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 (EDL)

DECLARATION OF PATRICIA CAMERESI

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ASSOCIATE INFORMATION REVIEW OFFICER
DIRECTORATE OF SCIENCE & TECHNOLOGY
CENTRAL INTELLIGENCE AGENCY

I, PATRICIA B. CAMERESI, hereby declare and say:

1. I am the Associate Information Review Officer (AIRO) for the Directorate of Science & Technology (DS&T) of the Central Intelligence Agency (CIA). I was appointed to this position in 1996. I have 24 years in service with the CIA.

2. As the DS&T AIRO, I am responsible for, among other responsibilities, conducting searches of DS&T Agency records systems in response to discovery requests in civil and criminal litigations and reviewing responsive material to ensure that classified information is protected from unauthorized disclosure.

3. The statements made in this declaration are based on my personal knowledge and information provided to me in my official capacity. In the course of my duties, I

have been made aware of this litigation, the Plaintiffs' claims, and the Plaintiffs' discovery requests. The purpose of this declaration is threefold:

First, I will describe the scope of the CIA's efforts in the 1970s and 1980s to investigate and disclose to the public the CIA's pre-1973 behavioral research programs;

Second, I will explain why the CIA has an extremely limited nexus to the Plaintiffs' claims because the CIA's exhaustive research of its records reflects that it did not conduct or fund research on military personnel; and

Third, I will describe the burden that the CIA would face in responding to Plaintiffs' discovery requests, most of which have little to no relationship to Plaintiffs' claims.

I. CIA's Past Investigations and Public Exposure of Information Concerning CIA's Behavioral Research Programs

4. As the Cold War developed after the end of World War II, the United States began to receive reports that the Soviet Union and China may have developed the capability to affect human behavior through the use of drugs. In response to these reports, the CIA determined that it needed to develop research capabilities to counter the threat perceived from these foreign adversaries. These research efforts included a handful of behavioral research programs, the largest and broadest of which was known internally as MKULTRA. The CIA generally did not attempt to develop its own research capability, but instead primarily supported scientific research into behavior modification underway at a number of universities and research organizations. Because this research was ongoing, the essential secret of the CIA's research programs was its covert support

for certain research. Nevertheless, the CIA's behavioral research programs were tightly guarded secrets through their termination in early 1973.

5. Beginning in 1975 with the Rockefeller Commission and the Pike and Church Committee investigations, the secret status of the CIA's behavioral research programs changed dramatically. The CIA's treatment of documents concerning its behavioral research programs before and after this pivotal point in time accordingly reflects polar extremes. Prior to 1975, the CIA's behavioral research programs were closely guarded by classification, compartmentation, and severe access limits. After 1975, the topic became one of the most thoroughly investigated and exposed aspects of the CIA's past activities.

6. Specifically, most information concerning these programs was publicly disclosed by the Agency in the 1970s and early 1980s. The CIA's efforts to publicly disclose information concerning CIA's behavioral research programs now include a standard set of documents for FOIA release containing over 20,000 pages of documents, which has been provided to Plaintiffs. I am informed that disclosures relating to the CIA's behavioral research programs were in response to an extensive number of requests, investigations, and lawsuits, including:

a) The Commission on CIA Activities within the United States (the "Rockefeller Commission"), an executive commission established by President Ford in January 1975;

b) Several Congressional investigations, including the 1975-76 investigation of the House Select Committee on Intelligence (the "Pike Committee"), the Senate Select Committee to Study Governmental Operations with Respect to

Intelligence Activities (the "Church Committee") investigation, the 1977 joint hearings of the Senate Select Committee on Intelligence and the Subcommittee on Health and Scientific Research of the Committee on Human Resources chaired by Senator Kennedy;

c) Numerous requests under the Freedom of Information Act ("FOIA"), including the litigation that resulted in the Supreme Court's decision in *CIA v. Sims* in 1985;

d) Civil litigations arising under the Federal Tort Claims Act, including *Orkilow v. CIA* in the District of the District Columbia, *Scott v. CIA* in the Northern District of Georgia, and *Kronisch v. United States* in the Southern District of New York;

e) An internal task force commissioned in 1978 by the Director of Central Intelligence to identify and notify the subjects of Agency-sponsored human subject drug research; and

f) President Clinton's Advisory Commission on Human Radiation Experiments, for which the CIA undertook to re-review its documents concerning CIA's behavioral research programs of the 1950s and 1960s, without limitation to a connection to radiation experimentation.

7. CIA's efforts to conduct searches and review documents in response to these investigations were wide ranging, and the CIA has substantively released the documents that it has identified.[1] The Agency conducted exhaustive hand searches of CIA files

[1] Again, the CIA's release consists of more than 20,000 pages of released documents, which Plaintiffs have been provided. The redactions in this release set consist primarily of the names of the specific researchers and organizations with which CIA contracted. In 1985, the United States Supreme Court ruled

designed to identify *all* records in its possession relating to *any* drug testing program sponsored by the CIA. To further emphasize the scope of the Agency's prior searches for documents, the Directorate of Operations[2] alone (one of the five directorates and organizational areas that compose the CIA) conducted a three-year search of its records in the late 1970s. Its search of only its then-inactive records involved hand-searching approximately 27,500 cubic feet of documents. The CIA also conducted a comprehensive search of its then-active records.

II. CIA's Limited Nexus to the Claims

8. Based on the CIA's extensive experience reviewing documents and investigating its past behavioral research programs, as discussed above, in my view only a discrete portion of its records even arguably could contain information relevant to Plaintiffs' claims. This discrete portion of the CIA's records relate to a program called "Project OFTEN," which contemplated, but did not consummate, funding research on military volunteer subjects at Edgewood Arsenal.

9. I am informed that the Plaintiffs' claims concern: (1) the lawfulness of the consent forms, to the extent that they required the individual Plaintiffs to take a secrecy oath; (2) whether Defendants may be compelled to provide test participants with information about the nature of the tests based on the Wilson Directive, Army regulation 70-25 (1962), and the Department of Justice ("DOJ") document cited in the complaint; and (3) whether test participants are entitled to Army-provided medical care.

10. Plaintiffs' discovery requests of the CIA sweep far beyond these claims. Plaintiffs' discovery demands include numerous document requests relating to the CIA's

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in *CIA v. Sims* that the National Security Act of 1947 protects from disclosure the identity of these researchers and organizations as intelligence sources and methods.

[2] The Directorate of Operations was the predecessor to the CIA's present National Clandestine Service.

behavioral research programs writ large, which again, did not include testing on military personnel. They even extend far beyond the CIA's behavioral research programs to issues wholly unrelated to human subject research, such as questions concerning a CIA component devoted to reproducing sensitive documents.

11. As described in Part I, the topic of the CIA's involvement in behavioral research programs has been publicly disclosed for over thirty years, and the CIA's involvement in such research has been thoroughly investigated and evaluated within the CIA and by Congress, an executive commission, and members of the public. After scouring the Agency for documents through these investigations and conducting extensive interviews of CIA personnel and DoD personnel, the Agency has concluded that it did not fund or conduct drug research on military personnel.

12. The Agency reached this conclusion after reviewing its documents and, in the 1970s as part of its internal investigations of its behavioral research programs, interviewing Army personnel at Edgewood Arsenal. The results of the Agency's review of its documents are that only Project OFTEN—a program separate and distinct from MKULTRA—contemplated research using military personnel.[3] The Agency's review of those documents determined that while Project OFTEN contemplated funding DoD testing of a single compound known as EA3167 on military personnel, the Agency terminated Project OFTEN in January 1973 and withdrew its funding before the human subject tests of EA3167 contemplated by Project OFTEN occurred. The CIA's review also reflected the conclusions of a 1975 interview report of Dr. Van Sim, an Edgewood Arsenal official and Army scientist who oversaw the EA3167 research at Edgewood

[3] The Agency has confirmed and publicly disclosed that it funded and/or conducted human subject drug tests through MKULTRA, but these tests did not involve military personnel.

Arsenal. Dr. Van Sim stated unequivocally that human subject testing using EA3167 had not been conducted using CIA funds. The CIA has already produced to the Plaintiffs the results of the review of Project OFTEN.

13. Despite CIA's conclusions about its limited nexus to drug testing on military personnel, the CIA has conducted extensive searches focused on Project OFTEN in response to Plaintiffs' discovery requests. In an abundance of caution, CIA has also searched for documents relating to the named Plaintiffs, Edgewood Arsenal, and Fort Detrick, where Plaintiffs allege to have volunteered to participate in DoD drug research. CIA has produced or noted in its privilege log all documents that relate to these subjects responsive to Plaintiffs' first set of Requests for Production ("RFPs"). Based on my knowledge of CIA's records systems, searches beyond those described in this paragraph are highly unlikely to identify documents relevant to Plaintiffs' limited claims.

14. In my review of the Plaintiffs' RFPs, I also identified requests that are wholly unrelated to the Plaintiffs' limited claims on their face. For example, RFP 126 requests "All DOCUMENTS CONCERNING any one or more of the following: The activities, functions, and purpose of the Graphic Arts Reproduction Branch ('GARB') of the Technical Services Division ('TSD'), as referred to in paragraph 4 of the Report of Inspection of MKULTRA/TSD, in the version of the CIA Inspector General Report produced by Defendants to Plaintiffs on Friday, April 30, 2010." As the title of the CIA's component "Graphic Arts Reproduction Branch" suggests, this component has nothing to do with drug research (human or otherwise), but rather was devoted to document reproduction. This is confirmed both within the paragraph cited by Plaintiffs' RFP ("The security considerations applying to [the redacted classified work of the

GARB] were found to be significantly different from those governing manipulation of human behavior.") and throughout the document ("These two sensitive fields are: a) Covert studies of biological and chemical warfare; b) *Reproduction of sensitive documents*." (emphasis added)).

III. The Extreme Burden on CIA to Respond to Plaintiffs' Overbroad Discovery Requests

15. The Plaintiffs have served a large number of diverse discovery requests in this matter. If the CIA were to respond to these requests, it would employ a consistent process for locating responsive records. Accordingly, I will describe the Agency's records systems and how searches are conducted generally. Using examples taken from Plaintiffs' RFPs served on the CIA, I will also describe the burden associated with responding to Plaintiffs' discovery requests.

16. CIA maintains information relating to the CIA's behavioral research programs of the 1950s and 1960s primarily in two records systems: the CIA's archived records, which are stored only in hardcopy, and the electronic CIA Automatic Declassification and Release Environment (a.k.a. CADRE). These records systems have been searched in the prior reviews described in Part II.

17. As described below, searching each system to respond to each of the Plaintiffs' RFPs would impose substantial burdens on the CIA and would be highly unlikely to discover information relevant to Plaintiffs' claims. Moreover, because of the CIA's wholesale declassification and public disclosure of documents concerning its behavioral research programs, the Plaintiffs are in substantially the same position as the CIA to identify documents responsive to their requests.

A. Archived Records

18. The CIA's archived records are stored in a remote location. Each file folder contains numerous documents in hardcopy form only; these files are not full-text searchable by any electronic system. The archived records are searchable only by use of an electronic index listing the title of each file folder in the archived records system. Therefore, a search of the electronic index can, at best, reveal individual archived file folders that could contain responsive records. File folders vary in size, but can include over 100 individual documents inside. Thus, for any potentially responsive file folder in the archived records, CIA personnel would have to retrieve the relevant boxes, unseal them, locate the correct file folders identified by the electronic index, and then manually review all of the documents in each folder merely to identify archived documents that might be responsive to Plaintiffs' request.

19. Plaintiffs' RFPs 133 and 134 provide instructive examples of the considerable burden required to search the Agency's archived records and the negligible relationship of the requests to the Plaintiffs' claims. RFP 133 requests "All DOCUMENTS CONCERNING any one or more of the following: All COMMUNICATIONS and MEETINGS between YOU and the "principal contractor" under Project OFTEN, as described in the first paragraph of the DOCUMENT bearing Bates stamp VVA023838, and all reports, recommendations, summaries, budgets, assignments, research, test results, and analysis CONCERNING the activities performed by the principal contractor." RFP 134 is similar, seeking the same litany of information related to the "subcontractor" described on the same page of the same document.[4]

[4] The names of the contractor and subcontractor discussed in VVA023838 have been redacted because they are intelligence sources protected from disclosure by the National Security Act of 1947.

20. I estimate that it would require approximately three months to collect and to review documents potentially responsive to these requests from the Agency archived records. These requests, however, bear no direct or indirect relationship to the Plaintiffs' claims concerning testing on human military personnel at Edgewood Arsenal. The face of VVA023838 makes clear that "principal contractor" and "subcontractor" for which Plaintiffs demand documents conducted *animal* research for the CIA.[5]

21. Extrapolating this example to the numerous RFPs at issue demonstrates the magnitude of the burden posed by Plaintiffs' RFPs. Considering the substantial number of RFPs and the considerable breadth of those requests, the task of searching the CIA's archived records in response to Plaintiffs' RFPs would place an inordinate burden on Agency resources. Moreover, as explained in Part II above, the CIA's prior extensive searches have not identified Agency involvement in testing on military personnel; there is therefore little reason to believe that the CIA's archived records contains documents relating to its behavioral research programs that have not previously been identified, reviewed, and released to the public. Thus, it is not reasonable to expect that this considerable burden would reveal any documents relevant to Plaintiffs' claims.

B. CADRE

22. CADRE is an electronic database that stores information processed pursuant to the Agency's information release programs, such as the FOIA, Privacy Act, and Mandatory Declassification Review programs. CADRE is full-text searchable and is entirely electronic, unlike the archived records described above. Even so, to conduct and

[5] VVA023838 states: "[The principal contractor] established and used test procedures with animals from which the behavioral effects of drugs and chemical compounds in humans could be predicted." The document containing VVA023838 is attached to this declaration as Attachment A.

process a search of the hundreds of Plaintiffs' RFP topics in the CADRE system would be unreasonable.

23. To illustrate, I conducted a preliminary search in CADRE relating to RFP 79, which demands "All DOCUMENTS CONCERNING any one or more of the following: The administration of LSD in eye drops in connection with the TEST PROGRAMS, and the health effects of the same."[6] While there were no hits that contained both LSD or lysergic and "eye drop," there were 236 hits on "lysergic" and over 9000 on "LSD" in CADRE. In order to evaluate the responsiveness of these documents, CIA personnel would have to review each document. The amount of time required to review and determine responsiveness would put an unreasonable burden on the CIA's already limited resources.

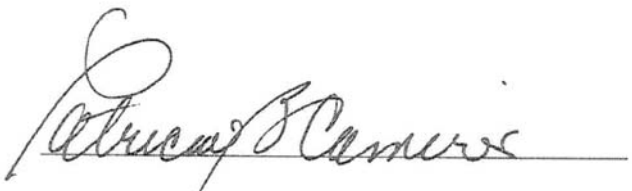
24. Moreover, due to the extensiveness of the CIA's public release of documents on its behavioral research programs, the Plaintiffs are in substantially the same position as the CIA to evaluate whether documents in CADRE relating to those programs are potentially responsive to their requests. Outside the scope of discovery, the CIA provided the Plaintiffs with a copy of the CIA's MKULTRA FOIA release, consisting of over 20,000 pages of documents extending beyond MKULTRA to cover the Agency's documents relating to behavioral research programs. This set contains the released versions of contemporaneous documents that exist in CADRE concerning the Agency's behavioral research programs.

[6] To my knowledge, none of the plaintiffs have alleged that any of the defendants administered LSD or any other substance in eyedrops to any of them.

Conclusion

25. The scope of Plaintiffs' claims is limited and the public's access to information about the CIA's past behavioral research programs is extensive. Engaging in a repeated search of the same files (many paper-based) at this late date could be expected to impose substantial burden on the CIA—taking employees away from their duties in furtherance of the Agency's missions—but likely adding nothing to CIA's discovery responses.

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of August 2010.



Patricia B. Cameresi
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Directorate of Science & Technology
Central Intelligence Agency

Attachment A

INFLUENCING HUMAN BEHAVIOR

ACTIVITY - Drug Research

PROGRAM - To develop ways for predictably influencing human behavior through the use of drugs.

The drug research program began in FY-1966 with a proposed Behavioral Pharmacology program. The program objective was to develop an Agency capability to manipulate human behavior in a predictable manner through the use of drugs. Examples of operational situations where use of drugs might help were interrogation situations, penetration of guarded areas, covert action, and paramilitary operations.

A phased program was envisioned that would consist of the acquisition of drugs and chemical compounds having desired behavioral effects, testing and evaluating these materials through primary and secondary procedures and toxicological studies. Promising compounds from tests with animals were to be clinically evaluated with human subjects. It was proposed that when testing with human subjects was required the tests would be done jointly with the Chemical Research and Development Laboratory, Edgewood Arsenal Research Laboratories (EARL), and the U.S. Army. Substances of potential use, uncovered in testing, were to be further structurally analyzed so that new derivatives with greater utility could be synthesized.

Samples of drugs and chemicals for testing in the program were obtained from drug and pharmaceutical companies, government agencies (EARL, NIH, FDA, and VA), research laboratories, and other researchers; most came from the drug industries where the substance had been rejected because of undesired side effects.

The program was made up of Projects OFTEN and CHICKWIT. Project OFTEN dealt with the testing of behavioral and toxicological effects of drugs in animals and ultimately in humans; Project CHICKWIT, with the acquisition of information and samples of new drug developments in Europe and the Far East.

A special review panel with members from ORD and TSD was organized to oversee the research program and to assist in the selection of compounds for testing. Panel meetings were held periodically for progress reports and program guidance. On several occasions upper management including the DCI, the Executive Director/Comptroller, DDP, and the DD/S&T were briefed on the drug research program.

SECRET [ ]

The principal contractor under Project OFTEN was [redacted] which received its first contract in FY-1966 (Table 1) and continued under contract until January 1973 when the contract was terminated by direction from the DCI. [redacted] established and used test procedures with animals from which the behavioral effects of drugs and chemical compounds in humans could be predicted. As the program progressed, additional secondary screening procedures were introduced using nonhuman primates as necessary prerequisites to testing with humans. [redacted] employed [redacted] as a subcontractor, who provided information on new drugs and chemicals and assisted in the screening and testing of selected new drugs and chemicals.

Synthesis of new drugs or derivatives for Project OFTEN was done by [redacted] (Table 2). Their first work began in mid FY-1971 and was also terminated with the directive from the DCI in January 1973.

[redacted] George Washington University, performed several literature surveys for the program [redacted] (Table 3).

Association with Edgewood Arsenal Research Laboratories started in FY-1967 with a transfer of Project CHICKWIT funds to EARL to jointly support [redacted] collection of information on and samples of new drugs in Europe and the Far East (Table 4). Out of this association with EARL came information and samples of new drugs obtained [redacted] and EARL results on the clinical testing and screening of new drugs and chemical compounds using animals and humans as test subjects. These data were merged with test data and information from other sources into a computer controlled data base.

Analysis of the Edgewood file data identified EA#3167 as a potential incapacitant. Edgewood Arsenal had partially investigated EA#3167 with animals and found it to be effective percutaneously, in tests with humans the drug had been only administered intermuscularly. Our interest in further testing of EA#3167 arose from its potential threat to U.S. VIP's and other key personnel if, indeed, it could be easily administered by oral or trans-dermal routes. Our joint effort with EARL to test the compound began with the $37,000 transfer in FY-1971 to support additional pharmacological studies and clinical testing with human volunteer subjects (five prisoners from Holmesburg State Prison, Holmesburg, Pa., and fifteen military volunteers) in the Edgewood program. The protocol used by Edgewood in enlisting volunteers for the EA#3167 testing and the safeguards practiced during testing were analogous to those stated in the

unclassified Report Number VII, ID50 of Agent 926 by Dr. Herbert W. Copelan, Ivy Research Laboratories, Inc., submitted in May, 1970, to the Medical Research Laboratories, Directorate of Laboratories, Edgewood Arsenal, namely:

> "The human subject in this test conducted by this organization are volunteers. There is no coercion or inducement to volunteer except for incentive pay utilized as a part of the test procedure and payment for discomfort of blood testing and screening procedures. Stringent medical safeguards surround every human test."

Although a final report on this effort is not available, we were informed that EA#3167 can be effectively administered by both oral and trans-dermal routes with after effects lasting up to six weeks.

Agency support to the clinical testing of EA#3167 and collection of information on and samples of foreign drug developments was terminated in January 1973. Because of the prolonged after-effects of EA#3167, additional charges to the contract were made after this date for necessary post-test follow-up observations and examinations of the volunteer.