and field tests of
 16 mustard agents and the development of traumatic stress disorders, including post-traumatic stress
 17 disorder. DoD further states that the 1993 NAS study concluded that it was not possible to draw
 18 any conclusions about specific physiological conditions and their possible psychological
 19 concomitants or causes.

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 21 **REQUEST TO ADMIT NO. 67:**

22 Admit that exposure to Lewisite can cause mood disorders.

23 **RESPONSE:** Admitted to the extent that the 1993 NAS study concluded that there was
 24 a causal relationship between the experiences of the subjects in chamber and field tests of
 25 Lewisite and the development of mood disorders. DoD further states that the 1993 NAS study
 26 concluded that it was not possible to draw any conclusions about specific physiological
 27 conditions and their possible psychological concomitants or causes.

1 **REQUEST TO ADMIT NO. 68:**

2 Admit that exposure to Lewisite can cause anxiety disorders.

3 **RESPONSE:** Admitted to the extent that the 1993 NAS study concluded that there was
4 a causal relationship between the experiences of the subjects in chamber and field tests of
5 Lewisite and the development of anxiety disorders. DoD further states that the 1993 NAS study
6 concluded that it was not possible to draw any conclusions about specific physiological
7 conditions and their possible psychological concomitants or causes.

8
9 **REQUEST TO ADMIT NO. 69:**

10 Admit that exposure to Lewisite can cause traumatic stress disorders, including post-
11 traumatic stress disorder.

12 **RESPONSE:** Admitted to the extent that the 1993 NAS study concluded that there was
13 a causal relationship between full-body exposure to Lewisite and traumatic stress disorders,
14 including post-traumatic stress disorder. DoD further states that the 1993 NAS study concluded
15 that it was not possible to draw any conclusions about specific physiological conditions and their
16 possible psychological concomitants or causes.

17
18 **REQUEST TO ADMIT NO. 70:**

19 Admit that exposure to mustard agents can cause sexual dysfunction.

20 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
21 NAS study concluded that there was a causal relationship between full-body exposure to mustard
22 agents and sexual dysfunction to the extent that scrotal or penile scarring may prevent or inhibit
23 normal sexual performance or activity, which may decrease sexual function and thereby affect
24 reproductive success. Denied to the extent that the three-volume National Research Council
25 long-term follow-up study concluded that "serious long-term effects in the small number of
26 soldiers who received one or a few low-dose exposures [to mustard agents] at Edgewood seem
27 unlikely (except for possible skin tumors and some cases of permanent scarring)."
28

1 **REQUEST TO ADMIT NO. 71:**

2 Admit that exposure to mustard agents can cause reproductive dysfunction.

3 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the 1993
4 NAS study concluded that the evidence found that there was a suggested causal relationship
5 between sulfur mustard exposure and reproductive toxicity in laboratory animals, but further
6 state that the study concluded that the database was far too small and uncertain to allow a clear
7 understanding of human reproductive risk from exposure to sulfur mustards. Denied to the
8 extent that the three-volume National Research Council long-term follow-up study concluded
9 that "serious long-term effects in the small number of soldiers who received one or a few low-
10 dose exposures [to mustard agents] at Edgewood seem unlikely (except for possible skin tumors
11 and some cases of permanent scarring)."

12
13 **REQUEST TO ADMIT NO. 72:**

14 Admit that exposure to soman can cause long-term health effects.

15 **RESPONSE:** Admitted in part, denied in part. Admitted to the extent that volunteer
16 service members who were exposed only to nerve agents reported greater sleep disturbances in
17 comparison to subjects exposed to no active agents. Denied in all other respects.

18
19 **REQUEST TO ADMIT NO. 73:**

20 Admit that exposure to VX can cause long-term health effects.

21 **RESPONSE:** Admitted in part, denied in part. Admitted to the extent that volunteer
22 service members who were exposed only to nerve agents reported greater sleep disturbances in
23 comparison to subjects exposed to no active agents. Denied in all other respects.

24
25 **REQUEST TO ADMIT NO. 74:**

26 Admit that exposure to sarin can cause vomiting.

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RESPONSE: Admitted that a possible acute health effect of exposure to sarin is vomiting.

REQUEST TO ADMIT NO. 75:

Admit that exposure to soman can cause vomiting.

RESPONSE: Admitted that a possible acute health effect of exposure to soman is vomiting.

REQUEST TO ADMIT NO. 76:

Admit that exposure to VX can cause vomiting.

RESPONSE: Admitted that a possible acute health effect of exposure to VX is vomiting.

REQUEST TO ADMIT NO. 77:

Admit that exposure to sarin can cause breathing difficulties.

RESPONSE: Admitted in part, and denied in part. Admitted to the extent that the three-volume National Research Council long-term follow-up study concluded that acute toxic effects of inhalation could consist of "tightness in the chest and wheezing due to the combination of bronchoconstriction and increased bronchial secretion." Denied to the extent that the NRC study also concluded that "[n]o firm evidence has been seen that any of the anticholinergic test compounds surveyed produced long-range adverse human health effects in the doses used at Edgewood Arsenal."

REQUEST TO ADMIT NO. 78:

Admit that exposure to soman can cause breathing difficulties.

1 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the three-
2 volume National Research Council long-term follow-up study concluded that acute toxic effects
3 of inhalation could consist of "tightness in the chest and wheezing due to the combination of
4 bronchoconstriction and increased bronchial secretion." Denied to the extent that the NRC study
5 also concluded that "[n]o firm evidence has been seen that any of the anticholinergic test
6 compounds surveyed produced long-range adverse human health effects in the doses used at
7 Edgewood Arsenal

8
9 **REQUEST TO ADMIT NO. 79:**

10 Admit that exposure to VX can cause breathing difficulties.

11 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that the three-
12 volume National Research Council long-term follow-up study concluded that acute toxic effects
13 of inhalation could consist of "tightness in the chest and wheezing due to the combination of
14 bronchoconstriction and increased bronchial secretion." Denied to the extent that the NRC study
15 also concluded that "[n]o firm evidence has been seen that any of the anticholinergic test
16 compounds surveyed produced long-range adverse human health effects in the doses used at
17 Edgewood Arsenal

18
19 **REQUEST TO ADMIT NO. 80:**

20 Admit that exposure to sarin can cause convulsions.

21 **RESPONSE:** Admitted to the extent that, at high doses, a possible acute health effect of
22 exposure to sarin is convulsions.

23
24 **REQUEST TO ADMIT NO. 81:**

25 Admit that exposure to soman can cause convulsions.

26 **RESPONSE:** Admitted to the extent that, at high doses, a possible acute health effect of
27 exposure to soman is convulsions.

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REQUEST TO ADMIT NO. 82:

Admit that exposure to VX can cause convulsions.

RESPONSE: Admitted to the extent that, at high doses, a possible acute health effect of exposure to VX is convulsions.

REQUEST TO ADMIT NO. 83:

Admit that exposure to sarin can cause a coma.

RESPONSE: Admitted to the extent that the three-volume National Research Council long-term follow-up study concluded that one of the acute toxic effects on the central nervous system is a coma.

REQUEST TO ADMIT NO. 84:

Admit that exposure to soman can cause a coma.

RESPONSE: Admitted to the extent that the three-volume National Research Council long-term follow-up study concluded that one of the acute toxic effects on the central nervous system is a coma.

REQUEST TO ADMIT NO. 85:

Admit that exposure to VX can cause a coma.

RESPONSE: Admitted to the extent that the three-volume National Research Council long-term follow-up study concluded that one of the acute toxic effects on the central nervous system is a coma.

REQUEST TO ADMIT NO. 86:

Admit that exposure to sarin can cause death.

1 **RESPONSE:** Admitted to the extent that, depending upon the dose, route of
2 administration, and other factors, sarin can cause death. DoD further states that it is unaware of
3 any volunteer service member who died as a result of being administered sarin.
4

5 **REQUEST TO ADMIT NO. 87:**

6 Admit that exposure to VX can cause death.

7 **RESPONSE:** Admitted to the extent that, depending upon the dose, route of
8 administration, and other factors, VX can cause death. DoD further states that it is unaware of
9 any volunteer service member who died as a result of being administered VX.
10

11 **REQUEST TO ADMIT NO. 88:**

12 Admit that exposure to sarin can cause long-term changes in brain function.

13 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that some
14 individuals who have survived severe nerve agent poisoning have been shown to later develop
15 subtle, chronic neuropsychological and neuropsychological abnormalities. These subtle
16 deficiencies have been reported in tests for intellectual functioning, academic skills, abstraction
17 and flexibility of thinking, and simple motor skills. Denied to the extent that neither the 1980s
18 NRC long-term follow-up study nor the 2003 follow-on study found any evidence that would
19 support this type of long-term health effect in the Edgewood volunteer service member test
20 population.
21

22 **REQUEST TO ADMIT NO. 89:**

23 Admit that exposure to soman can cause long-term changes in brain function.

24 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that some
25 individuals who have survived severe nerve agent poisoning have been shown to later develop
26 subtle, chronic neuropsychological and neuropsychological abnormalities. These subtle
27 deficiencies have been reported in tests for intellectual functioning, academic skills, abstraction
28

1 and flexibility of thinking, and simple motor skills. Denied to the extent that neither the 1980s
2 NRC long-term follow-up study nor the 2003 follow-on study found any evidence that would
3 support this type of long-term health effect in the Edgewood volunteer service member test
4 population.

5
6 **REQUEST TO ADMIT NO. 90:**

7 Admit that exposure to VX can cause long-term changes in brain function.

8 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that some
9 individuals who have survived severe nerve agent poisoning have been shown to later develop
10 subtle, chronic neuropsychological and neuropsychological abnormalities. These subtle
11 deficiencies have been reported in tests for intellectual functioning, academic skills, abstraction
12 and flexibility of thinking, and simple motor skills. Denied to the extent that neither the 1980s
13 NRC long-term follow-up study nor the 2003 follow-on study found any evidence that would
14 support this type of long-term health effect in the Edgewood volunteer service member test
15 population.

16
17 **REQUEST TO ADMIT NO. 91:**

18 Admit that serious casualties and death can occur from exposure to CN and DM in
19 confined areas.

20 **RESPONSE:** Admitted in part, and denied in part. Admitted to the extent that Volume
21 II of the 1984 NRC study concluded that CN may cause casualties or death in confined spaces in
22 which escape is not possible. Denied to the extent that Volume III of the 1985 NRC study
23 concluded that there was no evidence of long-term health effects to the volunteer service
24 members who received low-dose exposures to CN at Edgewood Arsenal between 1958 and 1972,
25 and that the low-dose exposure to DM by the Edgewood volunteer service members was unlikely
26 to have produced measurable long-term health effects. DoD further states that after reasonable
27

1 inquiry, the information that DoD knows or can readily obtain is insufficient to either admit or
2 deny whether exposure to DM in confined areas can result in serious casualties or death.

3
4 **REQUEST TO ADMIT NO. 92:**

5 Admit that the perceived exposure to TEST SUBSTANCES in TEST PROGRAMS can
6 lead to long-term psychological effects.

7 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
8 SUBSTANCES" for the reasons stated in General Objections 2 and 4. Notwithstanding and
9 subject to these objections, DoD admits Plaintiffs' request for admission no. 92 to the extent that
10 a study has indicated that "[a]uthoritative acceptance of the existence of purely psychogenic
11 health effects of perceived exposure appears to be increasingly firm."

12
13 **REQUEST TO ADMIT NO. 93:**

14 Admit that the secrecy surrounding the TEST PROGRAMS and TEST SUBJECTS being
15 forbidden from disclosing the circumstances of the TEST PROGRAMS can cause long-term
16 psychological effects.

17 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
18 SUBJECTS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject
19 to these objections, DoD admits Plaintiffs' request for admission no. 93 to the extent that the
20 prohibition on disclosure of information concerning participation in a test program is a risk factor
21 that correlates with post traumatic stress disorder morbidity. Beyond this qualified admission,
22 DoD states that after reasonable inquiry, including a review of the discovery produced in this
23 case, the information that DoD knows or can readily obtain is insufficient to either admit or deny
24 the remainder of this request.

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2 **REQUEST TO ADMIT NO. 94:**

3 Admit that at least one person died as a result of the experiments during the TEST
4 PROGRAMS.

5 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in
6 General Objections 2 and 3. Notwithstanding and subject to these objections, DoD denies
7 Plaintiffs' request for admission no. 94.
8

9 **REQUEST TO ADMIT NO. 95:**

10 Admit that, in 1944, DEFENDANTS carried out a mission to test the effects of mustard
11 gas bombs on American prisoners on an island off the coast of Australia.

12 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
13 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
14 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
15 including a review of the discovery produced in this case, the information that DoD knows or
16 can readily obtain is insufficient to either admit or deny this request.
17

18 **REQUEST TO ADMIT NO. 96:**

19 Admit that, for the mission described in Request to Admit No. 95, DEFENDANTS used
20 Australian pilots in American Air Force planes to conduct an air strike on the fortified bunkers.

21 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
22 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
23 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
24 including a review of the discovery produced in this case, the information that DoD knows or
25 can readily obtain is insufficient to either admit or deny this request.
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1 **REQUEST TO ADMIT NO. 97:**

2 Admit that, for the mission described in Request to Admit No. 95, prisoners were killed
3 in the bombing.

4 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
5 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
6 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
7 including a review of the discovery produced in this case, the information that DoD knows or
8 can readily obtain is insufficient to either admit or deny this request.
9

10 **REQUEST TO ADMIT NO. 98:**

11 Admit that, for the mission described in Request to Admit No. 95, DEFENDANTS
12 suppressed or destroyed information concerning the mission.

13 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
14 calculated to lead to the discovery of admissible evidence concerning any claim remaining in this
15 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
16 including a review of the discovery produced in this case, the information that DoD knows or
17 can readily obtain is insufficient to either admit or deny this request.
18

19 **REQUEST TO ADMIT NO. 99:**

20 Admit that long-term psychological consequences are possible from the trauma
21 associated with being a human TEST SUBJECT in the TEST PROGRAMS.

22 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
23 SUBJECTS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
24 term "trauma" as undefined and vague. Notwithstanding and subject to these objections, DoD
25 admits Plaintiffs' request for admission no. 99.
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1 **REQUEST TO ADMIT NO. 100:**

2 Admit that the DOA did not obtain approval from the Surgeon General, as required by
3 the Wilson Memorandum, before conducting tests on TEST SUBJECTS during the TEST
4 PROGRAMS.

5 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
6 SUBJECTS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
7 request on the grounds that it is not reasonably calculated to lead to the discovery of admissible
8 evidence, particularly because the Court had dismissed any claims related to the lawfulness of
9 the test programs. Notwithstanding and subject to these objections, DoD denies Plaintiffs'
10 request for admission no. 100.

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12 **REQUEST TO ADMIT NO. 101:**

13 Admit that, during unwitting tests, DEFENDANTS did not record the doses
14 administered.

15 **RESPONSE:** DoD objects to Plaintiffs' request for admission no. 101 because it is not
16 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
17 claim in this case. DoD further objects to the phrase "unwitting tests" as undefined and vague.
18 Notwithstanding and subject to these objections, DoD states that after reasonable inquiry,
19 including a review of the discovery produced in this case, the information that DoD knows or
20 can readily obtain is insufficient to either admit or deny this request.

21
22 **REQUEST TO ADMIT NO. 102:**

23 Admit that, after TEST SUBJECTS left EDGEWOOD ARSENAL, neither the DOD nor
24 the DOA conducted any follow-up monitoring of these TEST SUBJECTS.

25 **RESPONSE:** DoD objects to the phrases "TEST PROGRAMS" and "TEST
26 SUBJECTS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject
27 to these objections, DoD denies Plaintiffs' request for admission no. 102.

1 **REQUEST TO ADMIT NO. 103:**

2 Admit that between 1943 and February 26, 1953, there was no official standard
3 governing human testing with chemical or biological substances conducted by the DOA.

4 **RESPONSE:** DoD objects to this request for admission on the grounds that it is not
5 reasonably calculated to lead to the discovery of admissible evidence regarding any of the
6 remaining claims in this case, particularly in light of the fact that any issue concerning the
7 lawfulness of the test program has been dismissed from this case. Notwithstanding and subject
8 to this objection, DoD states that after reasonable inquiry, including a review of the discovery
9 produced in this case, the information that DoD knows or can readily obtain is insufficient to
10 either admit or deny this request.

11
12 **REQUEST TO ADMIT NO. 104:**

13 Admit that between 1943 and February 26, 1953, there was no form used for the
14 obtaining of informed consent from TEST SUBJECTS to participate in the TEST PROGRAMS.

15 **RESPONSE:** DoD objects on relevance grounds to the time frame, as this pre-dates the
16 chemical and biological test program at issue in this case. DoD further objects to the relevance
17 of this admission as it relates to informed consent because it is not reasonably calculated to lead
18 to the discovery of admissible evidence in this case. DoD further objects to the phrases "TEST
19 PROGRAMS" and "TEST SUBJECTS" for the reasons stated in General Objections 2 and 4.
20 Notwithstanding and subject to these objections, DoD states that after reasonable inquiry,
21 including a review of the discovery produced in this case, the information that DoD knows or
22 can readily obtain is insufficient to either admit or deny this request. DoD further states that,
23 according to the Department of the Army's 1975 Inspector General's Report, "[t]he first record
24 of volunteer agreement was found in an undated, draft form, probably prepared within the
25 Medical Research Laboratories in late 1954."
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REQUEST TO ADMIT NO. 105:

Admit that two military personnel at EDGEWOOD ARSENAL were tested with EA 3167 under the direction of the CIA.

RESPONSE: DoD objects to this request for admission because it is not reasonably calculated to lead to the discovery of admissible evidence concerning any claim remaining in this case. DoD further objects to the term "direction" as undefined and ambiguous. Notwithstanding and subject to these objections, DoD states that after reasonable inquiry, including a review of the discovery produced in this case, the information that DoD knows or can readily obtain is insufficient to either admit or deny this request. DoD further states that, in September 1977, DoD's General Counsel reached the conclusion that the CIA transferred to DoD \$37,000 for the testing of EA 3167. Although most of that testing was devoted to animal testing, DoD's General Counsel reached a conclusion that one experiment in June 1973 involved two military volunteers. However, CIA reached a different conclusion and determined that the CIA did not provide funding for those two human tests.

REQUEST TO ADMIT NO. 106:

Admit that VX was used as an antidote for anticholinergic substances during the TEST PROGRAMS.

RESPONSE: DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject to this objections, DoD admits Plaintiffs' request for admission no. 106.

REQUEST TO ADMIT NO. 107:

Admit that no psychological screening of potential TEST SUBJECTS occurred at EDGEWOOD ARSENAL prior to the arrival of Dr. James Ketchum.

RESPONSE: DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in General Objections 2 and 4. DoD further objects to this request for admission because it is not

1 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
2 claim in this case. Notwithstanding and subject to these objections, DoD denies Plaintiffs'
3 request for admission no. 107.
4

5 **REQUEST TO ADMIT NO. 108:**

6 Admit that the substance nicknamed "The Boomer" is EA 3167.

7 **RESPONSE:** DoD objects to this request for admission because it is not reasonably
8 calculated to lead to the discovery of admissible evidence concerning any remaining claim in this
9 case. Notwithstanding and subject to this objection, DoD states that after reasonable inquiry,
10 including a review of the discovery produced to date, the information that DoD knows or can
11 readily obtain is insufficient to either admit or deny this request.
12

13 **REQUEST TO ADMIT NO. 109:**

14 Admit that the DOA sought formal authority to recruit and use human subjects in a
15 chemical warfare experiment for the first time in 1942.

16 **RESPONSE:** DoD objects on relevance grounds to the time frame, as this pre-dates the
17 chemical and biological test program at issue in this case. DoD further objects on relevance
18 ground because any "authority" concerning the test programs goes to the lawfulness of the test
19 programs – an issue the Court has dismissed from this case. Notwithstanding and subject to
20 these objections, DoD admits that the first indication of formal authority sought to recruit and
21 use volunteer subjects in chemical warfare experiments was in 1942.
22

23 **REQUEST TO ADMIT NO. 110:**

24 Admit that Army Chief of Staff Memorandum 385 (Use of Volunteers in Research)
25 implemented the eleven rules of volunteer testing contained in the Wilson Memorandum.

26 **RESPONSE:** Admitted.
27
28

1 **REQUEST TO ADMIT NO. 111:**

2 Admit that the DOA offered soldiers special privileges or rewards to persuade them to
3 volunteer as TEST SUBJECTS.

4 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
5 General Objections 2 and 4. DoD further objects to this request for admission because it is not
6 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
7 claim in this case. DoD further objects to the phrase "special privileges or rewards" as undefined
8 and vague. Notwithstanding and subject to these objections, DoD admits Plaintiffs' request for
9 admission no. 111.

10
11 **REQUEST TO ADMIT NO. 112:**

12 Admit that the DOA promised three-day passes each weekend to TEST SUBJECTS
13 while participating in TEST PROGRAMS.

14 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
15 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
16 request for admission because it is not reasonably calculated to lead to the discovery of
17 admissible evidence concerning any remaining claim in this case. DoD further objects to the
18 phrase "promised" as undefined and vague. Notwithstanding and subject to these objections,
19 DoD admits Plaintiffs' request for admission no. 112 to the extent that volunteers were permitted
20 one three-day pass per week when possible.

21
22 **REQUEST TO ADMIT NO. 113:**

23 Admit that the DOA promised relief from all fatigue-type details to TEST SUBJECTS
24 while participating in TEST PROGRAMS.

25 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
26 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
27 request for admission because it is not reasonably calculated to lead to the discovery of
28

1 admissible evidence concerning any remaining claim in this case. DoD further objects to the
2 phrases "promised" and "fatigue-type details" as undefined and vague. Notwithstanding and
3 subject to these objections, DoD admits Plaintiffs' request for admission no. 113 to the extent
4 that aside from housekeeping duties in their barrack and its immediate areas, the volunteers had
5 no other duties except those connected with their participation in the various test program.
6

7 **REQUEST TO ADMIT NO. 114:**

8 Admit that the DOA guaranteed to TEST SUBJECTS that a letter of commendation
9 would be placed in their official personnel files for participating in TEST PROGRAMS.

10 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
11 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
12 request for admission because it is not reasonably calculated to lead to the discovery of
13 admissible evidence concerning any remaining claim in this case. DoD further objects to the
14 term "guaranteed" as undefined and vague. Notwithstanding and subject to these objections,
15 DoD admits Plaintiffs' request for admission no. 114 to the extent that volunteers who
16 participated in the test program for the full volunteer period received a letter of commendation.
17

18 **REQUEST TO ADMIT NO. 115:**

19 Admit that the DOA assigned area commanders a quota of volunteers for TEST
20 PROGRAMS to be furnished on a monthly basis.

21 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in
22 General Objections 2 and 4. DoD further objects to this request for admission because it is not
23 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
24 claim in this case. Notwithstanding and subject to these objections, DoD admits that, pursuant to
25 a 1957 Army directive, Army area commanders were assigned a quota of volunteers to be
26 furnished on a monthly basis.
27
28

1 **REQUEST TO ADMIT NO. 116:**

2 Admit that in 1954, the DOA Surgeon General prepared a set of principles, policies, and
3 rules for the use of volunteers in medical research.

4 **RESPONSE:** Admitted that, in March 1954, the Surgeon General of the Army set forth
5 rules to govern the use of human volunteers in medical research.

6
7 **REQUEST TO ADMIT NO. 117:**

8 Admit that, during the TEST PROGRAMS, the DOA did not comply with the 1954 DOA
9 Surgeon General rule that "Adequate preparations should be made and adequate facilities
10 provided to protect the experimental subject against even remote possibilities of injury,
11 disability, or death. This includes hospitalization and medical treatment as may be required."

12 **RESPONSE:** DoD objects to the phrase "TEST PROGRAMS" for the reasons stated in
13 General Objections 2 and 4. DoD further objects to this request for admission because it is not
14 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
15 claim in this case. DoD further objects to this request for admission to the extent it calls for a
16 legal conclusion. Notwithstanding and subject to these objections, DoD denies Plaintiffs'
17 request for admission no. 117.

18
19 **REQUEST TO ADMIT NO. 118:**

20 Admit that the DOA destroyed individual records pertaining to the effects of LSD on the
21 interrogation of TEST SUBJECTS.

22 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
23 General Objections 2 and 4. Notwithstanding and subject to this objection, DoD states that after
24 reasonable inquiry, including a review of the discovery produced in this case, the information
25 that DoD knows or can readily obtain is insufficient to either admit or deny this request.
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27
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1 **REQUEST TO ADMIT NO. 119:**

2 Admit that the CIA administered TEST SUBSTANCES to unwitting subjects.

3 **RESPONSE:** DoD objects to the phrase "TEST SUBSTANCES" for the reasons stated
4 in General Objections 2 and 4. DoD further objects to this request for admission because it is not
5 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
6 claim in this case. Notwithstanding and subject to these objections, DoD states that after
7 reasonable inquiry, including a review of the discovery produced in this case, the information
8 that DoD knows or can readily obtain is insufficient to either admit or deny this request.
9

10 **REQUEST TO ADMIT NO. 120:**

11 Admit that the Army has not followed up with and informed all former DOD TEST
12 SUBJECTS, as Senator Schweiker said the Army promised him, as explained on page 154 of the
13 1977 Congressional Hearings before the Subcommittee on Health and Scientific Research of the
14 Committee on Human Resources of the United States Senate.

15 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
16 General Objections 2 and 4. DoD further objects to this request as vague, as it does not specify
17 what information DoD had allegedly promised to provide "TEST SUBJECTS." DoD further
18 objects to Plaintiffs' request for admission because it is not reasonably calculated to lead to the
19 discovery of admissible evidence. Notwithstanding and subject to these objections, DoD denies
20 Plaintiffs' request for admission no. 120.
21

22 **REQUEST TO ADMIT NO. 121:**

23 Admit that, after Admiral Turner responded "yes" to Senator Kennedy's question, "Do
24 you intend to notify those individuals?" (Joint Hearing Before the Senate Select Comm. on
25 Intelligence and the Subcomm. on Health and Scientific Research of the Senate Comm. on
26 Human Resources, 95th Cong. (1977) at 36), the CIA did not provide NOTICE to TEST
27 SUBJECTS who participated in the TEST PROGRAMS.
28

1 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
2 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
3 request for admission because it is not reasonably calculated to lead to the discovery of
4 admissible evidence concerning any remaining claim in this case. DoD further objects to this
5 request for admission because it mischaracterizes the exchange between Senator Kennedy and
6 Admiral Turner. Admiral Turner responded "yes" to the question "If you can identify them, you
7 intend to notify them?" Notwithstanding and subject to these objections, DoD states that after
8 reasonable inquiry, including a review of the discovery produced in this case, the information
9 that DoD knows or can readily obtain is insufficient to either admit or deny this request.
10

11 **REQUEST TO ADMIT NO. 122:**

12 Admit that, as Mr. Gordon indicated at page 128 of the 1977 Congressional Hearings
13 before the Subcommittee on Health and Scientific Research of the Committee on Human
14 Resources of the United States Senate, the CIA did no follow-up on volunteers of CIA-sponsored
15 TEST PROGRAMS.
16

17 **RESPONSE:** DoD objects to Plaintiffs' request for admission no. 122 as it misstates the
18 testimony of Mr. Gordon on page 128 of the 1977 Congressional Hearings before the
19 Subcommittee on Health and Scientific Research on the Committee on Human Resources of the
20 United States Senate. DoD further objects to the phrase "TEST PROGRAMS" for the reasons
21 stated in General Objections 2 and 4. DoD further objects to this request for admission because
22 it is not reasonably calculated to lead to the discovery of admissible evidence concerning any
23 remaining claim in this case. Notwithstanding and subject to these objections, DoD states that
24 after reasonable inquiry, including a review of the discovery produced in this case, the
25 information that DoD knows or can readily obtain is insufficient to either admit or deny this
26 request.
27
28

1 **REQUEST TO ADMIT NO. 123:**

2 Admit that, after February 26, 1953, neither the DOD nor the DOA obtained informed
3 consent from TEST SUBJECTS before they participated in the TEST PROGRAMS.

4 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
5 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
6 request for admission because it is not reasonably calculated to lead to the discovery of
7 admissible evidence concerning any remaining claim in this case. Notwithstanding and subject
8 to these objections, DoD denies Plaintiffs' request for admission no. 123.

9
10 **REQUEST TO ADMIT NO. 124:**

11 Admit that, after February 26, 1953, neither the DOD nor the DOA explained all
12 inconveniences and hazards reasonably to be expected to TEST SUBJECTS before they
13 participated in the TEST PROGRAMS.

14 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
15 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
16 request for admission because it is not reasonably calculated to lead to the discovery of
17 admissible evidence concerning any remaining claim in this case. DoD further objects to the
18 term "inconvenience and hazards" as undefined and vague. Notwithstanding and subject to these
19 objections, DoD denies Plaintiffs' request for admission no. 124 to the extent that, as Dr. Van
20 Sim testified before Congress in 1975, volunteer test participants were informed of the type of
21 drug administered, what they might expect, how it would be administered, and over what
22 duration of time he might expect some discomfort. Similarly, certain of the named plaintiffs in
23 this case, such as Mr. Blazinski, testified that they were told of the potential acute health effects
24 associated with the testing before the testing took place. Beyond this, DoD states that after
25 reasonable inquiry, including a review of the discovery produced in this case, the information
26 that DoD knows or can readily obtain is insufficient to either admit or deny this request.

1 **REQUEST TO ADMIT NO. 125:**

2 Admit that, after February 26, 1953, neither the DOD nor the DOA explained the
3 possible health effects that could result from participation in experiments to TEST SUBJECTS
4 before they participated in the TEST PROGRAMS.

5 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
6 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this
7 request for admission because it is not reasonably calculated to lead to the discovery of
8 admissible evidence concerning any remaining claim in this case. Notwithstanding and subject
9 to these objections, DoD denies Plaintiffs' request for admission no. 125 to the extent that, as Dr.
10 Van Sim testified before Congress in 1975, volunteer test participants were informed of the type
11 of drug administered, what they might expect, how it would be administered, and over what
12 duration of time he might expect some discomfort. Beyond this, DoD states that after reasonable
13 inquiry, including a review of the discovery produced in this case, the information that DoD
14 knows or can readily obtain is insufficient to either admit or deny this request.

15
16 **REQUEST TO ADMIT NO. 126:**

17 Admit that the DOA conducted unwitting tests with TEST SUBSTANCES.

18 **RESPONSE:** DoD objects to the phrase "TEST SUBSTANCES" for the reasons stated
19 in General Objections 3. DoD further objects to this request for admission because it is not
20 reasonably calculated to lead to the discovery of admissible evidence concerning any remaining
21 claim in this case. This is particularly true given that the request for admission, as written, is not
22 limited to the testing on volunteer service members and, for this reason, the request is
23 substantially overbroad. DoD further objects to the phrase "unwitting tests" as undefined and
24 vague, and will interpret this phrase to mean circumstances where the volunteer service member
25 was unaware that he would be a test subject. Notwithstanding and subject to these objections,
26 DoD admits Plaintiffs' request for admission no. 126 in part, and denies it in part. DoD denies
27 this request for admission to the extent that, as reflected in the Department of the Army Inspector
28

1 General Report, "[a]ll available evidence indicated that with one exception, which will be
2 discussed under the chapter on intelligence testing, only volunteer subjects were used for the
3 chemical drug or agent experiments by Army investigators." DoD admits Plaintiffs' request for
4 admission no. 126 to the extent that, as reflected in the Army Inspector General Report, one U.S.
5 soldier was surreptitiously administered LSD as part of an investigation into the theft of
6 classified documents in France in 1961.
7

8 **REQUEST TO ADMIT NO. 127:**

9 Admit that since March 26, 1962, neither DOD nor the DOA has informed TEST
10 SUBJECTS of the (a) nature, (b) duration, and (c) purpose of the experiments conducted during
11 the TEST PROGRAMS.
12

13 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
14 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
15 subject to these objections, DoD denies Plaintiffs' request for admission no. 127.
16

17 **REQUEST TO ADMIT NO. 128:**

18 Admit that since March 26, 1962, neither DOD nor the DOA has given TEST
19 SUBJECTS NOTICE of the hazards associated with participation in the TEST PROGRAMS.
20

21 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
22 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
23 subject to these objections, DoD denies Plaintiffs' request for admission no. 128.
24

25 **REQUEST TO ADMIT NO. 129:**

26 Admit that since March 26, 1962, neither DOD nor the DOA has given TEST
27 SUBJECTS NOTICE of the effects on his health of experiments conducted during the TEST
28 PROGRAMS.
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RESPONSE: DoD objects to the phrase "TEST SUBJECTS" and "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject to these objections, DoD denies Plaintiffs' request for admission no. 129.

REQUEST TO ADMIT NO. 130:

Admit that since March 26, 1962, neither DOD nor the DOA informed TEST SUBJECTS of the right to withdraw from experiments during the TEST PROGRAMS.

RESPONSE: DoD objects to the phrase "TEST SUBJECTS" and "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to this request for admission because it is not reasonably calculated to lead to the discovery of admissible evidence concerning any remaining claim in this case. Notwithstanding and subject to these objections, DoD denies Plaintiffs' request for admission no. 130.

REQUEST TO ADMIT NO. 131:

Admit that since March 26, 1962, neither DOD nor the DOA has provided TEST SUBJECTS with required medical treatment and hospitalization for all casualties of the TEST PROGRAM experiments.

RESPONSE: DoD objects to the phrase "TEST SUBJECTS" and "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the phrase "TEST PROGRAM experiments" as undefined and vague, and will construe this to mean the same thing as "TEST PROGRAM." Notwithstanding and subject to these objections, DoD admits Plaintiffs' request for admission no. 131 in part, and denies it in part. Denied to the extent that, while on active-duty service, DoD provided volunteer service members with required medical treatment or hospitalization for medical conditions resulting from the testing. Admitted to the extent that DoD is not aware of providing medical treatment or hospitalization to the volunteer service members after those volunteer service members left the military, unless those service members were either medical retirees, retirees, or reservists.

REQUEST TO ADMIT NO. 132:

Admit that since March 26, 1962, the DoD and the DOA have refused to provide TEST SUBJECTS with required medical treatment and hospitalization for all casualties of the TEST PROGRAMS.

RESPONSE: DoD objects to the phrase "TEST SUBJECTS" and "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject to these objections, DoD states that after reasonable inquiry, including a review of the discovery produced in this case, the information that DoD knows or can readily obtain is insufficient to either admit or deny the remainder of this request. DoD is unaware of any volunteer service member requesting from DoD medical treatment or hospitalization based upon their participation as volunteer test participants after leaving the military and, accordingly, is unaware of DoD "refusing" to provide such medical care.

REQUEST TO ADMIT NO. 133:

Admit that since March 26, 1962, the DOA conducted experiments using TEST SUBJECTS who had mental conditions that made their participation in the TEST PROGRAMS more hazardous than a normal person.

RESPONSE: DoD objects to the phrase "TEST SUBJECTS" and "TEST PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and subject to these objections, DoD denies Plaintiffs' request for admission no. 133.

REQUEST TO ADMIT NO. 134:

Admit that since March 26, 1962, the DOA conducted experiments using TEST SUBJECTS who had physical conditions that made their participation in the TEST PROGRAMS more hazardous than a normal person.

1 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
2 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
3 subject to these objections, DoD denies Plaintiffs' request for admission no. 134.
4

5 **REQUEST TO ADMIT NO. 135:**

6 Admit that since March 26, 1962, neither DOD nor the DOA has followed up to monitor
7 the health of TEST SUBJECTS.

8 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
9 General Objections 2 and 4. DoD further objects to the phrase "monitor" as undefined and
10 vague. Notwithstanding and subject to these objections, DoD denies Plaintiffs' request for
11 admission no. 135.
12

13 **REQUEST TO ADMIT NO. 136:**

14 Admit that TEST SUBJECTS exposed to anticholinesterases during the TEST
15 PROGRAMS have experienced significantly more sleep disturbance problems than TEST
16 SUBJECTS not exposed to any chemical agents.

17 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
18 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
19 term "significantly" as vague and ambiguous. Notwithstanding and without waiving that
20 objection, DoD admits Plaintiffs' request for admission no. 136 to the extent that a 2003 DoD
21 follow-on study concluded that those test participants who were exposed only to
22 anticholinesterases reported greater sleep disturbances in comparison to subjects exposed to no
23 active agents. Beyond this qualified admission, DoD states that after reasonable inquiry,
24 including a review of the discovery produced in this case, the information that DoD knows or
25 can readily obtain is insufficient to either admit or deny the remainder of this request.
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1 **REQUEST TO ADMIT NO. 137:**

2 Admit that DEFENDANTS have known since at least 2003 that TEST SUBJECTS
3 exposed to anticholinesterases during the TEST PROGRAMS have experienced significantly
4 more sleep disturbance problems than TEST SUBJECTS not exposed to any chemical agents.

5 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" and "TEST
6 PROGRAMS" for the reasons stated in General Objections 2 and 4. DoD further objects to the
7 term "significantly" as vague and ambiguous. Notwithstanding and without waiving that
8 objection, DoD admits Plaintiffs' request for admission no. 137 to the extent that, since 2003,
9 DoD has been aware that a 2003 follow-on study concluded that those test participants who were
10 exposed only to anticholinesterases agents reported greater sleep disturbances in comparison to
11 subjects exposed to no active agents.

12
13 **REQUEST TO ADMIT NO. 138:**

14 Admit that DEFENDANTS have not notified TEST SUBJECTS exposed to
15 anticholinesterases of the possibility that they will experience more sleep disturbance problems
16 than TEST SUBJECTS not exposed to any chemical agents.

17 **RESPONSE:** DoD objects to the phrase "TEST SUBJECTS" for the reasons stated in
18 General Objections 2 and 4. Notwithstanding and without waiving this objection, DoD denies
19 Plaintiffs' request for admission no. 138.

20
21 **REQUEST TO ADMIT NO. 139:**

22 Admit that TEST SUBJECTS exposed to anticholinesterases during the TEST
23 PROGRAMS are more likely to eventually be hospitalized for malignant neoplasms.

24 **RESPONSE:** DoD objects to the phrases "TEST SUBJECTS" and "TEST
25 PROGRAMS" for the reasons stated in General Objections 2 and 4. Notwithstanding and
26 without waiving these objections, DoD denies Plaintiffs' request for admission No. 139. DoD
27 further states that the NRC's 1985 follow-on study concluded that "[t]here was a borderline
28

1 significant increase in malignant neoplasms among soldiers who were admitted to VA hospitals
2 (but not Army hospitals) and were exposed to anticholinesterases, compared with those who
3 received no chemical testing. The neoplasms occurred at various sites, and no consistent pattern
4 was seen. Current animal studies show that this pharmacologic class is unlikely to have induced
5 malignancies among the Edgewood subjects” The 2003 follow-on study concerning
6 anticholinesterases agents did not identify any increased risk of hospitalization for malignant
7 neoplasms for the volunteer test subjects.
8

9 **REQUEST TO ADMIT NO. 140:**

10 Admit that DEFENDANTS have known since at least 1985 that TEST SUBJECTS
11 exposed to anticholinesterases during the TEST PROGRAMS are more likely to eventually be
12 hospitalized for malignant neoplasms.

13 **RESPONSE:** DoD objects to the phrases “TEST SUBJECTS” and “TEST
14 PROGRAMS” for the reasons stated in General Objections 2 and 4. Notwithstanding and
15 without waiving these objections, DoD denies Plaintiffs’ request for admission No. 140.
16

17 **REQUEST TO ADMIT NO. 141:**

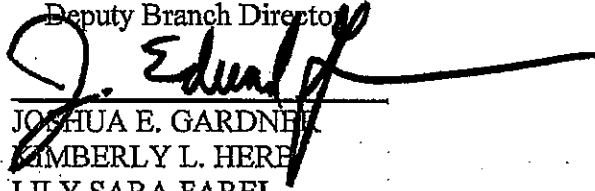
18 Admit that DEFENDANTS have not notified TEST SUBJECTS exposed to
19 anticholinesterases of the possibility that they are more likely to be hospitalized for malignant
20 neoplasms.

21 **RESPONSE:** DoD objects to the phrase “TEST SUBJECTS” for the reasons stated in
22 General Objections 2 and 4. Notwithstanding and without waiving these objections, DoD admits
23 in part and denies in part Plaintiffs’ request for admission No. 141. Denied to the extent that the
24 NRC’s 1985 follow-on study concluded that “[t]here was a borderline significant increase in
25 malignant neoplasms among soldiers who were admitted to VA hospitals (but not Army
26 hospitals) and were exposed to anticholinesterases, compared with those who received no
27 chemical testing. The neoplasms occurred at various sites, and no consistent pattern was seen.
28

1 Current animal studies show that this pharmacologic class is unlikely to have induced
 2 malignancies among the Edgewood subjects. The 2003 follow-on study concerning
 3 anticholinesterases agents did not identify any increased risk of hospitalization for malignant
 4 neoplasms for the volunteer test subjects. Admitted to the extent that DoD has not provided
 5 notification to volunteer test participants concerning any alleged causal relationship between
 6 anticholinesterases and hospitalizations for malignant neoplasms.
 7

8 Dated: August 15, 2011

9 IAN GERSHENGORN
 Deputy Assistant Attorney General
 MELINDA L. HAAG
 United States Attorney
 VINCENT M. GARVEY
 Deputy Branch Director

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20 Attorneys for Defendants

EXHIBIT 62

From: Lee, Anthony, Mr, OSD-ATL
To: Hottenstein, Omar, CAPT, OASD(HA)/TMA
CC: 'Webb, William H'; Chase, Walter B CTR OSD ATL; 'Blackburn, Andrew R'; Dupuy, Arnold, CTR, OASD(HA)/TMA; Hamed, Marty, CTR USA OSD P&R IM BAH; Fisher, Timothy W LTC OSD ATL; Vesely, Keith, COL, OASD(HA); 'Stephen.Maleson@us.army.mil'; 'peggy.gieseeking@us.army.mil'; 'Pat.Harahan@DTRA.mil'; Wolf, Jacob G MAJ MIL USA OTJAG; 'Christopher.chesney@us.army.mil'; St. Claire, Norma J CIV USA OSD P&R IM; Long, Allegra, VBAVACO; 'Caroline.Lewis-Wolverton@usdoj.gov'; Brix, Kelley, CIV, OASD(HA)/TMA; Lucas, John, CIV, OASD(HA)
BCC :
Subject: Secretary of Defense Memo to Lift Secrecy Oaths for post-1968 possible exposures
SentOn: 5/21/2010 8:38:48 AM
ReplyTo:
Body: CAPT Hottenstein,

BLUE: Who should I initially coordinate the attachment for comment before the formal coordination?

BACKGROUND. OGC drafted the attached DepSecDef memo for our consideration. I will be handling the staffing to get the DepSecDef signature. I am on leave for 10 days after today so I would like to initiate some informal comment/coordinate process in my absence. I would like the formal coordination process started before 16-June if at all possible. OGC will also get the final draft to coordinate on.

CONCLUSION. Please call me or email me today.

V/r,
Anthony Lee
(202) 761-0401
Anthony.Lee@osd.mil
Anthony.Lee@osd.smil.mil
<http://www.acq.osd.mil/cp/>

Attachments:

ChemBioSecrecyOathMemo.docx

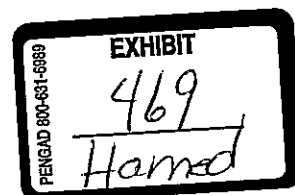


EXHIBIT 63

From: Wallick, Glen, VBAVACO
To: Burke, Elizabeth, VBAVACO; TOMLINSON, ANNE, VBAVACO; Wakefield, Bill, VBAVACO
CC: Black, Paul, VBAVACO
BCC:
Subject: RE: SHAD
SentOn: 2/14/2010 1:41:34 PM
ReplyTo:

Body: Perhaps the MR should discuss SHAD/CBRNE ((chemical/biological/radiological/nuclear exposure) tests in general, and refer to the FLs/TLs for more specific information. However, I made no plans for it to do so for the following reasons.

SHAD and CBRNE tests affect a tiny fraction of veterans (a few thousand, out of a total population of tens of millions of servicemembers). With great difficulty, VBA tracked and notified many of these vets about these tests, and invited them to file claims. Over the course of years, we received remarkably few claims (at most, several hundred) as a result of this significant outreach. These claims resulted in very few grants. When 212 worked SHAD issues, VBA received a few score claims, and granted perhaps a few dozen of disabilities as a result of the various SHAD tests. Upon review, most of those grants were erroneous. Tan can confirm the numbers of SHAD claims, grants, CBRNE tests, CBRNE grants, and servicemembers affected.

SHAD and CBRNE testing itself is a very small footnote in the history of DoD or VBA claims processing. There are scores of tests in which small groups of servicemembers were exposed to chemical/biological/radiological agents over the last 40-50 years, sometimes with their knowledge and sometimes without it. I see little point in discussing these tests in great detail in the MR, as I believe (perhaps contrary to MEMc) that the MR should NOT attempt to discuss EVERYTHING about claims processing, but only those elements that affect the vast majority of claims and claimants. I would rather keep highly specialized information like SHAD and CBRNE in FLs or TLs. Again, even after sending thousands of outreach letters, VBA received perhaps a few hundred claims over the course of several years. I expect few such claims in the future, as we've completed most of our outreach. Again, Tan can verify if we can expect much more information from DoD, and whether more outreach is forthcoming.

There is a real disconnect between politicians and policymakers in DC and the rest of the county regarding SHAD and CBRNE tests. They have been a hot button issue with some people in Congress, but they have not proved so with claimants. Seldom has so many thousands of hours in research, cataloguing, and outreach efforts yielded so little in regards to actual claims.

Such are my 2 pfennigs. Let me know if you need anything else.

Glen C. Wallick
Compensation and Pension Service
A ____ A

From: Burke, Elizabeth, VBAVACO
Sent: Friday, February 12, 2010 3:23 PM
To: TOMLINSON, ANNE, VBAVACO; Wakefield, Bill, VBAVACO; Wallick, Glen, VBAVACO
Cc: Black, Paul, VBAVACO
Subject: SHAD

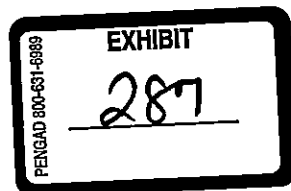
All,

We had a question from Mary Ellen about SHAD today and when we looked it up, we found that the only source of info was FL 02-24 (plus rescinded TL 04-03). There's also alot of good info on the following website: <http://vbaw.vba.va.gov/bl/21/Products/SHAD.htm>.

Paul was asking: does anyone know why this was never added to the MR? Is it somewhere on the spreadsheet waiting to be added? Any background info on this issue would be helpful.

Thanks,
Beth

Beth Burke
Chief, Procedures Maintenance Staff
Compensation and Pension Service (212B)



(202) 461-9668

EXHIBIT 64

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

VIETNAM VETERANS OF)
AMERICA, et al.,)
Plaintiffs,)
vs.) Case No.
CENTRAL INTELLIGENCE) CV 09-0037-CW
AGENCY, et al.,)
Defendants.)

INDIVIDUAL AND 30(b)(6) Deposition of
JOE SALVATORE, taken at 2000 Pennsylvania
Avenue Northwest, Washington, DC, commencing
at 8:56 a.m., Wednesday, June 29, 2011,
before Julie Baker, RPR CRR, Notary Public.

PAGES 1 - 237

1 that.

2 Q In the middle of the first paragraph, Glen
3 Wallick states -- he's discussing CBRNE claims as
4 well as SHAD claims, and he says these claims
5 resulted in very few grants. Do you have any
6 opinion about that statement?

7 MS. FAREL: Objection to the extent you're
8 asking for speculation.

9 BY MS. O'NEILL:

10 Q Do you agree with the statement?

11 A I can agree we had more denials than
12 grants for the sole reason that most of the
13 individuals submitting the claims were not verified
14 by DOD as being participants.

15 Q Do you have any idea about whether they
16 were not verified because information was still
17 classified or for other reasons?

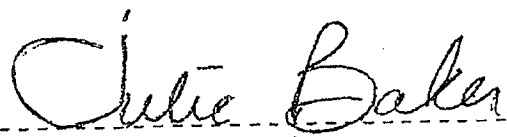
18 A If their name was not on the list, we ask
19 that the regional office submit records regarding
20 their participation for which they submit the claim
21 to the Department of Defense, in turn the Department
22 of Defense conduct an investigation and provide a
23 confirmatory or negative response confirming their
24 participation.

25 Q I'll bring your attention down to the last

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, JULIE BAKER, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



Notary Public in and for the
District of Columbia

My Commission Expires OCTOBER 14, 2012

EXHIBIT 65

REDACTED VERSION

VOLUNTEER'S PARTICIPATION AGREEMENT

NAME _____

Age _____ Grade _____ Serial No. _____

Organization _____

Name of Nearest Relative _____

Address of Nearest Relative _____

Telephone Number of Nearest Relative _____

I, _____, have received, read and understand a document entitled, "Medical Research Volunteer Program", copy of which is annexed hereto, and that the general nature of the experiments I have volunteered to participate in have been explained from the standpoint of possible hazards to my health. It is my understanding that the experiments are so designed, based on the results of animal and previous human experimentation, that the anticipated results will justify the performance of the experiment. I understand further that experiments will be so conducted as to avoid all unnecessary physical and mental suffering and injury, and that I will be at liberty to request that the experiments be terminated at any time if in my opinion I have reached the physical or mental state where continuation of the experiments becomes undesirable.

I recognize that in the pursuit of certain experiments transitory discomfort may occur and when such reactions seem especially likely to occur I will be so advised. I recognize, also, that under these circumstances, I must rely upon the skill and wisdom of the physician supervising the experiment to institute whatever medical or surgical measures are indicated to protect me.

There has been no coercion, element of fraud or deceit, undue moral suasion or other adverse pressure brought to bear in my volunteering for this duty. I have done so of my own free will, completely aware of all hazards, rewards and recognition involved.

DATE: _____ WITNESS: _____

SIGNED: _____ WITNESS: _____

SMUEA-R Form 5
18 Jan 66

Replaces SMUEA Form 6-9, Rev 5 Aug 64, which is obsolete.

Date [REDACTED]

The nature of the proposed experimental procedure has been personally explained to the undersigned volunteer and he agrees to participate as a volunteer.

Volunteer [REDACTED]

[REDACTED]
Medical Officer

Date [REDACTED]

The nature of the proposed experimental procedure has been personally explained to the undersigned volunteer and he agrees to participate as a volunteer.

Volunteer [REDACTED]

[REDACTED]
Medical Officer

EXHIBIT 66


 Search

Vietnam Veterans of America

800-VVA-1316 ★ NEED HELP WITH YOUR VA CLAIM? CLICK HERE.



VVA Adirondack Chapter 79 in Queensbury, New York, raises funds by manufacturing picnic tables.

[about vva](#) | [community](#) | [membership](#) | [benefits](#) | [gov't affairs](#) | [public relations](#) | [events](#) | [publications](#) | [forms](#)



★ **Related Links:** [History](#) / [Purposes](#) / [Accomplishments](#) / [Board of Directors](#)

Who We Are

Founded in 1978, Vietnam Veterans of America is the only national Vietnam veterans organization congressionally chartered and exclusively dedicated to Vietnam-era veterans and their families. VVA is organized as a not-for-profit corporation and is tax-exempt under Section 501(c)(19) of the Internal Revenue Service Code

VVA'S FOUNDING PRINCIPLE

"Never again will one generation of veterans abandon another."

GOALS

VVA's goals are to promote and support the full range of issues important to Vietnam veterans, to create a new identity for this generation of veterans, and to change public perception of Vietnam veterans.

ORGANIZATION

- Over 65,000 individual members
48 state councils
650 local chapters

SPECIAL PROGRAMS

- Aggressively advocate on issues important to veterans
Seek full access to quality health care for veterans
Identify the full range of disabling injuries and illnesses incurred during military service
Hold government agencies accountable for following laws mandating veterans health care
Create a positive public perception of Vietnam veterans
Seek the fullest possible accounting of America's POW/MIAs
Support the next generation of America's war veterans
Serve our communities



Quick Links

- [Site Map](#)
- [Join VVA](#)
- [Chaplains Corner](#)
- [Locate Your Local VVA Chapter](#)
- [CSCP](#)
- [Contact VVA](#)

Partner Sites



Help Our Veterans - Donate Your Car

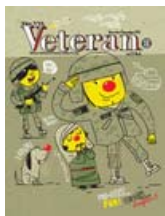


AVVA

Veterans of Modern Warfare



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KAZANLAW.COM

Did You Work On a Navy Ship or Submarine?



If so, you may have been exposed to asbestos.

CLICK HERE FOR NEW INFORMATION



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EXHIBIT 67

MORRISON FOERSTER

LOCATION

UNITED STATES

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SAN DIEGO
SAN FRANCISCO
WASHINGTON D.C.

ASIA + EUROPE

BEIJING
BRUSSELS
HONG KONG
LONDON
SHANGHAI
TOKYO

Morrison & Foerster has the global reach to help clients conduct their businesses across multiple jurisdictions. We have offices in the major global financial and technology centers. Our more than 1,000 lawyers are deployed across 15 offices in the United States, Asia and Europe.

Our lawyers in each office know their local markets well and call upon Morrison & Foerster experts as needed to serve our clients.

EXHIBIT 68

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

VIETNAM VETERANS OF AMERICA, et al.,
Plaintiffs,
-versus- Case No. CV 09-0037-CW
CENTRAL INTELLIGENCE AGENCY, et al.,
Defendant.

STENOGRAPHIC MINUTES OF THE DEPOSITION OF
PLAINTIFF **DAVID C. DUFRANE**, held on MONDAY, JUNE 13,
2011, in the United States Attorney's Office, James T.
Foley Courthouse, 445 Broadway, Albany, New York, before
STEPHANIE A. RAGONE, Court Reporter and Notary
Public in and for the State of New York.

A P P E A R A N C E S:

MORRISON & FOERSTER, LLP
425 Market Street
San Francisco, California 94105-2482
BY: BEN PATTERSON, ESQ.
Appearing for Plaintiffs

BRIGHAM J. BOWEN, TRAIL ATTORNEY
Federal Programs Branch
U.S. Department of Justice
Civil Division
20 Massachusetts Ave., NW
P.O. Box 883
Washington, DC 20044

(Dufrane - Bowen)

1 was going through school and then at Fort Knox I was
2 an engineer battalion. We didn't do a heck of a lot,
3 actually. Actually, we loaded training cars and
4 unloaded them over and over again. We were always
5 getting orders to go somewhere but never left. From
6 there I went to Edgewood Arsenal for forty-five days.
7 Do you want me to explain that?

8 Q And I think we will visit that later.

9 After Edgewood Arsenal, you went
10 where?

11 A To Thailand. And we were building a road,
12 building a road in Thailand. Part of that was a
13 recon time, was checking the roads and bridges in the
14 northeastern section. And then from there I went to
15 Fort Rucker, Alabama. And then I went back to school
16 at Fort Rucker for flight control. And that's it.

17 Q All right. Were you a member of any
18 organizations?

19 MR. PATTERSON: Objection, vague,
20 ambiguous.

21 BY MR. BOWEN:

22 Q If you understand my question you may
23 answer it.

24 A Military organization, you mean?

25 Q Any organizations at all. But if you are a

(Dufrane - Bowen)

1 member of any military organizations, please identify
2 them.

3 A Vietnam Veterans of America and I also
4 belong to the Madison Avenue Sports Car Drivers and
5 Chowder Society.

6 Q Chowder as in the soup?

7 A Chowder as in the soup, yeah.

8 Q Any other organizations?

9 A National Hod Rod Society.

10 Q Anything else?

11 A I don't think so.

12 Q You said you were a member of the Vietnam
13 Veterans of America. How long have you been a
14 member?

15 A Well, I just got the medals after
16 forty-three years, so probably three or four years
17 ago.

18 Q You are saying that three or four years ago
19 you joined the Vietnam Veterans of America?

20 A Yes, sir.

21 Q Do you recall if that was before or after
22 this lawsuit was filed?

23 A It was actually after, after.

24 Q Do you recall what year that was?

25 A No. They never recognized us as Vietnam

(Dufrane - Bowen)

1 equipment, I thought you were talking about vehicles.

2 Q So if I understand you correctly, they did
3 discuss that there would be testing on clothing and
4 equipment?

5 A Yes, sir.

6 Q And they discussed that there would be
7 testing on vehicles?

8 A No, they didn't. That's what the sergeant
9 had told me when I asked what he knew. And he said
10 really he didn't, but he assumed that there might be
11 vehicles involved because it being close to Aberdeen
12 where they tested a lot of vehicles.

13 Q Did they discuss anything else about what
14 the test would be?

15 A Not that I can recall, no, sir.

16 Q Did you participate in tests everyday at
17 Edgewood?

18 A Not everyday, no.

19 Q How many days out of the forty-five days
20 would you say you participated in tests?

21 A Well, I was in eight separate tests. Most
22 of the tests were, other than three or so, three of
23 them may have been like almost two or three days
24 long. And I would have to go back through my records
25 to get the exact length of time in those tests. And

(Dufrane - Bowen)

1 the rest of them weren't even -- I can remember one
2 took the whole afternoon and an evening. And then
3 the rest of them were short, like some of the gas
4 tests and stuff sprayed gas on you, those were fairly
5 short. That one wasn't short because I went blind
6 for an hour.

7 Q The test that you said took an afternoon
8 and evening, do you recall what test that was?

9 A I don't remember what -- I don't know what
10 the chemical was but I remember the test very well.

11 Q Can you explain it to me?

12 A Well, they took a number of us out in the
13 field near the edge of the woods in midday and we
14 kind of hung around for quite a while. Then they
15 walked us in a group through a trail in the woods, I
16 would say probably half a mile long, maybe a little
17 longer. And then near dusk they sent you out one at
18 a time again around the same trail so we could
19 familiarize ourselves with it. Then later on that
20 evening when it got real dark they sent us out one at
21 a time to go through it and they told us to be very
22 aware of our surroundings and listen for anything and
23 try to be aware of anything that may have changed and
24 whatever. So we did this, the whole walk-through.

25 And I was probably like the third

1 STATE OF NEW YORK)
2 COUNTY OF) ss.:

3

4 I have read the foregoing record of my testimony
5 taken at the time and place noted in the heading
6 hereof and I do hereby acknowledge it to be a
7 true and correct transcript of the same.

8

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David C. Dufrane

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Sworn to me this

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day of 2011

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Notary Public

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REPORTER'S CERTIFICATE

I, STEPHANIE RAGONE, Court Reporter
and Notary Public in and for the State of New York,
do hereby certify that I recorded stenographically
the foregoing proceedings, taken at the time and
place as mentioned, and the preceding is a true
and accurate transcript thereof, to the best of
my knowledge and belief.

STEPHANIE RAGONE

DATED:

EXHIBIT 69

FILED UNDER SEAL

EXHIBIT 70

FILED UNDER SEAL

EXHIBIT 71

FILED UNDER SEAL

EXHIBIT 72

FILED UNDER SEAL

EXHIBIT 73

FILED UNDER SEAL

EXHIBIT 74

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7 Attorneys for Plaintiffs
Vietnam Veterans of America; Swords to Plowshares: Veterans
8 Rights Organization; Bruce Price; Franklin D. Rochelle; Larry
Meirow; Eric P. Muth; David C. Dufrane; Tim Michael Josephs;
9 and William Blazinski

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

VIETNAM VETERANS OF AMERICA, *et al.*,
Plaintiffs,
v.
CENTRAL INTELLIGENCE AGENCY, *et al.*,
Defendants.

Case No. CV 09-0037-CW

**PLAINTIFF SWORDS TO
PLOWSHARES' AMENDED AND
SUPPLEMENTAL RESPONSES
TO DEFENDANTS'
INTERROGATORIES
NUMBERS 3 & 20**

Complaint filed January 7, 2009

1 Plaintiff Swords to Plowshares: Veterans Rights Organization (“Swords”) hereby
2 provides amended and supplemental responses to Defendants’ Interrogatories Nos. 3 and 20.

3 **GENERAL OBJECTIONS**

4 This response incorporates by reference all of Plaintiffs’ General Objections contained
5 within Plaintiffs’ March 11, 2011 Amended and Supplemental Responses to Defendants’ First
6 Set of Interrogatories.

7 **SUPPLEMENTAL AND AMENDED RESPONSES AND OBJECTIONS**

8 **INTERROGATORY NO. 3:**

9 Identify the specific “Vietnam-era veterans who were unwilling to share information
10 relevant to possible VA claims because of perceived secrecy obligations” with Swords to
11 Plowshares, as contended in paragraph 158 of Plaintiffs’ Third Amended Complaint.

12 **RESPONSE TO INTERROGATORY NO. 3:**

13 Plaintiffs object to this interrogatory as vague and ambiguous. Plaintiffs further object
14 that this interrogatory seeks information protected by the attorney-client privilege and the
15 attorney work product doctrine. Subject to all foregoing general and specific objections, Swords
16 responds as follows:

17 The assertions that Vietnam-era veterans were unwilling to share information relevant to
18 possible VA claims with Swords because of perceived secrecy obligations, as contended in
19 paragraph 158 of Plaintiffs’ Third Amended Complaint, is supported by the personal knowledge
20 of Swords’ former Legal Director, Ms. Elinor Roberts. During the period of approximately
21 1991 to 1996 or 1997, Ms. Roberts fielded numerous calls from veterans seeking telephone or
22 “hotline” counseling, usually regarding their Department of Veterans Affairs (“DVA”) benefits.
23 Ms. Roberts also performed in-person counseling at drop-in clinics at Swords’ offices
24 concerning similar topics. Most of the veterans that called were Vietnam-era veterans. Of these
25 callers and drop-in clinic attendees, approximately 10 to 100 were chemical and biological
26 weapons test participants who had become veterans. A number of these approximately 10 to
27 100 chemical and biological weapons test participant veterans told Ms. Roberts that they were
28 unable to tell her information — which she sought in order to advise them about their DVA

1 claims — because of perceived secrecy or non-disclosure obligations. After Ms. Roberts
2 became Swords' Legal Director, she continued to perform telephone counseling services from
3 time to time, and Plaintiffs believe that other attorneys for Swords who have left the
4 organization may also have provided similar services. The specific details of the attorney-client
5 communications referenced above in this response are subject to the attorney-client and attorney
6 work product privileges. Ms. Roberts does not recall the names of the specific veterans who
7 would not share information because of perceived secrecy obligations. After a reasonable
8 search of records available from that time period, and as a result of its general searches for
9 documents responsive to other requests, Swords has not located records that identify these
10 veterans.

11 The DVA has acknowledged that most veterans involved in Defendants' test programs
12 did not disclose any information about these experiments for many, many years. In 2003, the
13 DVA concluded that "most of the volunteer subjects of these experiments conducted by the U.S.
14 Military were told at the time that they should never reveal the nature of the experiments, and
15 apparently, almost to a man, they kept this secret for the next 40 or more years."

16 (VET001_009406.)

17 Swords makes this response based on currently known information, and the information
18 set forth in this response is provided without prejudice to Swords' right to supplement or modify
19 the information set forth herein to reflect materials or information subsequently discovered or
20 developed.

21 **INTERROGATORY NO. 20:**

22 Identify all of the "resources" that Swords to Plowshares alleges it has "diverted and
23 devoted" to "provide additional serves to veterans harmed by DEFENDANTS' actions and
24 failures to act," as alleged in paragraph 28 of the Third Amended Complaint.

25 **RESPONSE TO INTERROGATORY NO. 20:**

26 Plaintiffs object on grounds that this interrogatory is compound, vague, and ambiguous.
27 Plaintiffs further object on grounds that this interrogatory is overbroad and unduly burdensome.
28 Plaintiffs further object that this interrogatory seeks information protected by the attorney-client

1 privilege and attorney work product doctrine. Subject to all foregoing general and specific
2 objections, Swords responds as follows:

3 Swords incorporates by reference its amended response to Interrogatory No. 3. Swords
4 has expended employee time and fiscal resources in responding to inquiries by veterans harmed
5 by Defendants' testing programs in several ways, including direct representation, drop-in clinics
6 (or drop-in center), call-in assistance and counseling, and self-help guides, and the overhead
7 associated with these functions such as salaries, rent, and the other basic expenses of running the
8 organization such as telephones, supplies, furniture, and office equipment. In addition, part of
9 Swords' full budget for operations is used to assist veterans from the Vietnam-era, which
10 includes the subcategory of Vietnam-era chemical and biological test participant veterans.
11 Swords also expends resources working at a policy level at local, state, and national levels to
12 advance the cause of veterans, including chemical and biological test participant veterans.
13 Swords provides services to veterans in need from all eras, including those who served in the
14 military before the Vietnam War.

15 As noted in its amended response to Interrogatory No. 3, during the period of time that
16 Ms. Elinor Roberts was employed as a staff attorney by Swords, she personally fielded calls
17 from approximately 10 to 100 chemical and biological weapons test participant veterans.
18 Ms. Roberts provided veteran callers, including these 10 to 100 chemical and biological
19 weapons test participant veterans, with advice about DVA claims related matters, such as
20 assistance concerning the filing, adjudication, and appeal of DVA claims and decisions, as well
21 as eligibility for DVA medical care. She also assisted veterans seeking access to other benefits
22 such as family-related health care, home loan guarantees, survivor benefits, city and county or
23 state disability, and workers' compensation. Swords' legal department also worked with
24 veterans to upgrade their military discharge status and to help them access assistance regarding
25 employment, family reunification, and money management. The specific details of these
26 communications are covered by the attorney-client privilege. After Ms. Roberts became
27 Swords' Legal Director, she continued to perform telephone counseling from time to time. Ms.
28 Roberts has no specific recollection of representing any of the 10 to 100 chemical and biological

1 weapons test participant veteran callers in proceedings before the DVA or appeals from
2 determinations made by the DVA.

3 As described more fully in Swords' amended response to Interrogatory No. 3, Swords
4 has provided initial phone counseling services to at least approximately 10 to 100 chemical and
5 biological weapons test participant veterans, some of which were not willing to disclose
6 information related to potential DVA claims due to perceived secrecy or non-disclosure
7 obligations. These perceived secrecy or non-disclosure obligations frustrated Swords' efforts to
8 provide services to these veterans, resulting in an unfortunate diversion of initial counseling
9 resources and frustrating Swords' mission to serve these veterans. In addition, Swords expects
10 in the future to provide services to other test subjects who may turn to Swords for assistance.
11 The content of communications with these veterans is protected by the attorney-client privilege.

12 As alleged in the Third Amended Complaint, since December 2009, Swords has been
13 providing legal services to a U.S. Army veteran located in Hanford, California, who was a test
14 subject in Defendants' testing programs at Edgewood Arsenal. Since that time, Swords has
15 spent many hours providing these legal services, and expects to continue to spend additional
16 time and resources providing legal services to this veteran. Swords has produced, subject to the
17 protective order, DVA filings that Swords has made on this veteran's behalf. Swords also
18 provides referral services to veterans, including referrals to providers of legal, housing,
19 educational, and psychological health assistance, and job training. As explained in the Third
20 Amended Complaint, Swords provided referral services to a U.S. Army Vietnam veteran who
21 reported that while in the military he had been "used as a guinea-pig in Canada for chemical
22 warfare testing new gas masks." The content of communications with these veterans is
23 protected by the attorney-client privilege.

24 Swords also hosts drop-in clinics (or a drop-in center) where veterans are provided
25 assistance for a variety of needs, including mental health care and other types of counseling,
26 crisis intervention, food and shelter, drug or alcohol treatment, and job placement or resume
27 assistance. The veterans who come to these drop-in clinics also frequently seek legal
28 services — for example, regarding DVA disability and/or death claims — and are directed to

1 Swords' legal unit. Ms. Roberts had face-to-face conversations with drop-in clinic attendees
2 concerning various legal topics similar to those with call-in veterans, as described above. The
3 specific details of these conversations are covered by the attorney-client privilege.

4 Swords created a series of self-help guides to provide advice and guidance to Vietnam
5 War-era veterans, which include chemical and biological weapons test participant veterans,
6 across a variety of issues, such as pursuing DVA claims.

7 Swords makes this response based on currently known information, and the information
8 set forth in this response is provided without prejudice to Swords' right to supplement or modify
9 the information set forth herein to reflect materials or information subsequently discovered or
10 developed.

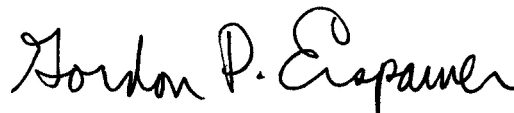
11
12 As to the interrogatories, see Attachment A.

13 As to the objections:

14
15 Dated: August 24, 2011

GORDON P. ERSPAMER
TIMOTHY W. BLAKELY
STACEY M. SPRENKEL

MORRISON & FOERSTER LLP

17
18 

19 _____
20 Gordon P. Erspamer
[Gerspamer@mofo.com]

21 Attorneys for Plaintiffs
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Attachment A

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VERIFICATION

I, Michael Blecker, am authorized to make this verification for and on behalf of Swords to Plowshares: Veterans Rights Organization (“Swords”), and I make this verification for that reason. I have read the foregoing PLAINTIFF SWORDS TO PLOWSHARES’ AMENDED AND SUPPLEMENTAL RESPONSES TO DEFENDANTS’ INTERROGATORIES NUMBERS 3 & 20 (the “Responses”). I am informed and believe based on Swords’ investigation and the investigation of Plaintiffs’ counsel to date that the matters stated in the Responses are true and correct.

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

Executed on August 23, 2011, at 1060 Howard St.
SF, CA 94103

Michael Blecker

CERTIFICATE 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 August 24, 2011, I served a copy of:

PLAINTIFF SWORDS TO PLOWSHARES' AMENDED AND SUPPLEMENTAL RESPONSES TO DEFENDANTS' INTERROGATORIES NUMBERS 3 & 20

BY U.S. MAIL [Fed. Rule Civ. Proc. rule 5(b)] 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.


BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. rule 5(b)] by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system to the e-mail address(es) set forth below, or as stated on the attached service list per agreement in accordance with Federal Rules of Civil Procedure rule 5(b).

Joshua E. Gardner, Esq.
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044
joshua.e.gardner@usdoj.gov

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

Executed at San Francisco, California, this 24th day of August, 2011.

Robin L. Sexton
(typed)


(signature)