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

**DECLARATION OF  
 BEN PATTERSON  
 IN SUPPORT OF PLAINTIFFS'  
 MOTION FOR PARTIAL  
 SUMMARY JUDGMENT**

Complaint filed January 7, 2009

1 I, Ben Patterson, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am admitted  
3 to practice before this Court. I am an associate with the law firm of Morrison & Foerster LLP,  
4 counsel of record for Vietnam Veterans of America, Swords to Plowshares: Veterans Rights  
5 Organization, Bruce Price, Franklin D. Rochelle, Larry Meirow, Eric P. Muth, David C. Dufrane,  
6 Kathryn McMillan-Forrest, Tim Michael Josephs, and William Blazinski (“Plaintiffs”) in this  
7 action. I submit this Declaration in Support of Plaintiffs’ Motion for Partial Summary Judgment.  
8 I make this Declaration based on personal knowledge and discussions with support staff working  
9 under my direction. If called as a witness, I would testify to the facts set forth below.

10 2. Attached hereto as **Exhibit 1** is a true and correct copy of what I am informed and  
11 believe is Army Regulation 70-25 (“AR 70-25”) “Use of Volunteers as Subjects of Research,”  
12 dated March 26, 1962, and identified as Deposition Exhibit No. 94 in this case.

13 3. Attached hereto as **Exhibit 2** is a true and correct copy of what I am informed and  
14 believe is Army Regulation 70-25 (“AR 70-25”) “Use of Volunteers as Subjects in Research,”  
15 dated January 25, 1990, and identified as Deposition Exhibit No. 311 in this case.

16 4. Attached hereto as **Exhibit 3** is a true and correct copy of what I am informed and  
17 believe is a document entitled, “Chemical Warfare Agent Experiments Among U.S. Service  
18 Members,” produced by Defendants with Bates numbers VET001\_015675 through  
19 VET001\_015707, and identified as Deposition Exhibit No. 554 in this case.

20 5. Attached hereto as **Exhibit 4** is a true and correct copy of what I am informed and  
21 believe is a Memorandum with the subject, “Use of Human Volunteers in Experimental  
22 Research,” dated February 26, 1953, and signed by C. E. Wilson, identified by Bates numbers  
23 C001 through C003 and as Deposition Exhibit No. 95 in this case.

24 6. Attached hereto as **Exhibit 5** is a true and correct copy of what I am informed and  
25 believe is a Memorandum with the subject “Use of Volunteers of Research,” dated June 30, 1953,  
26 sent by Chief of Staff John C. Oakes, produced by Defendants with Bates numbers VVA 024538  
27 through VVA 024549, and identified as Deposition Exhibit No. 96 in this case.

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1           7.       Attached hereto as **Exhibit 6** is a true and correct copy of what I am informed and  
2 believe is a Memorandum from Army General Counsel Jill Wine-Volner with the subject,  
3 “Notification of Participants in Drug or Chemical/Biological Agent Research,” dated August 8,  
4 1979, produced by Defendants with Bates numbers VET123\_004994 through VET123\_004995  
5 and identified as Deposition Exhibit No. 710 in this case.

6           8.       Attached hereto as **Exhibit 7** is a true and correct copy of what I am informed and  
7 believe is a Memorandum from Army General Counsel Jill Wine-Volner with the subject,  
8 “Notification of Participants in Drug or Chemical/Biological Agent Research,” dated September  
9 24, 1979, produced by Defendants with Bates numbers VET017-000279 through VET017-  
10 000280 and identified as Deposition Exhibit No. 310 in this case.

11           9.       Attached hereto as **Exhibit 8** is a true and correct copy of what I am informed and  
12 believe is a Memorandum from Army Chief of Staff John McGiffert with the subject,  
13 “Notification of Participants in Drug or Chemical/Biological Agent Research,” dated October 25,  
14 1979, produced by Defendants with Bates numbers VET030-022686 through VET030-022691  
15 and identified as Deposition Exhibit No. 465 in this case.

16           10.      Attached hereto as **Exhibit 9** is a true and correct copy of what I am informed and  
17 believe is a Memorandum with the subject, “Notification of Participants in Drug or  
18 Chemical/Biological Agent Research,” dated November 2, 1979, produced by Defendants with  
19 Bates numbers VET030-022692 through VET030-022696 and identified as Deposition Exhibit  
20 No. 318 in this case.

21           11.      Attached hereto as **Exhibit 10** is a true and correct copy of what I am informed  
22 and believe is a Memorandum with the subject, “Chemical Weapons Research Programs Using  
23 Human Test Subjects,” dated March 9, 1993, and signed by William Perry, produced by  
24 Defendants with Bates numbers VET001\_011181 through VET001\_011182 and identified as  
25 Deposition Exhibit No. 235 in this case.

26           12.      Attached hereto as **Exhibit 11** is a true and correct copy of what I am informed  
27 and believe is a document with the subject, “Implementation Plan for U.S. Chemical and  
28 Biological (CB) Tests Repository Program,” approved by Jean Reed, produced by Defendants



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**CIVIL LOCAL RULE 5-1 ATTESTATION**

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/S/) within this e-filed document.

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/s/ GORDON P. ERSPAMER

Gordon P. Erspamer