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13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 OAKLAND DIVISION

16 VIETNAM VETERANS OF AMERICA, *et al.*,  
 17  
 Plaintiffs,  
 18  
 v.  
 19  
 CENTRAL INTELLIGENCE AGENCY, *et al.*,  
 20  
 Defendants.  
 21  
 22

Case No. CV 09-0037-CW

**DEFENDANTS' ANSWER TO  
 SECOND AMENDED COMPLAINT**

23  
 24 Defendants in this action, by and through undersigned counsel, hereby answer the  
 25 numbered paragraphs of Plaintiffs' Second Amended Complaint ("Complaint") as follows:  
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 28

1           1.       Paragraph 1 of the Complaint contains Plaintiffs characterization of the nature of  
2 this action, argument, and conclusions of law, to which no response is required; to the extent a  
3 response is deemed required, Defendants deny the allegations contained in the paragraph.

4           2.       First sentence: Defendant Department of Defense (“DOD”) admits. Second  
5 sentence: this sentence contains Plaintiffs’ characterization of DOD’s research of chemical and  
6 biological weapons, argument, and conclusions of law regarding the extent of such programs, to  
7 which no response is required; to the extent a response is deemed required, Defendants deny the  
8 allegations contained in this sentence except to admit that DOD and the Central Intelligence  
9 Agency (“CIA”) studied chemical and biological weapons. Third sentence: Defendants deny.  
10 Fourth sentence: this sentence contains Plaintiffs’ characterization of the research of chemical  
11 and biological weapons, argument, and legal conclusions regarding the extent of such programs,  
12 to which no response is required; to the extent a response is deemed required, Defendants deny  
13 the allegations contained in this sentence except to admit that DOD’s experimentation program  
14 involving human subjects was centered at Edgewood Arsenal and Fort Detrick. Fifth sentence:  
15 this sentence contains a conclusion of law, to which no response is required; to the extent a  
16 response is deemed required, Defendants deny the allegations contained in this sentence. Sixth  
17 sentence: Defendants deny. Seventh and ninth sentences: these sentences contain Plaintiffs’  
18 characterization of DOD’s research programs and argument, to which no response is required; to  
19 the extent a response is deemed required, Defendants deny the allegations. Eighth sentence: this  
20 sentence constitutes argument, to which no response is required; to the extent a response is  
21 deemed required, Defendants are without knowledge or information sufficient to admit or deny  
22 this sentence.

23           3.       First sentence, including subparts a–q: this sentence contains Plaintiffs’  
24 characterization of government research of chemical and biological weapons, to which no  
25

1 response is required; to the extent that a response is deemed required, Defendants are without  
2 knowledge or information sufficient to admit or deny the allegations contained in this paragraph  
3 except to admit that DOD's research program had many purposes. Defendants aver that the  
4 purpose of the program at Fort Detrick from 1943–73 was twofold: develop defensive mechanism  
5 against biological attack and develop weapons with which the United States could respond “in  
6 kind” if attacked by an enemy that used biological weapons. Defendants further aver that the  
7 purpose of the studies at Edgewood Arsenal was to ensure that the U.S. military could adequately  
8 protect its service members from possible wartime exposures to chemical warfare agents. The  
9 Central Intelligence Agency (“CIA”) avers that it researched behavior modification. Second  
10 sentence: The last sentence of paragraph 3 contains Plaintiffs' characterization of DOD's  
11 research programs, to which no response is required; to the extent a response is deemed required,  
12 Defendants deny the allegations.  
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15 4. Paragraph 4 constitutes Plaintiffs' characterization of the cited 1976 Army IG  
16 Report and the 1975 Memorandum from Army Office of the Adjutant General. Defendants  
17 respectfully refer the Court to that report and memorandum, which speaks for themselves, and  
18 deny Paragraph 4 to the extent that the allegations are inconsistent with those documents.

19 5. First sentence: Defendants deny the allegations in this sentence except to admit  
20 that DOD used approximately 7,800 armed services personnel in the experimentation program at  
21 Edgewood Arsenal, most of whom were from the Army, although DOD also used troops from the  
22 Air Force and Marines. Second sentence: Defendants deny the allegations in this sentence  
23 except to admit that DOD administered 250 to 400 chemical and biological agents during the  
24 course of its research at Edgewood Arsenal involving human subjects; Defendants are without  
25 knowledge or information sufficient to admit or deny that the true identities, doses, and properties  
26 of these agents were not disclosed. Third sentence: Defendants are without knowledge or  
27  
28

1 information sufficient to admit or deny the allegations contained in this sentence. Fourth  
2 sentence, including the bulleted list: Defendants are without knowledge or information sufficient  
3 to admit or deny the allegations contained in this sentence except that DOD admits that, of those  
4 agents listed in this sentence, its records reflect that DOD used the following agents at Edgewood  
5 Arsenal: mylaxen, VX, GB, GA, GD, G agents, atropine, scopolamine, BZ (3-quinuclidinyl  
6 benzilate), CAR 302,688, EA 3580, 2-PAM (pralidoxime), toxogonin (obidoxim) irritant, CA  
7 (Bromobenzylcyanide), CS (ortho-chlorobenzalmalononitrile), CN (chloroacetophenone), EA  
8 1778, mustard gas, mustard agents, Lewisite, CX (phosgene oxime), LSD, DMHP, EA 1476, EA  
9 2233, valium, thorazine.

11 6. Defendants deny the allegations except to admit that DOD videotaped many  
12 experiments involving human subjects at Edgewood.

14 7. First sentence: Defendants deny the allegations except to admit that DOD  
15 administered varying doses of substances through multiple pathways, including through  
16 intravenous, inhalation, oral, and percutaneous. Second sentence: this sentence contains  
17 argument, to which no response is required; to the extent a response is deemed required,  
18 Defendants deny the allegations in this sentence and aver that DOD used placebos in some studies  
19 as part of the scientific method to provide a control group.

21 8. Defendants are without knowledge or information sufficient to admit or deny the  
22 allegations contained in paragraph 8.

23 9. Paragraph 9 constitutes Plaintiffs' characterization of the 1976 Army IG Report.  
24 Defendants respectfully refer the Court to that report, which speaks for itself, and deny Paragraph  
25 9 to the extent that the allegations are inconsistent with that report.

26 10. First sentence: this sentence contains Plaintiffs' characterization of government  
27 research of chemical and biological weapons, to which no response is required; to the extent a  
28

1 response is deemed required, Defendants lack knowledge or information sufficient to admit or  
2 deny the allegations contained in this sentence except to aver that CIA obtained materials from  
3 commercial drug manufacturers. Second sentence: Defendants are without knowledge or  
4 information sufficient to admit or deny the allegations contained in this sentence except that DOD  
5 admits its research program at Edgewood used the substances listed in this sentence.  
6

7 11. First through third sentences: Defendants are without knowledge or information  
8 sufficient to admit or deny the allegations contained in the first, second, and third sentences of  
9 paragraph 11. Fourth sentence: Defendants deny. Fifth sentence: this sentence contains  
10 Plaintiffs' characterization of this case and DOD's research of chemical and biological weapons,  
11 to which no response is required; to the extent a response is deemed required, Defendants deny  
12 the allegations contained in this sentence except to admit that DOD's research program had  
13 defensive and offensive purposes.  
14

15 12. Paragraph 12 contains Plaintiffs' characterization of this case, argument, and  
16 conclusions of law, to which no response is required; to the extent a response is deemed required,  
17 Defendants deny this paragraph.

18 13. First sentence: this sentence contains Plaintiffs' characterization of this case and  
19 argument, to which no response is required; to the extent a response is deemed required,  
20 Defendants are without knowledge or information sufficient to admit or deny the allegations  
21 contained in the first sentence of paragraph 13. Second sentence: Defendants admit that  
22 Congress convened hearings in 1975 and 1977 that, among other things, concerned activities at  
23 Edgewood Arsenal; Defendants are without knowledge or information sufficient to admit or deny  
24 the remaining allegations in this sentence. Third through fifth sentences: these sentences  
25 constitutes Plaintiffs' characterizations of Admiral Turner's testimony. Defendants respectfully  
26 refer the Court to that testimony, which speaks for itself, and deny the fourth and fifth sentences  
27  
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1 to the extent they are inconsistent with that testimony. Sixth sentence: Defendants are without  
2 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
3 Seventh sentence: this sentence contains Plaintiffs' characterization of Defendants' efforts to  
4 locate participants, to which no response is required; to the extent a response is deemed required,  
5 Defendants deny the allegations.  
6

7 14. First and second sentences: these sentences constitute Plaintiffs' characterization  
8 of the cited DOJ opinion. Defendants respectfully refer the Court to that opinion, which speaks  
9 for itself, and deny the first and second sentences to the extent they are inconsistent with that  
10 opinion. Third sentence: this sentence contains Plaintiffs' argument and conclusions of law, to  
11 which no response is required; to the extent a response is deemed required, Defendants are  
12 without knowledge or information sufficient to admit or deny the allegations contained in this  
13 sentence. Fourth sentence: Defendants are without knowledge or information sufficient to admit  
14 or deny the allegations contained in this sentence.  
15

16 15. First through third sentences: these sentences contains Plaintiffs' characterization  
17 of this case and argument, to which no response is required; to the extent a response is deemed  
18 required, Defendants deny the allegations. Fourth and fifth sentences: Defendants are without  
19 knowledge or information sufficient to admit or deny the allegations contained in these sentences.  
20 Sixth sentence: Defendants admit that DoD is working to compile a registry of participants and  
21 expects to complete the registry in 2011. The remainder of the sentence constitutes argument, to  
22 which no response is required; to the extent a response is deemed required, Defendants deny the  
23 allegations. Seventh sentence: this sentence constitutes Plaintiffs' characterization of the cited  
24 website. Defendants respectfully refer the Court to that website, which speaks for itself, and deny  
25 the seventh sentence to the extent it is inconsistent with the website.  
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1           16. Paragraph 16 contains Plaintiffs' characterization of this case and argument, to  
2 which no response is required; to the extent a response is deemed required, Defendants deny the  
3 allegations.

4           17. First and second sentences: these sentences constitutes Plaintiffs' characterization  
5 of Army regulations. Defendants respectfully refer the Court to those regulations, which speak  
6 for themselves, and deny the first and second sentences to the extent they are inconsistent with the  
7 regulations. Third sentence: this sentence contains Plaintiffs' characterization of this case,  
8 argument, and legal conclusions, to which no response is required; to the extent a response is  
9 deemed required, Defendants deny the allegations.

10           18. First through third sentences: Defendants are without knowledge or information  
11 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence: this  
12 sentence contains Plaintiffs' characterization of this case and argument, to which no response is  
13 required; to the extent a response is deemed required, Defendants deny the allegations.

14           19. Defendants are without knowledge or information sufficient to admit or deny the  
15 allegations contained in this paragraph except to the extent that DOD admits that it has given  
16 many volunteers access to their available Edgewood files.

17           20. Paragraph 20 contains Plaintiffs' characterization of this case, argument, and legal  
18 conclusions and prayer for relief, to which no response is required; to the extent a response is  
19 deemed required, Defendants deny the allegations and that Plaintiffs are entitled to the relief  
20 requested, or to any relief whatsoever.

21           21. Paragraph 21 contains Plaintiffs' characterization of the nature of this action and  
22 its claims to relief, to which no response is required; to the extent a response is deemed required,  
23 Defendants deny that Plaintiffs are entitled to the relief requested, or to any relief whatsoever.

1           22. Paragraph 22 contains Plaintiffs' allegations concerning jurisdiction, to which no  
2 response is required; to the extent a response is deemed required, Defendants deny the allegations  
3 in paragraph 22.

4           23. Paragraph 23 contains Plaintiffs' allegations concerning venue and discovery, to  
5 which no response is required; to the extent a response is deemed required, Defendants are  
6 without knowledge or information sufficient to admit or deny the allegations in paragraph 23.  
7

8           24. Defendants are without knowledge or information sufficient to admit or deny the  
9 allegations contained in paragraph 24.

10          25. Defendants are without knowledge or information sufficient to admit or deny the  
11 allegations contained in paragraph 25.

12          26. Defendants are without knowledge or information sufficient to admit or deny the  
13 allegations contained in paragraph 26.  
14

15          27. Defendants are without knowledge or information sufficient to admit or deny the  
16 allegations contained in paragraph 27.

17          28. Defendants are without knowledge or information sufficient to admit or deny the  
18 allegations contained in paragraph 28.

19          29. Defendants admit paragraph 29.

20          30. Defendants are without knowledge or information sufficient to admit or deny the  
21 allegations contained in paragraph 30.  
22

23          31. First sentence: Defendants admit that Bruce Price signed a consent form that did  
24 not provide information about the drugs to be given. The remainder of the sentence constitutes  
25 Plaintiffs' characterization of the consent form, to which no response is required. To the extent  
26 that a response is deemed required, Defendants respectfully refer the Court to that form, which  
27 speaks for itself, and deny the first sentence to the extent it is inconsistent with the form. Second  
28

1 and third sentences: Defendants are without knowledge or information sufficient to admit or  
2 deny the allegations contained in these sentences.

3 32. First sentence: Defendants are without knowledge or information sufficient to  
4 admit or deny the allegations contained in this sentence except to admit that Bruce Price  
5 participated in approximately four experiments. Second through fifth sentences: Defendants are  
6 without knowledge or information sufficient to admit or deny the allegations contained in these  
7 sentences.

8  
9 33. Defendants are without knowledge or information sufficient to admit or deny the  
10 allegations contained in paragraph 33.

11 34. Defendants are without knowledge or information sufficient to admit or deny the  
12 allegations contained in paragraph 34.

13 35. Defendants are without knowledge or information sufficient to admit or deny the  
14 allegations contained in paragraph 35.

15 36. Defendants are without knowledge or information sufficient to admit or deny the  
16 allegations contained in paragraph 36.

17 37. First sentence, first clause: Defendants admit that Bruce Price received an  
18 honorable discharge. First sentence, second clause through third sentences: Defendants are  
19 without knowledge or information sufficient to admit or deny the allegations contained in this  
20 clause and these sentences.

21 38. Defendants are without knowledge or information sufficient to admit or deny the  
22 allegations contained in paragraph 38.

23 39. Defendants are without knowledge or information sufficient to admit or deny the  
24 allegations contained in paragraph 39.

1           40.     First and third sentences: Defendants are without knowledge or information  
 2 sufficient to admit or deny the allegations contained in these sentences. Second sentence:  
 3 Defendants admit that Bruce Price is rated 100% for post-traumatic stress disorder (“PTSD”) by  
 4 the Veterans Administration (“VA”), but Defendants are without knowledge or information  
 5 sufficient to admit or deny the remainder of the allegations in this sentence.  
 6

7           41.     Defendants are without knowledge or information sufficient to admit or deny the  
 8 allegations contained in these sentences.

9           42.     First through third sentences: Defendants admit. Fourth sentence: Defendants are  
 10 without knowledge or information sufficient to admit or deny the allegations contained in this  
 11 sentence except to admit that Eric Muth served in the National Guard from 1960 to 1969.  
 12

13           43.     Defendants are without knowledge or information sufficient to admit or deny the  
 14 allegations contained in paragraph 43.

15           44.     First, second, third, fifth, and sixth sentences: Defendants are without knowledge  
 16 or information sufficient to admit or deny the allegations contained in these sentences. Fourth  
 17 sentence: this sentence contains Plaintiffs’ characterization of the role of service members, to  
 18 which no response is required; to the extent a response is deemed required, Defendants deny the  
 19 allegations except to admit that service members are expected to follow lawful orders.  
 20

21           45.     First, second, and fourth sentences: Defendants are without knowledge or  
 22 information sufficient to admit or deny the allegations contained in these sentences. Third  
 23 sentence: Defendants admit Eric Muth was enrolled as a medical volunteer at Edgewood. The  
 24 remaining allegations contained in the third sentence are Plaintiffs’ characterization of the case, to  
 25 which no answer is required; to the extent a response is deemed required, Defendants deny the  
 26 allegations.  
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1 46. First sentence: Defendants admit. Second sentence: Defendants admit Eric Muth  
2 was involved in at least five tests during his tours at Edgewood. Defendants are without  
3 knowledge or information sufficient to admit or deny the remaining allegations contained in this  
4 sentence. Third through sixth sentences: Defendants are without knowledge or information  
5 sufficient to admit or deny the allegations contained in these sentences.  
6

7 47. First sentence, first and second clauses: Defendants admit Eric Muth volunteered  
8 for a second tour at Edgewood from November to December 1958. The remainder of the first and  
9 second clauses constitutes Plaintiffs' characterization of this case and argument, to which no  
10 response is required; to the extent a response is deemed required, Defendants deny the  
11 allegations. First sentence, third clause through fourth sentences: Defendants are without  
12 knowledge or information sufficient to admit or deny the allegations contained in this clause and  
13 these sentences.  
14

15 48. Defendants are without knowledge or information sufficient to admit or deny the  
16 allegations contained in paragraph 48 except to admit that Eric Muth was exposed to EA 1476.

17 49. Defendants are without knowledge or information sufficient to admit or deny the  
18 allegations contained in paragraph 49.

19 50. Defendants are without knowledge or information sufficient to admit or deny the  
20 allegations contained in paragraph 50 except to admit that Eric Muth has been assigned a 100%  
21 disability rating by the VA for PTSD.  
22

23 51. First, second, and fifth sentences: Defendants are without knowledge or  
24 information sufficient to admit or deny the allegations contained in these sentences. Third and  
25 fourth sentences: Defendants admit.  
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1           52.     First sentence: Defendants are without knowledge or information sufficient to  
2 admit or deny the allegations contained in this sentence: Second and third sentences: Defendants  
3 admit.

4           53.     First and second sentences: Defendants are without knowledge or information  
5 sufficient to admit or deny the allegations contained in these sentences. Third sentence:  
6 Defendants admit.

7           54.     First through fourth and seventh through tenth sentences: Defendants are without  
8 knowledge or information sufficient to admit or deny the allegations contained in these sentences.  
9 Fifth and sixth sentences: Defendants admit.

10           55.     First sentence: Defendants admit. Second and third sentences: Defendants are  
11 without knowledge or information sufficient to admit or deny the allegations contained in these  
12 sentences.  
13

14           56.     Defendants are without knowledge or information sufficient to admit or deny the  
15 allegations contained in paragraph 56 except that DOD admits that Eric Muth was exposed to  
16 Compound 302,608.  
17

18           57.     Defendants are without knowledge or information sufficient to admit or deny the  
19 allegations contained in paragraph 57 except that DOD admits that Eric Muth was exposed to EA  
20 2233-1 and EA 2233-2.  
21

22           58.     First and second sentences: Defendants are without knowledge or information  
23 sufficient to admit or deny the allegations contained in these sentences. Third sentence:  
24 Defendants admit that Frank Rochelle served in Vietnam. The remainder of the sentence  
25 constitutes argument, to which no response is required; to the extent a response is deemed  
26 required, Defendants deny the allegations.  
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1           59.     First through third sentences: Defendants are without knowledge or information  
2 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:  
3 Defendants admit.

4           60.     First sentence: Defendants are without knowledge or information sufficient to  
5 admit or deny the allegations contained in this sentence except to the extent that Defendants admit  
6 that Frank Rochelle received a certificate and a letter of commendation on June 2, 1958. Second  
7 sentence: Defendants admit. Third sentence: Defendants are without knowledge or information  
8 sufficient to admit or deny the allegations contained in this sentence.

9           61.     Defendants are without knowledge or information sufficient to admit or deny the  
10 allegations contained in paragraph 61.

11           62.     Defendants admit.

12           63.     First sentence: Defendants admit. Second through fifth sentences: Defendants are  
13 without knowledge or information sufficient to admit or deny the allegations contained in these  
14 sentences.

15           64.     Defendants are without knowledge or information sufficient to admit or deny the  
16 allegations contained in paragraph 64 except that DOD admits that Larry reported to Edgewood  
17 on November 3, 1972.

18           65.     First through third sentences: Defendants are without knowledge or information  
19 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:  
20 Defendants are without knowledge or information sufficient to admit or deny the allegations  
21 contained in this sentence except that DOD admits that Larry Meirow was given a medical exam.

22           66.     Defendants are without knowledge or information sufficient to admit or deny the  
23 allegations contained in paragraph 66.

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1           67. Defendants are without knowledge or information sufficient to admit or deny the  
2 allegations contained in paragraph 67.

3           68. Defendants are without knowledge or information sufficient to admit or deny the  
4 allegations contained in paragraph 68.

5           69. Defendants are without knowledge or information sufficient to admit or deny the  
6 allegations contained in paragraph 69.

7           70. First, second, and fourth sentences: Defendants are without knowledge or  
8 information sufficient to admit or deny the allegations contained in these sentences. Third  
9 sentence: Defendants admit.

10           71. Defendants admit.

11           72. Defendants are without knowledge or information sufficient to admit or deny the  
12 allegations contained in paragraph 72.

13           73. Defendants are without knowledge or information sufficient to admit or deny the  
14 allegations contained in paragraph 73 except to the extent that Defendants admit that David  
15 Dufrane was given physical and written tests at Edgewood.

16           74. First and third sentences: Defendants are without knowledge or information  
17 sufficient to admit or deny the allegations contained in these sentences. Second sentence:  
18 Defendants admit.

19           75. First sentence: Defendants admit. Second through seventh sentences: Defendants  
20 are without knowledge or information sufficient to admit or deny the allegations contained in  
21 these sentences.

22           76. First sentence: Defendants deny except to admit that David Dufrane served at  
23 Edgewood in April and May 1965. Second through fourth sentences: Defendants are without  
24 knowledge or information sufficient to admit or deny the allegations contained in these sentences.

1           77. Defendants are without knowledge or information sufficient to admit or deny the  
2 allegations contained in paragraph 77.

3           78. Defendants are without knowledge or information sufficient to admit or deny the  
4 allegations contained in paragraph 78.

5           79. Defendants are without knowledge or information sufficient to admit or deny the  
6 allegations contained in paragraph 79.

7           80. First through sixth sentences: Defendants are without knowledge or information  
8 sufficient to admit or deny the allegations contained in these sentences. Seventh sentence:  
9 Defendants admit. Eighth sentence: Defendants deny the allegation in this sentence except to  
10 admit that the VA granted David Dufrane a 30% rating for PTSD and a 40% rating for chronic  
11 pain, headaches, dyesthesia in the arms and legs, and arthralgia in all joints, for an overall rating of  
12 60%.

13           81. Defendants admit paragraph 81.

14           82. Defendants are without knowledge or information sufficient to admit or deny the  
15 allegations contained in paragraph 82.

16           83. Defendants are without knowledge or information sufficient to admit or deny the  
17 allegations contained in paragraph 83.

18           84. First through sixth sentences: Defendants are without knowledge or information  
19 sufficient to admit or deny the allegations contained in these sentences. Seventh sentence:  
20 Defendants admit.

21           85. First sentence: Defendants admit. Second and third sentences: Defendants are  
22 without knowledge or information sufficient to admit or deny the allegations contained in these  
23 sentences.

1           86.     First sentence: Defendants are without knowledge or information sufficient to  
2 admit or deny the allegations contained in this sentence. Second sentence: Defendants are  
3 without knowledge or information sufficient to admit or deny the allegations in this sentence  
4 except to admit that Wray Forrest did not receive a medal for his service at Edgewood and to  
5 deny that he did not receive any other recognition. Defendants aver Wray Forrest received a  
6 letter of commendation on August 31, 1973. Third sentence: Defendants are without knowledge  
7 or information sufficient to admit or deny the allegations contained in this sentence. Fourth  
8 sentence: Defendants are without knowledge or information sufficient to admit or deny the  
9 allegations contained in this sentence except to admit that a VA outreach letter was sent to Wray  
10 Forrest on May 17, 2007.

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12           87.     Defendants are without knowledge or information sufficient to admit or deny the  
13 allegations contained in paragraph 87.

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15           88.     First sentence: this sentence contains Plaintiffs' characterization of this case,  
16 argument, and conclusions of law, to which no response is required; to the extent a response is  
17 deemed required, Defendants deny the allegations. Second sentence: Defendants are without  
18 knowledge or information sufficient to admit or deny the allegations contained in this sentence.

19           89.     First sentence: Defendants admit. Second and third sentences: Defendants are  
20 without knowledge or information sufficient to admit or deny the allegations contained in these  
21 sentences. Fourth sentence: this sentence contains Plaintiffs' characterization of this case, to  
22 which no response is required; to the extent a response is deemed required, Defendants deny the  
23 allegations except to admit that the CIA has provided some compensation associated with  
24 participation in MKULTRA research.

25  
26           90.     First sentence: this sentence contains Plaintiffs' characterization of this case, to  
27 which no response is required; to the extent a response is deemed required, Defendants deny the  
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1 allegations. Second and third sentences: Defendants are without knowledge or information  
2 sufficient to admit or deny the allegations contained in these sentences.

3 91. Paragraph 91 contains Plaintiffs' characterization of this case and the relief they  
4 seek, to which no response is required; to the extent a response is deemed required, Defendants  
5 deny the allegations and that Plaintiffs are entitled to the relief requested, or to any relief  
6 whatsoever.  
7

8 92. First through fourth sentences: The first four sentences of this paragraph  
9 constitute Plaintiffs' characterization of the National Security Act. Defendants respectfully refer  
10 the Court to that Act, which speaks for itself, and deny the first four sentences of this paragraph to  
11 the extent they are inconsistent with that Act. Fifth sentence: Defendants deny. Sixth sentence:  
12 this sentence contains argument and legal conclusions, to which no response is required; to the  
13 extent a response is deemed required, Defendants deny the allegations.  
14

15 93. First sentence: Defendants admit. Second sentence through the remainder of the  
16 paragraph: these sentences constitute Plaintiffs' characterization of the National Security Act and  
17 the Intelligence Reform and Terrorism Prevention Act. Defendants respectfully refer the Court to  
18 those Acts, which speak for themselves, and deny the remainder of paragraph 93 to the extent it is  
19 inconsistent with those Acts.  
20

21 94. Defendants admit paragraph 94.

22 95. First through fourth sentences: Defendants admit. Fifth sentence: this sentence  
23 contains Plaintiffs' characterization of this case, argument, and legal conclusions, to which no  
24 response is required; to the extent a response is deemed required, Defendants deny the allegations  
25 except to admit that DOD Instruction 5030.29 in 1964 stated, "DOD assumes full responsibility  
26 for humans involved in research under its sponsorship, whether this involves investigational drugs  
27 or other hazards." Sixth sentence: this sentence contains Plaintiffs' characterization of this case,  
28

1 to which no response is required; to the extent a response is deemed required, Defendants deny  
2 the allegations except to admit that Defendants entered into an agreement to supply the VA with  
3 information to help service members with their claims to the VA. Seventh and eighth sentences:  
4 these sentences constitute Plaintiffs' characterizations of the Bob Stump National Defense  
5 Authorization Act for Fiscal Year 2003. Defendants respectfully refer the Court to that Act,  
6 which speaks for itself, and deny the seventh and eighth sentences to the extent they are  
7 inconsistent with the Act. Ninth sentence: this sentence constitutes Plaintiffs' characterizations  
8 of the report of the Government Accountability Office ("GAO"). Defendants respectfully refer  
9 the Court to the GAO report, which speaks for itself, and deny the ninth sentence to the extent it  
10 is inconsistent with that report. Tenth sentence: this sentence contains Plaintiffs' characterization  
11 of this case, to which no response is required; to the extent a response is deemed required,  
12 Defendants deny the allegations.

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15 96. Defendants admit paragraph 96.

16 97. Defendants deny the allegations in paragraph 97 and aver that John M. McHugh is  
17 the current U.S. Secretary of the Army. Replacing McHugh's name for Geren's throughout  
18 paragraph 97, Defendants aver to the remaining allegations in this paragraph.

19 98. First and second clauses: Defendants admit that Eric Holder, Jr. is the current U.S.  
20 Attorney General and is named in this suit in his official capacity. Third clause: the allegations  
21 concerning "the Attorney General's assumption of responsibility" are Plaintiffs' characterization  
22 of this case and call for legal conclusions, to which no response is required; to the extent a  
23 response is deemed required, Defendants deny the allegations.  
24

25 99. Paragraph 99 contains Plaintiffs' characterization of this case, argument, and legal  
26 conclusions, to which no response is required; to the extent a response is deemed required,  
27 Defendants deny the allegations.  
28

1 100. Defendants admit paragraph 100.

2 101. Defendants admit paragraph 101.

3 102. Defendants are without knowledge or information sufficient to admit or deny the  
4 allegations contained in paragraph 102.

5 103. Paragraph 103 constitutes Plaintiffs' characterizations of the 1976 Army IG  
6 Report. Defendants respectfully refer the Court to that report, which speaks for itself, and deny  
7 paragraph 103 to the extent that it is inconsistent with that report.

8 104. Defendants are without knowledge or information sufficient to admit or deny the  
9 allegations contained in paragraph 104.

10 105. First through fourth sentences: Defendants are without knowledge or information  
11 sufficient to admit or deny the allegations contained in these sentences except to the extent that  
12 Defendants admit the existence of the cited legal authority, which speaks for itself and to which  
13 the Court is respectfully referred for a full and accurate statement of its contents. Fifth and sixth  
14 sentences: these sentences constitute Plaintiffs' characterizations of the cited appendix to  
15 Congressional testimony. Defendants respectfully refer the Court to that appendix, which speaks  
16 for itself, and deny the fifth and sixth sentences to the extent they are inconsistent with that  
17 appendix.

18 106. First and second sentence: Defendants are without knowledge or information  
19 sufficient to admit or deny the allegations contained in these sentences. Third and fourth  
20 sentences: Defendants deny except to admit the allegations with respect to DoD. Fifth through  
21 seventh and eleventh sentences: Defendants are without knowledge or information sufficient to  
22 admit or deny the allegations contained in these sentences. Eighth through tenth sentences: these  
23 sentences contains Plaintiffs' characterization of this case and DOD's research programs, to  
24 which no response is required; to the extent a response is deemed required, Defendants deny the  
25  
26  
27  
28

1 allegations except to the extent that Defendants admit that DOD's research programs shifted from  
2 offensive to defensive purposes.

3 107. First sentence: Defendants admit. Second through seventh sentences: Defendants  
4 are without knowledge or information sufficient to admit or deny the allegations contained in  
5 these sentences. Eighth sentence: Defendants deny the allegations except to admit that DOD's  
6 research programs involving human subjects included tests on possible vaccines for biological  
7 warfare agents.

9 108. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
10 which no response is required; to the extent a response is deemed required, Defendants deny the  
11 allegations except that Defendants are without knowledge or information sufficient to admit or  
12 deny the allegations concerning other government agencies. Second sentence: this sentence  
13 contains Plaintiffs' characterization of this case and argument, to which no response is required;  
14 to the extent a response is deemed required, Defendants are without knowledge or information  
15 sufficient to admit or deny the allegations concerning other government agencies. Defendants  
16 aver that DOD has provided the VA with over 6,000 names of service members who participated  
17 in research programs at Edgewood Arsenal that involved over 254 substances. Third sentence:  
18 Defendants are without knowledge or information sufficient to admit or deny the allegations  
19 contained in this sentence.

22 109. Defendants deny the allegations in paragraph 109 except to admit that DOD tested  
23 newer chemical agents including LSD, PCP, and synthetic cannabis analogs. Defendants aver  
24 that DOD's objectives with regards to its activities at Edgewood and Fort Detrick included  
25 understanding both the offensive and defensive uses of LSD.

26 110. First sentence: Defendants deny except to admit that DOD's Edgewood research  
27 program involving human subjects included research on mustard agents. Second sentence:  
28

1 Defendants admit that riot control agents have been tested at Edgewood and are without  
2 knowledge or information sufficient to admit or deny the remaining allegations contained in this  
3 sentence.

4 111. First sentence: Defendants are without knowledge or information sufficient to  
5 admit or deny the allegations contained in this sentence except to admit that DOD performed field  
6 tests as part of its research program. Second sentence: Defendants are without knowledge or  
7 information sufficient to admit or deny the allegations contained in this sentence.  
8

9 112. First sentence: Defendants deny the allegations except to admit that DOD  
10 conducted field tests at Ford Ord using military personnel. Second through fourth sentences:  
11 Defendants are without knowledge or information sufficient to admit or deny the allegations  
12 contained in these sentences; to the extent that Plaintiffs' allegations rest on the cited  
13 Congressional testimony, Defendants respectfully refer the Court to that testimony, which speaks  
14 for itself, and deny the second, third, and fourth sentences to the extent they are inconsistent with  
15 that testimony.  
16

17 113. First sentence: this sentence contains Plaintiffs' characterization of this case and  
18 Defendants' research programs, to which no response is required; to the extent a response is  
19 deemed required, Defendants deny the allegations except that Defendants admit involvement in  
20 research programs involving human subjects. Second sentence: this sentence constitutes  
21 argument and a legal conclusion, to which no response is required; to the extent a response is  
22 deemed required, Defendants deny the allegations except that, to the extent that Plaintiffs'  
23 allegations rest on 50 U.S.C. § 403-3(d)(1), Defendants respectfully refer the Court to that statute,  
24 which speaks for itself, and deny the sentence to the extent it is inconsistent with that statute.  
25

26 114. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
27 which no response is required; to the extent a response is deemed required, Defendants deny the  
28

1 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the  
2 Memorandum from Richard Helms. Defendants respectfully refer the Court to that  
3 Memorandum, which speaks for itself, and deny this sentence to the extent it is inconsistent with  
4 that Memorandum. Third sentence: Defendants admit.

5  
6 115. First sentence: this sentence constitutes Plaintiffs' characterization of the cited  
7 Memorandum from Allen Dulles, to which no response is required; to the extent a response is  
8 deemed required, Defendants respectfully refer the Court to the Memorandum, which speaks for  
9 itself, and deny the first sentence to the extent it is inconsistent with the Memorandum. Second  
10 sentence: this sentence constitutes Plaintiffs' characterizations of the cited Advisory Committee  
11 on Human Radiation Experiments ("ACHRE"), Interim Report. Defendants respectfully refer the  
12 Court to the Interim Report, which contains the opinion of ACHRE and speaks for itself, and  
13 deny the second sentence to the extent it is inconsistent with the Interim Report. Third and fourth  
14 sentences: Defendants deny.

15  
16 116. First sentence: Defendants deny. Second sentence: Defendants admit. Third and  
17 fourth sentences: these sentences constitute Plaintiffs' characterizations of Dr. Gottlieb's  
18 Congressional testimony. Defendants respectfully refer the Court to that testimony, which speaks  
19 for itself, and deny the third and fourth sentences to the extent they are inconsistent with that  
20 testimony.

21  
22 117. First sentence: Defendants neither admit nor deny on the basis of 50 U.S.C. §  
23 403g. Second sentence: this sentence constitutes Plaintiffs' characterizations of Exhibit B to the  
24 Second Amended Complaint. Defendants respectfully refer the Court to that document, which  
25 speaks for itself, and deny the second sentence to the extent it is inconsistent with the exhibit.  
26 Third sentence: Defendants deny the allegations in these sentences except to admit that  
27 MKULTRA is believed to have had 149 research subprojects. Fourth sentence: this sentence  
28

1 contains Plaintiffs' characterizations of this case, to which no response is require; to the extent a  
2 response is deemed required, Defendants deny the allegations except to admit that CIA had  
3 relationships with research organizations. These allegations are subject to the state secrets  
4 privilege. Fifth sentence: this sentence contains Plaintiffs' characterization of this case, to which  
5 no response is required; to the extent a response is deemed required, Defendants deny the  
6 allegations.  
7

8 118. Paragraph 118 constitutes Plaintiffs' characterizations of the cited Report on the  
9 Covert Activities of the Central Intelligence Agency. Defendants respectfully refer the Court to  
10 that report, which speaks for itself, and deny paragraph 118 to the extent it is inconsistent with  
11 that report.

12 119. First sentence: to the extent the sentence constitutes Plaintiffs' characterization of  
13 the cited Wilson memorandum, the sentence requires no response; to the extent a response is  
14 deemed required and as to the remainder of the sentence, Defendants deny the allegations in this  
15 sentence, and aver that on February 26, 1953, the Secretary of Defense issued a memorandum,  
16 also known as the Wilson memorandum, to the service secretaries that incorporated the principles  
17 of the 1947 Nuremberg Code on medical research. Defendants respectfully refer the Court to the  
18 Wilson memorandum, which speaks for itself, and deny the first sentence to the extent it is  
19 inconsistent with the Wilson memorandum. Second sentence, including subparts a-g: this  
20 sentence and its subparts constitute Plaintiffs' characterizations of Exhibit C to the Second  
21 Amended Complaint. Defendants respectfully refer the Court to the exhibit, which speaks for  
22 itself, and deny the second sentence and its subparts to the extent that they are inconsistent with  
23 the exhibit.  
24

25  
26 120. First sentence: Defendants are without knowledge or information sufficient to  
27 admit or deny the allegations contained in this sentence. Second sentence: Defendants are  
28

1 without knowledge or information sufficient to admit or deny the allegations contained in this  
2 sentence.

3 121. First sentence, first clause: Defendants are without knowledge or information  
4 sufficient to admit or deny the allegations contained in the first clause of this sentence concerning  
5 the reasons for the President’s issuance of Executive Order 11905. First sentence, second clause:  
6 this clause constitutes Plaintiffs’ characterizations of Executive Order 11905. Defendants  
7 respectfully refer the Court to Executive Order 11905, which speaks for itself, and deny the  
8 second clause to the extent it is inconsistent with Executive Order 11905.  
9

10 122. Paragraph 122 constitutes Plaintiffs’ characterizations of the cited report from the  
11 National Commission for the Protection of Human Subjects of Biomedical Research. Defendants  
12 respectfully refer the Court to that report, which speaks for itself, and deny paragraph 122 to the  
13 extent it is inconsistent with that report.  
14

15 123. Paragraph 123 constitutes Plaintiffs’ characterizations of Executive Order 12333.  
16 Defendants respectfully refer the Court to Executive Order 12333, which speaks for itself, and  
17 deny paragraph 123 to the extent it is inconsistent with Executive Order 12333.

18 124. Paragraph 124 constitutes Plaintiffs’ characterizations of Directive No. 3216.2.  
19 Defendants respectfully refer the Court to Directive No. 3216.2, which speaks for itself, and deny  
20 paragraph 124 to the extent it is inconsistent with Directive No. 3216.2.  
21

22 125. Paragraph 125 constitutes Plaintiffs’ characterizations of Confidential  
23 Memorandum 3247. Defendants respectfully refer the Court to Confidential Memorandum 3247,  
24 which speaks for itself, and deny paragraph 125 to the extent it is inconsistent with Confidential  
25 Memorandum 3247.  
26  
27  
28

1           126. Paragraph 126 constitutes Plaintiffs’ characterizations of Army Regulation 70-25.  
2 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and  
3 deny paragraph 126 to the extent it is inconsistent with that regulation.

4           127. Paragraph 127 constitutes Plaintiffs’ characterizations of Army Regulation 70-25.  
5 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and  
6 deny paragraph 127 to the extent it is inconsistent with that regulation.  
7

8           128. Paragraph 128 constitutes Plaintiffs’ characterizations of Army Regulation 70-25.  
9 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and  
10 deny paragraph 128 to the extent it is inconsistent with that regulation.

11           129. First sentence: this sentence constitutes Plaintiffs’ characterizations of 32 C.F.R.  
12 Part 219. Defendants respectfully refer the Court to 32 C.F.R. Part 219, which speaks for itself,  
13 and deny paragraph 129 to the extent it is inconsistent with 32 C.F.R. Part 219. Second sentence:  
14 Defendants admit.  
15

16           130. First sentence: Defendants admit. Second sentence: Defendants are without  
17 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
18 Third and fourth sentences: these sentences contain Plaintiffs’ characterization of this case and  
19 argument, to which no response is required; to the extent a response is deemed required,  
20 Defendants deny the allegations and aver the existence of standards governing the ethical use of  
21 human subjects as discussed above in paragraphs 119–129 of this Answer.  
22

23           131. Paragraph 131 constitutes Plaintiffs’ characterization of this case and argument, to  
24 which no response is required; to the extent a response is deemed required, Defendants deny the  
25 allegations except to admit the existence of the quoted memorandum, which speaks for itself and  
26 to which the Court is respectfully referred for a full and accurate statement of its contents;  
27  
28

1 Defendants deny the allegations to the extent that they are inconsistent with the quoted  
2 memorandum.

3           132. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
4 which no response is required; to the extent a response is deemed required, Defendants deny the  
5 allegations. Second sentence: this sentence contains Plaintiffs' characterization of this case, to  
6 which no response is required; to the extent a response is deemed required, Defendants deny the  
7 allegations except to admit that the CIA employed Dr. Treichler and to state that Defendants are  
8 without knowledge or information sufficient to admit or deny allegations concerning his place of  
9 employment. Third sentence: Defendants deny. Fourth sentence: this sentence contains  
10 Plaintiffs' characterization of this case, to which no response is required; to the extent a response  
11 is deemed required, Defendants deny the allegations. CIA avers that it provided funding to a  
12 research project at Edgewood as a part of Project OFTEN. Fifth sentence: Defendants are  
13 without knowledge or information sufficient to admit or deny the allegations contained in this  
14 sentence. Sixth sentence: this sentence contains Plaintiffs' characterization of this case, to which  
15 no response is required; to the extent a response is deemed required, Defendants deny the  
16 allegations. Seventh and eighth sentences: these sentences contains Plaintiffs' characterization of  
17 this case, argument, and legal conclusion, to which no response is required; to the extent a  
18 response is deemed required, Defendants deny the allegations.

19  
20  
21  
22           133. Paragraph 133 constitutes Plaintiffs' characterizations of the cited 1963 CIA IG  
23 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for  
24 itself, and deny paragraph 133 to the extent that it is inconsistent with that report.

25           134. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
26 which no response is required; to the extent a response is deemed required, Defendants deny the  
27 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the 1963  
28

1 CIA IG Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks  
2 for itself, and deny this sentence to the extent that it is inconsistent with that report.

3 135. Paragraph 135 contains Plaintiffs' characterizations of the cited 1963 CIA IG  
4 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for  
5 itself, and deny paragraph 135 to the extent that it is inconsistent with that report.  
6

7 136. Paragraph 136 constitutes Plaintiffs' characterizations of Exhibit B to the  
8 Complaint. Defendants respectfully refer the Court to that exhibit, which speaks for itself, and  
9 deny paragraph 136 to the extent that it is inconsistent with that exhibit.

10 137. First sentence, first and second clause: these clauses constitute Plaintiffs'  
11 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that  
12 exhibit, which speaks for itself, and deny this sentence to the extent that it is inconsistent with that  
13 exhibit. Subpart a: this subpart constitutes Plaintiffs' characterizations of Exhibit B to the  
14 Complaint, the cited ACHRE Interim Report, and the cited Memorandum from Allen Dulles.  
15 Defendants respectfully refer the Court to that exhibit and those reports, which speak for  
16 themselves, and deny subpart a to the extent that it is inconsistent with the cited exhibit and  
17 reports. Subpart b: Defendants are without knowledge or information sufficient to admit or deny  
18 the allegations in this subpart except CIA admits that it provided a small grant to Dr. Cameron.  
19 Subparts c–f: these subparts constitute Plaintiffs' characterizations of Exhibit B to the Complaint.  
20 Defendants respectfully refer the Court to that exhibit, which speaks for itself, and deny subparts  
21 c–f to the extent that they are inconsistent with that exhibit.  
22  
23

24 138. First sentence: Defendants deny. Second sentence: this sentence constitutes  
25 Plaintiffs' characterizations of Exhibit B to the Complaint and the cited report "Project  
26 MKULTRA, The CIA's Program of Research in Behavior Modification." Defendants  
27 respectfully refer the Court to that exhibit and report, which speak for themselves, and deny the  
28

1 second sentence to the extent that it is inconsistent with that exhibit and report. Third and fourth  
2 sentences: these sentences constitute Plaintiffs' characterizations of Exhibit B to the Complaint.  
3 Defendants respectfully refer the Court to that exhibit, which speaks for itself, and deny the third  
4 and fourth sentences to the extent that they are inconsistent with that exhibit.

5  
6 139. First sentence: Defendants deny. Second and third sentences: Defendants are  
7 without knowledge or information sufficient to admit or deny the allegations contained in these  
8 sentences except to admit that Dr. Van Sim was involved in experiments at Edgewood.

9  
10 140. First sentence: this sentence contains Plaintiffs' characterization of this case, to  
11 which no response is required; to the extent a response is deemed required, Defendants deny the  
12 allegations except to admit that DOD administered LSD and other drugs to test subjects at  
13 Edgewood and other locations. Second sentence: Defendants are without knowledge or  
14 information sufficient to admit or deny the allegations contained in this sentence.

15  
16 141. First sentence: Defendants deny. Second and third sentences: Defendants are  
17 without knowledge or information sufficient to admit or deny the allegations in these sentences  
18 except that CIA denies employing Paul Hoch as a CIA consultant; to the extent that Plaintiffs'  
19 allegations rest on the cited legal authority, Defendants respectfully refer the Court to that  
20 authority, which speaks for itself, and deny the sentences to the extent they are inconsistent with  
21 that authority. Fourth sentence, first clause: this clause contains a legal conclusion, to which no  
22 response is required; to the extent a response is deemed required, Defendants deny. Fourth  
23 sentence, second clause: this clause contains Plaintiffs' characterization of Dr. Olson's death, to  
24 which no response is required; to the extent a response is deemed required, CIA admits that Dr.  
25 Olson jumped out of a window to his death subsequent to receiving a dose of LSD. Fifth  
26 sentence: this sentence constitutes Plaintiffs' characterizations of the cited 1994 GAO Report.  
27  
28

1 Defendants respectfully refer the Court to the 1994 GAO Report, which speaks for itself, and  
2 deny the fifth sentence to the extent that it is inconsistent with that report.

3 142. First sentence: Defendants are without knowledge or information sufficient to  
4 admit or deny whether sporadic information regarding Defendants activities began to circulate.  
5 The remainder of this sentence constitutes Plaintiffs' characterization of the cited 1963 CIA IG  
6 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for  
7 itself, and deny the first sentence to the extent it is inconsistent with that report. Second sentence:  
8 Defendants deny the allegations in this sentence except to admit the existence of MKSEARCH.  
9 Third sentence: Defendants deny.  
10

11 143. First sentence: Defendants are without knowledge or information sufficient to  
12 admit or deny the allegations contained in this sentence. Second sentence: this sentence contains  
13 Plaintiffs' characterization of this case and conclusions of law, to which no response is required;  
14 to the extent a response is deemed required, Defendants deny the allegations. Third sentence:  
15 this sentence constitutes Plaintiffs' characterization of Exhibit B to the Complaint. Defendants  
16 respectfully refer the Court to that exhibit, which speaks for itself, and deny the third sentence to  
17 the extent it is inconsistent with that exhibit. Fourth sentence: Defendants are without  
18 knowledge or information sufficient to admit or deny the allegations contained in this sentence.  
19 Fifth sentence: Defendants deny the allegations in this sentence except to admit that Director  
20 Helms authorized the destruction of certain documents relating to MKULTRA in 1973. Sixth  
21 sentence: this sentence contains Plaintiffs' characterization of this case, to which no response is  
22 required; to the extent a response is deemed required, Defendants deny the allegations except to  
23 admit that many documents relating to MKULTRA were destroyed in 1973.  
24

25 144. Paragraph 144 contains legal conclusions, to which no response is required; to the  
26 extent a response is deemed required, Defendants deny the allegations.  
27  
28

1           145. First sentence: this sentence constitutes Plaintiffs’ characterizations of the cited  
2 1947 Haywood memo. Defendants respectfully refer the Court to the 1947 Haywood memo,  
3 which speaks for itself, and deny the first sentence to the extent it is inconsistent with that memo.  
4 Second sentence: this sentence constitutes Plaintiffs’ characterizations of the cited CIA Inspector  
5 General’s Survey of Technical Services Division. Defendants respectfully refer the Court to the  
6 CIA Inspector General’s Survey of Technical Services Division, which speaks for itself, and deny  
7 the second sentence to the extent it is inconsistent with that survey. Third sentence: this sentence  
8 constitutes Plaintiffs’ characterizations of the cited July 26, 1963 Memorandum. Defendants  
9 respectfully refer the Court to the July 26, 1963 Memorandum, which speaks for itself, and deny  
10 the third sentence to the extent it is inconsistent with that Memorandum.  
11

12           146. Paragraph 146 constitutes Plaintiffs’ characterizations of the cited CIA’s  
13 Memorandum from William V. Broe. Defendants respectfully refer the Court to the CIA’s  
14 Memorandum from William V. Broe, which speaks for itself, and deny paragraph 146 to the  
15 extent it is inconsistent with that Memorandum.  
16

17           147. First sentence, introductory language: this sentence contains Plaintiffs’  
18 characterization of this case and argument, to which no response is required; to the extent a  
19 response is deemed required, Defendants deny the allegations. Subpart a: Defendants deny the  
20 allegations in this subparagraph except to admit the existence of the MKULTRA and  
21 MKSEARCH projects. Subpart b: Defendants deny the allegations in this subparagraph except  
22 to admit the existence of the OFTEN and CHICKWIT projects. Subpart c: Defendants deny the  
23 allegations in this subparagraph except to admit the existence of the BLUEBIRD and  
24 ARTICHOKE projects. Subpart d: Defendants deny the allegations in this subparagraph except  
25 to admit the existence of the MKDELTA project. Subpart e: Defendants deny the allegations in  
26 this subparagraph except to admit the existence of the MKNAOMI project. Subpart f:  
27  
28

1 Defendants are without knowledge or information sufficient to admit or deny the allegations  
2 contained in this subparagraph. Subpart g, first sentence: Defendants are without knowledge or  
3 information sufficient to admit or deny the allegations contained in this sentence. Subpart g,  
4 second sentence: this sentence contains Plaintiffs' characterization of this case, to which no  
5 response is required; to the extent a response is deemed required, Defendants deny the  
6 allegations.  
7

8 148. Defendants deny.

9 149. First sentence: this sentence constitutes Plaintiffs' characterization of the cited  
10 Memorandum for the Record re MKULTRA Subproject 119. Defendants respectfully refer the  
11 Court to the Memorandum for the Record re MKULTRA Subproject 119, which speaks for itself,  
12 and deny the first sentence to the extent it is inconsistent with that Memorandum. Second  
13 sentence: this sentence constitutes Plaintiffs' characterization of the cited Proposal Materials.  
14 Defendants respectfully refer the Court to the Proposal Materials, which speak for themselves,  
15 and deny the first sentence to the extent it is inconsistent with those materials. Third sentence:  
16 this sentence constitutes Plaintiffs' characterization of the cited U.S. Army Med. Dep't, LSD  
17 Follow-Up Study Report. Defendants respectfully refer the Court to that Report, which speaks  
18 for itself, and deny the first sentence to the extent it is inconsistent with that report. Fourth  
19 sentence: Defendants deny. Fifth sentence: Defendants are without knowledge or information  
20 sufficient to admit or deny the allegations concerning "Agency Top Secret" classification, and  
21 Defendants deny the remaining allegations in this sentence.  
22

23  
24 150. Defendants are without knowledge or information sufficient to admit or deny the  
25 allegations contained in paragraph 150.  
26  
27  
28

1           151. Paragraph 151 contains Plaintiffs' characterizations of the book "Physical Control  
2 of the Mind, Toward a Psychocivilized Society," which speaks for itself, and deny paragraph 151  
3 to the extent it is inconsistent with that book.

4           152. Defendants deny the allegations in paragraph 152 except that the CIA admits it  
5 provided a small grant to Dr. Cameron.

6           153. Defendants are without knowledge or information sufficient to admit or deny the  
7 allegations contained in paragraph 153.

8           154. Defendants admit that the CIA financed certain MKULTRA research programs  
9 and are without knowledge or information sufficient to admit or deny the remaining allegations in  
10 paragraph 154.

11           155. Paragraph 155 contains Plaintiffs' characterization of this case, argument, and  
12 conclusions of law, to which no response is required; to the extent a response is deemed required,  
13 Defendants deny the allegations.

14           156. First sentence: Defendants are without knowledge or information sufficient to  
15 admit or deny whether volunteers were asked to sign an agreement containing the quoted text.  
16 Defendants aver that most of the named plaintiffs' personnel records contained copies of the  
17 volunteer's participation agreement, which did not contain any mention of a secrecy oath.  
18 Defendants further aver that service members were informed, through a variety of means, of the  
19 secrecy of DOD's research program involving human subjects. Second sentence: Defendants  
20 deny the allegations in this sentence except to admit that plaintiffs' personnel records contain  
21 copies of signed forms consenting to the videotaping of experiments.

22           157. Paragraph 157 contains Plaintiffs' characterization of this case, to which no  
23 response is required; to the extent a response is deemed required, Defendants deny the  
24 allegations.

1           158. First sentence: this sentence contains Plaintiffs' characterization of this case and  
2 legal conclusions, to which no response is required; to the extent a response is deemed required,  
3 Defendants are without knowledge or information sufficient to admit or deny the allegations in  
4 this sentence. Second and third sentences: Defendants are without knowledge or information  
5 sufficient to admit or deny the allegations contained in these sentences.  
6

7           159. Defendants are without knowledge or information sufficient to admit or deny the  
8 allegations contained in paragraph 159.

9           160. First sentence: Defendants admit. Second sentence: this sentence contains  
10 Plaintiffs' characterization of this case, to which no response is required; to the extent a response  
11 is deemed required, Defendants deny the allegations except to admit that DOD maintains a  
12 website regarding its research programs involving human subjects.  
13

14           161. Paragraph 161 contains Plaintiffs' characterization of this case, argument, and  
15 legal conclusions, to which no response is required; to the extent a response is deemed required,  
16 Defendants deny the allegations.

17           162. First sentence: this sentence contains Plaintiffs' characterization of this case and  
18 legal conclusions, to which no response is required; to the extent a response is deemed required,  
19 Defendants deny the allegations. Second sentence: Defendants are without knowledge or  
20 information sufficient to admit or deny the allegations contained in this sentence.  
21

22           163. First sentence: this sentence constitutes Plaintiffs' characterization of the cited  
23 1958 Army publication. Defendants respectfully refer the Court to that publication, which speaks  
24 for itself, and deny the allegations to the extent that they are inconsistent with that publication.  
25 Second sentence: this sentence constitutes Plaintiffs' characterization of the cited 1972 Army  
26 publication. Defendants respectfully refer the Court to that publication, which speaks for itself,  
27 and deny the allegations to the extent that they are inconsistent with that publication.  
28

1           164. Paragraph 164 constitutes Plaintiffs’ characterization of the 1976 Army IG Report.  
2 Defendants respectfully refer the Court to the 1976 Army IG Report, which speaks for itself, and  
3 deny paragraph 164 to the extent that it is inconsistent with that report.

4           165. First through fourth sentences: these sentences constitute Plaintiffs’  
5 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976  
6 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they  
7 are inconsistent with that report. Fifth sentence: this sentence contains Plaintiffs’  
8 characterizations of this case, argument, and legal conclusions, to which no response is required;  
9 to the extent a response is deemed required, Defendants deny the allegations in this sentence.

10           166. First through fourth sentences: these sentences constitute Plaintiffs’  
11 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976  
12 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they  
13 are inconsistent with that report. Fifth sentence: Defendants admit.

14           167. Defendants are without knowledge or information sufficient to admit or deny the  
15 allegations contained in paragraph 167.

16           168. First through third sentences: these sentences constitute Plaintiffs’  
17 characterizations of the 1976 Army IG Report. Defendants respectfully refer the Court to the  
18 1976 Army IG Report, which speaks for itself, and deny the first three sentences to the extent that  
19 they are inconsistent with that report. Fourth sentence: this sentence contains Plaintiffs’  
20 characterizations of this case and conclusions of law, to which no response is required; to the  
21 extent a response is deemed required, Defendants deny the allegations in this sentence. Fifth  
22 sentence: Defendants deny except to admit that DOD drew volunteers from Army bases  
23 throughout the country. Sixth sentence: this sentence contains Plaintiffs’ characterizations of this  
24 case and its expectations with regard to discovery, to which no response is required; to the extent  
25  
26  
27  
28

1 a response is deemed required, Defendants deny the allegations in this sentence except that they  
2 are without knowledge or information regarding Plaintiffs' expectations with regard to discovery.

3 Seventh sentence: Defendants are without knowledge or information sufficient to admit or deny  
4 allegations concerning other government agencies.

5  
6 169. Paragraph 169 constitutes Plaintiffs' characterizations of the cited 1993 GAO  
7 Report. Defendants respectfully refer the Court to the 1993 GAO Report, which speaks for itself,  
8 and deny paragraph 169 to the extent it is inconsistent with that report.

9  
10 170. Defendants are without knowledge or information sufficient to admit or deny  
11 allegations concerning other government agencies.

12  
13 171. Paragraph 171 constitutes Plaintiffs' characterization of the cited CIA's  
14 Memorandum for the Record from William V. Broe. Defendants respectfully refer the Court to  
15 the CIA's Memorandum for the Record from William V. Broe, which speaks for itself, and deny  
16 paragraph 171 to the extent it is inconsistent with that memorandum.

17  
18 172. First sentence: this sentence contains Plaintiffs' characterization of this case and  
19 conclusions of law, to which no response is required; to the extent a response is deemed required,  
20 Defendants deny this sentence. Second sentence: Defendants are without knowledge or  
21 information sufficient to admit or deny the allegations contained in this sentence.

22  
23 173. Paragraph 173 contains Plaintiffs' characterization of this case and conclusions of  
24 law, to which no response is required; to the extent a response is deemed required, Defendants  
25 deny the allegations.

26  
27 174. Paragraph 174 contains Plaintiffs' allegations regarding the proposed class, to  
28 which no response is required; to the extent a response is deemed required, Defendants are  
without knowledge or information sufficient to admit or deny the allegations contained in  
paragraph 174.

1 175. Paragraph 175 contains Plaintiffs’ allegations regarding the proposed class  
2 representatives, to which no response is required; to the extent a response is deemed required,  
3 Defendants are without knowledge or information sufficient to admit or deny the allegations  
4 contained in paragraph 175.

5 176. Paragraph 176 contains Plaintiffs’ characterization of this case and a legal  
6 conclusion, to which no response is required; to the extent a response is deemed required,  
7 Defendants deny the allegations.  
8

9 177. Paragraph 177 contains legal conclusions, to which no response is required; to the  
10 extent a response is deemed required, Defendants are without knowledge or information sufficient  
11 to admit or deny the allegations contained in paragraph 177.

12 178. Paragraph 178 contains Plaintiffs’ characterization of this case and legal  
13 conclusions, to which no response is required; to the extent a response is deemed required,  
14 Defendants are without knowledge or information sufficient to admit or deny the allegations  
15 contained in paragraph 178.

16 179. Paragraph 179 contains legal conclusions, to which no response is required; to the  
17 extent a response is deemed required, Defendants are without knowledge or information sufficient  
18 to admit or deny the allegations contained in paragraph 179.  
19

20 180. Paragraph 180 contains legal conclusions, to which no response is required; to the  
21 extent a response is deemed required, Defendants are without knowledge or information sufficient  
22 to admit or deny the allegations contained in paragraph 180.

23 181. Paragraph 181 contains legal conclusions, to which no response is required; to the  
24 extent a response is deemed required, Defendants are without knowledge or information sufficient  
25 to admit or deny the allegations contained in paragraph 181.  
26  
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28

1 182. Defendants incorporate by reference the responses set forth in paragraphs 1  
2 through 181, inclusive.

3 183. Paragraph 183 constitutes Plaintiffs’ prayer for relief on their first claim for relief,  
4 to which no response is required. To the extent a response is required, the paragraph is denied.

5 184. Paragraph 184 consists of conclusions of law and/or statements of Plaintiffs’ case  
6 to which no response is required. To the extent a response is deemed necessary, the paragraph is  
7 denied.  
8

9 185. Paragraph 185 consists of conclusions of law and/or statements of Plaintiffs’ case  
10 to which no response is required. To the extent a response is deemed necessary, the paragraph is  
11 denied.  
12

13 186. Paragraph 186 consists of conclusions of law and/or statements of Plaintiffs’ case  
14 to which no response is required. To the extent a response is deemed necessary, the paragraph is  
15 denied.

16 187. Paragraph 187 constitutes Plaintiffs’ prayer for relief on their first claim for relief,  
17 to which no response is required. To the extent a response is required, the paragraph is denied.

18 188. Defendants incorporate by reference the responses set forth in paragraphs 1  
19 through 187, inclusive.

20 189. Paragraph 189 constitutes Plaintiffs’ prayer for relief on their second claim for  
21 relief, to which no response is required. To the extent a response is required, the paragraph is  
22 denied.  
23

24 190. Defendants incorporate by reference the responses set forth in paragraphs 1  
25 through 189, inclusive.

26 191. Paragraph 191 constitutes Plaintiffs’ characterization of the Federal Tort Claims  
27 Act and *Feres v. United States*, 340 U.S. 135 (1950), to which no response is required. To the  
28

1 extent a response is deemed required, Defendants deny that Plaintiffs are entitled to relief on the  
2 basis of the Federal Tort Claims Act and *Feres v. United States*. See *Vietnam Veterans of*  
3 *America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at \*4 (N.D. Cal. Jan. 19, 2010).

4 192. Paragraph 192 consists of conclusions of law and/or statements of Plaintiffs' case  
5 to which no response is required. To the extent a response is deemed necessary, Defendants deny  
6 that Plaintiffs are entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United*  
7 *States*. See *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at  
8 \*4 (N.D. Cal. Jan. 19, 2010).

9 193. Paragraph 193 consists of conclusions of law and/or statements of Plaintiffs' case  
10 to which no response is required. To the extent a response is deemed necessary, Defendants deny  
11 that Plaintiffs are entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United*  
12 *States*. See *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at  
13 \*4 (N.D. Cal. Jan. 19, 2010).

14 194. Paragraph 194 consists of conclusions of law and/or statements of Plaintiffs' case  
15 to which no response is required. To the extent a response is deemed necessary, Defendants deny  
16 that Plaintiffs are entitled to relief on the basis of the Federal Tort Claims Act and *Feres v. United*  
17 *States*. See *Vietnam Veterans of America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at  
18 \*4 (N.D. Cal. Jan. 19, 2010).

19 195. Paragraph 195 consists of conclusions of law and/or statements of Plaintiffs' case  
20 and Plaintiffs' characterization of the decisions cited therein to which no response is required. To  
21 the extent a response is deemed necessary, Defendants deny that Plaintiffs are entitled to relief on  
22 the basis of the Federal Tort Claims Act and *Feres v. United States*. See *Vietnam Veterans of*  
23 *America, et al. v. C.I.A.*, No. 09-0037CW, 2010 WL 291840, at \*4 (N.D. Cal. Jan. 19, 2010).



1 The Second Amended Complaint fails to state a claim upon which relief can be granted.

2 **Third Affirmative Defense**

3 Plaintiffs are barred from asserting any causes of action by virtue of the applicable statute  
4 of limitations.

5 **Fourth Affirmative Defense**

6 Plaintiffs are barred from asserting any causes of action by virtue of their consent to the  
7 alleged acts or conditions.

8  
9 THEREFORE, having fully answered, Defendants deny that Plaintiff are entitled to the  
10 relief requested in paragraphs 182–203, or to any relief whatsoever, and request that this action be  
11 dismissed in its entirety with prejudice and that Defendants be given such other relief as this  
12 Court deems proper, including costs and disbursements.

13  
14  
15 Dated: March 17, 2010

Respectfully submitted,

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Attorneys for Defendants

