

Exhibit A

Exhibit A

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15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 OAKLAND DIVISION

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

Case No. CV 09-0037-CW

**DEFENDANTS' RESPONSE TO
 PLAINTIFFS' INTERROGATORIES**

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 26 Defendants Central Intelligence Agency and its Director Leon Panetta (collectively,
 27 "CIA"); United States Department of Defense and its Secretary, Robert M. Gates, and the United
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1 States Army and its Secretary, Pete Geren (collectively, “DoD”); and United States Department
2 of Justice and the Attorney General of the United States (collectively, “DOJ”) in this civil action,
3 by and through undersigned counsel, hereby submit the following responses to Plaintiffs’
4 Interrogatories based on the searches conducted to date and further recognize their duty to
5 supplement these responses according to Federal Rule of Civil Procedure 26(e)(1):
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7 **GENERAL RESPONSES**

8 1. The information submitted herewith is being provided in accordance with the
9 Federal Rules of Civil Procedure which permit the discovery of any matter not privileged that is
10 relevant to the subject matter of this civil action. Fed. R. Civ. P. 26(b)(1). Accordingly,
11 Defendants do not, by providing such information, waive any objection to its admissibility on the
12 grounds of relevance, materiality, or other appropriate ground.

13 2. The responses supplied herein are not based solely on the knowledge of the
14 executing party, but include the knowledge of the Defendants, their agents, employees,
15 representatives, and attorneys, unless privileged.

16 3. To the extent that Defendants produce documents, Defendants do not concede that
17 the information requested is relevant to this action. Defendants expressly reserve the right to
18 object to further discovery of the subject matter of the request for production of documents and
19 the introduction into evidence of any answer or portion thereof or any document produced in
20 response to these Document Requests.
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22 **GENERAL OBJECTIONS**

23 1. Defendants object to Plaintiffs’ Interrogatories, including all definitions and
24 instructions contained therein, to the extent they seek to impose obligations beyond those
25 specified under the Federal Rules of Civil Procedure or other applicable rules. All of Defendant’s
26 responses to Plaintiffs’ requests herein are subject to and without waiver of this objection.
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1 2. Defendants object to Plaintiffs' definitions of "COMMUNICATION,"
2 "COMMUNICATIONS," "DOCUMENT," "DOCUMENTS," "MEETING" or "MEETINGS" to
3 the extent that they seek identification of electronic mail or other electronic records that are not in
4 word-searchable format, including, but not limited to, any computer backup tapes. Defendants
5 further object to Plaintiffs' definition of "COMMUNICATION," "COMMUNICATIONS,"
6 "MEETING" or "MEETINGS" to the extent that they seek information that had been solely
7 vested in personnel who are unavailable due to retirement, death, or other causes. Such
8 definitions render any corresponding requests unduly burdensome and not reasonably calculated
9 to lead to the discovery of admissible evidence, and the burden of any such proposed discovery
10 outweighs its likely benefit.

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12 3. Defendants object to Plaintiffs' definition of "TEST PROGRAMS" as overly
13 broad. The term "TEST PROGRAM" is defined to include, "without limitation," specifically
14 identified test programs "and any other program of experimentation involving human testing of
15 any substance[.]" Such a definition renders any corresponding requests unduly burdensome and
16 not reasonably calculated to lead to the discovery of admissible evidence, as this definition has
17 the potential to encompass clinical trials and other human tests in any setting, under any
18 circumstances, and within any time frame. As most literally responsive records are wholly
19 unrelated to the subjects of this litigation, Defendants have limited both their search for
20 information responsive to Plaintiffs' interrogatories and their corresponding responses to relevant
21 information pertaining to the specified test programs and other chemical or biological testing
22 involving service members conducted in conjunction with the Edgewood Arsenal area of
23 Aberdeen Proving Ground, Maryland, Fort Detrick, Maryland and Fort Ord, California. In
24 addition, Defendant CIA conducted searches regarding CIA research programs, and provided
25 corresponding responses to Plaintiffs' interrogatories, limited to relevant information pertaining
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1 to Project OFTEN, the only CIA program known to CIA to have contemplated testing on military
2 personnel.

3 4. Defendants object to Plaintiffs' definition of "TEST SUBJECT" or "TEST
4 SUBJECTS" as overly broad. The term "TEST SUBJECT(S)" is defined to include "any person
5 who . . . participated in any experiment that was part of, or related to, the TEST PROGRAMS."
6 Such a definition renders any corresponding request unduly burdensome and not reasonably
7 calculated to lead to the discovery of admissible evidence, as this definition has the potential to
8 encompass individuals involved in clinical trials and other human tests in any setting, under any
9 circumstances, and within any time frame. As most literally responsive records are wholly
10 unrelated to the subjects of this litigation, Defendants have limited both their search for
11 information responsive to Plaintiffs' interrogatories and their corresponding responses to relevant
12 information pertaining to the specified test programs and other chemical or biological testing
13 involving service members conducted in conjunction with the Edgewood Arsenal area of
14 Aberdeen Proving Ground, Maryland, Fort Detrick, Maryland and Fort Ord, California. In
15 addition, Defendant CIA conducted searches regarding CIA research programs, and provided
16 corresponding responses to Plaintiffs' interrogatories, limited to relevant information pertaining
17 to Project OFTEN, the only CIA program known to CIA to have contemplated testing on military
18 personnel.
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22 5. Defendants object to Plaintiffs' Interrogatories to the extent they request
23 information that is not reasonably calculated to lead to the discovery of admissible evidence.

24 6. Defendants object to identifying or providing any files, records, reports, and any
25 other papers and documents pertaining to any individual other than the individually named
26 Plaintiffs to the extent that such information is protected by the Privacy Act, 5 U.S.C. § 552a, the
27 Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. § 1320d-2,
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1 the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164. Defendants further object to
2 Plaintiffs' request for identification of documents to the extent they seek information protected
3 from disclosure by the attorney-client privilege, the work product doctrine, deliberative process,
4 or any other applicable privilege or immunity recognized under statute, regulation or applicable
5 case law. In conformance with Fed. Rule Civ. P. 26(b)(5), Defendants will describe the nature of
6 any documents that are withheld as privileged or subject to protection as attorney work product.
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8 7. Defendants object to Plaintiffs' Interrogatories to the extent they seek information
9 from any individual or entity other than Defendants or to the extent they seeks information that is
10 publicly available, and/or that is equally or more readily available to Plaintiffs.

11 8. Defendants object to Plaintiffs' Interrogatories to the extent they demand the
12 identification of documents or information not within the possession, custody, or control of
13 Defendants.
14

15 9. Defendants object to Plaintiffs' Interrogatories to the extent that they seek
16 information that is classified pursuant to Executive Order 12,958, its predecessor, or its
17 successors, and subject to the state secrets privilege or otherwise subject to the state secrets
18 privilege.
19

20 10. Defendants further object to the instructions and definitions set forth in Plaintiffs'
21 Interrogatories to the extent they impose obligations on Defendants that require disclosures of
22 information protected pursuant to the Central Intelligence Agency Act of 1949, 50 U.S.C. § 403g,
23 which authorizes the CIA to protect the organization, functions, names, official titles, and salaries
24 of all of its employees notwithstanding any other provisions of law. All of Defendants' responses
25 to Plaintiffs' Interrogatories requests herein are subject to and without waiver of this objection.
26

27 11. Defendant DOJ objects to Plaintiffs' Interrogatories to the extent they demand that
28 DOJ identify documents or information not relevant to the claims against DOJ and the Attorney

1 General. Plaintiffs' Second Amended Complaint ("SAC") references the DOJ or Attorney
2 General in only three paragraphs, and all three paragraphs pertain solely to Plaintiffs' claims
3 regarding the identification and notification of participants in government test programs. Second
4 Am. Compl. ¶¶13, 14, 98. Paragraph 13 alleges both that the CIA testified that it was working
5 with the Attorney General regarding the identification of test participants and that the Attorney
6 General participated in efforts to locate test participants. *Id.* ¶ 13. Paragraph 14 characterizes a
7 DOJ opinion regarding whether the CIA had a duty to locate participants in the CIA's
8 MKULTRA program. *Id.* ¶ 14. Paragraph 98 then expressly states that the Attorney General "is
9 named solely in his official capacity and in connection with the Attorney General's assumption of
10 responsibility to notify the victims of biological and chemical weapons tests." *Id.* ¶ 98. It would
11 be unduly burdensome and not reasonably calculated to lead to the discovery of admissible
12 evidence to require DOJ to search for documents and information not relevant to the claims
13 specifically pertaining to DOJ or the Attorney General. Based on Plaintiffs' claims in the SAC,
14 therefore, Defendant DOJ has limited its search and response to information relevant to the
15 allegations in the SAC that pertain to DOJ and the Attorney General.

18 12. Defendants object to Instruction 4 as unduly burdensome insofar as it seeks
19 documents created, received, or dated between January 1, 1941 and the present, a span of nearly
20 70 years.

22 13. To the extent that Defendants identify documents, they do not concede that the
23 information requested is relevant to this action. Defendants expressly reserve the right to object
24 to further discovery of the subject matter of these Interrogatories and the introduction into
25 evidence of any answer or portion thereof or any document produced in response to these
26 Interrogatories.

1 14. Each of the foregoing statements and/or objections is incorporated by reference
2 into each and every specific response set forth below. Notwithstanding the specific responses to
3 any document request, Defendants do not waive any of their General Objections.
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6 **SPECIFIC OBJECTIONS AND RESPONSES TO REQUESTS
7 FOR PRODUCTION**

8 **INTERROGATORY NO. 1:**

9 For each TEST PROGRAM and any sub-projects, please IDENTIFY all PERSONS who
10 directed, designed or carried out experiments involving TEST SUBJECTS.

11 OBJECTION

12 Defendants object to this Interrogatory for the reasons described in General Objections 3–
13 6 and 9–12. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the
14 claims remaining in this action, and not reasonably calculated to lead to the discovery of
15 admissible evidence, and protected from disclosure by one or more privileges or immunities.
16

17 RESPONSE

18 Subject to these objections and Defendants’ General Objections above, Defendants
19 respond as follows:

- 20 • DoD: DoD does not have a roster or list of all the individuals who directed,
21 designed or carried out experiments, though some names may appear in documents
22 or reports produced March 25, 2010.
23 • CIA: Pursuant to General Objection 10, CIA has no response to this interrogatory.
24 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
25 related to this interrogatory.
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1 **INTERROGATORY NO. 2:**

2 Please IDENTIFY all known TEST SUBJECTS, including the dates of participation.

3 **OBJECTION**

4 Defendants object to this Request on the ground that it seeks information protected by the
5 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
6 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
7 and for the reasons described in General Objections 4–8 and 11–12. Defendants further object to
8 Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, and not
9 reasonably calculated to lead to the discovery of admissible evidence.
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11 **RESPONSE**

12 Subject to these objections and Defendants’ General Objections above, Defendants
13 respond as follows:
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- 15 • DoD: DoD produced a copy of the DoD chem-bio database (VVA 029358) as of
16 March 2010 that identifies each service member participant, albeit not by name,
17 the substance(s) tested, and provides additional information about the tests,
18 including the amount administered and route of administration (e.g., oral or
19 percutaneous), where available. Pursuant to the objections state above and
20 Defendants’ General Objections, DoD has no further information responsive to
21 this request.
22
- 23 • CIA: CIA has a copy of certain potentially responsive, classified DoD information
24 contained on magnetic tapes that are unreadable to CIA. CIA also has printout of
25 classified DoD information that it believes to be the contents of the magnetic
26 tapes. Pursuant to General Objection 9, CIA has no further response to this
27 interrogatory.
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- 1 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
2 related to this interrogatory.

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5 **INTERROGATORY NO. 3:**

6 For each TEST SUBJECT, IDENTIFY the TEST PROGRAM project and/or sub-project
7 in which the TEST SUBJECT was involved.

8 OBJECTION

9 Defendants object to this Request on the ground that it seeks information protected by the
10 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
11 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
12 and for the reasons described in General Objections 3–6 and 11–12. Defendants further object to
13 Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, and not
14 reasonably calculated to lead to the discovery of admissible evidence.

15 RESPONSE

16 Subject to these objections and Defendants’ General Objections above, Defendants
17 respond as follows:
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- 19 • DoD: DoD produced a copy of the DoD chem-bio database (VVA 029358) as of
20 March 2010 that identifies each service member participant, albeit not by name,
21 the substance(s) tested, and provides additional information about the tests,
22 including the amount administered and route of administration (e.g., oral or
23 percutaneous), where available. DoD also previously produced documents
24 responsive to RFP # 3.
25 • CIA: CIA has no information that is responsive to this request.
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- 1 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
2 related to this interrogatory.
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5 **INTERROGATORY NO. 4:**

6 Please IDENTIFY all COMMUNICATIONS between YOU and any TEST SUBJECT or
7 other former service members whom YOU believe or understand to have participated in the
8 TEST PROGRAMS.

9 OBJECTION

10 Defendants object to this Request on the ground that it seeks information protected by the
11 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
12 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
13 and for the reasons described in General Objections 2–6 and 12. Defendants further object for the
14 reasons identified in General Objection 8 in so far as the requested information is in the
15 possession of a third party, the Department of Veterans Affairs (“VA”). Finally, Defendants
16 object to Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, not
17 reasonably calculated to lead to the discovery of admissible evidence, and protected from
18 disclosure by one or more privileges or immunities.
19

20 RESPONSE

21 Subject to these objections and Defendants’ General Objections above, Defendants
22 respond as follows:
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- 24 • DoD: DoD previously produced documents responsive to RFP ## 13 and 49.
25 • CIA: CIA previously produced documents responsive to RFP # 14.
26 • DOJ: Based on the searches conducted to date, DOJ has identified no information
27 that is responsive to this request.
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INTERROGATORY NO. 5:

Please IDENTIFY all DOCUMENTS that reflect the results of experiments for the TEST PROGRAMS that used TEST SUBJECTS.

OBJECTION

Defendants object to this Interrogatory for the reasons described in General Objections 2–9 and 11–12. Defendants further object to Plaintiffs’ request as overly broad, vague, not reasonably calculated to lead to the discovery of admissible evidence, and protected from disclosure by one or more privileges or immunities.

RESPONSE

Subject to these objections and Defendants’ General Objections above, Defendants respond as follows:

- DoD: DoD produced a copy of the DoD chem-bio database (VVA 029358) as of March 2010 that identifies each service member participant, albeit not by name, the substance(s) tested, and provides additional information about the tests, including the amount administered and route of administration (e.g., oral or percutaneous), where available. DoD also previously produced documents responsive to RFP ## 3, 17, 20, 25, 32, 57, 67, 72, and 73.
- CIA: CIA has approximately six DoD documents that may be responsive. CIA also provided documents in its initial disclosures that may be responsive. Pursuant to General Objection 9–10, no further information may be provided.
- DOJ: Pursuant to General Objection 11, DOJ has not searched for information related to this interrogatory.

1 **INTERROGATORY NO. 6:**

2 Please IDENTIFY all repositories of DOCUMENTS CONCERNING the TEST
3 PROGRAMS.

4 **OBJECTION**

5 Defendants object to this Interrogatory for the reasons described in General Objections 2–
6 3, 5, 7–8, and 12. Defendants further object to Plaintiffs’ request as overly broad and not
7 reasonably calculated to lead to the discovery of admissible evidence. Finally, Defendants object
8 on the ground that the term “repositories” is not defined.

9 **RESPONSE**

10 Subject to these objections and Defendants’ General Objections above, Defendants
11 respond as follows:
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- 14 • DoD: DoD previously produced documents responsive to RFP ## 3 and 26.
15 Additionally, the National Archives serves as a depository for DoD documents.
 - 16 • CIA: The National Archives serves as a depository for CIA documents.
 - 17 • DOJ: For the period at issue, any records of the Attorney General, Deputy
18 Attorney General, or the Associate Attorney General would have been paper
19 records and would have been accessioned by the National Archives of the United
20 States. Based on the searches conducted to date, the Office of Legal Counsel has
21 identified an internal electronic database that allows OLC personnel to locate
22 documents prepared by OLC from 1945 to the present.
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25 **INTERROGATORY NO. 7:**

1 Please IDENTIFY all reported, observed and/or claimed violations of the Wilson
2 Memorandum, attached as Exhibit C to the First Amended Complaint, and ALL MEETINGS
3 CONCERNING the same.

4 OBJECTION

5 Defendants object to this Interrogatory for the reasons described in General Objections 2,
6 5–6, 9, and 11–12. Defendants object to Plaintiffs’ request as overly broad, irrelevant to the
7 claims remaining in this action, not reasonably calculated to lead to the discovery of admissible
8 evidence, and protected from disclosure by one or more privileges or immunities.
9

10 RESPONSE

11 Subject to these objections and Defendants’ General Objections above, Defendants
12 respond as follows:

- 13 • DoD: DoD previously produced documents responsive to RFP # 73.
- 14 • CIA: CIA has no information that is responsive to this request.
- 15 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
16 related to this interrogatory.
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20 **INTERROGATORY NO. 8:**

21 For each TEST SUBJECT, please IDENTIFY whether that TEST SUBJECT received any
22 notice or warning from YOU CONCERNING the TEST SUBJECT’S participation in the TEST
23 PROGRAMS or CONCERNING any substance to which the TEST SUBJECT was exposed, after
24 the TEST SUBJECT’S participation in the TEST PROGRAMS had concluded, and IDENTIFY
25 the notice or warning and the date on which it was sent.
26

27 OBJECTION

1 Defendants object to this Request on the ground that it seeks information protected by the
2 Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and Accountability Act of 1996
3 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or 45 C.F.R. parts 160 and 164,
4 and for the reasons described in General Objections 3–6 and 12. Defendants further object for the
5 reasons identified in General Objection 8 in so far as the requested information is in the
6 possession of a third party, the VA. Finally, Defendants object to Plaintiffs’ request as overly
7 broad, irrelevant to the claims remaining in this action, and not reasonably calculated to lead to
8 the discovery of admissible evidence.

9
10 RESPONSE

11 Subject to these objections and Defendants’ General Objections above, Defendants
12 respond as follows:

- 13 • DoD: DoD previously produced documents responsive to RFP # 10.
- 14 • CIA: CIA has no information that is responsive to this request.
- 15 • DOJ: Based on the searches conducted to date, DOJ has identified no information
16 that is responsive to this request.
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20 INTERROGATORY NO. 9:

21 For each database YOU have used to record or preserve information CONCERNING
22 TEST SUBJECTS or the TEST PROGRAMS, please IDENTIFY each, including the purpose,
23 period of time it was active, and software and hardware requirements.

24 OBJECTION

25 Defendants object to this Interrogatory for the reasons described in General Objections 3–
26 6 and 11–12. Defendants further object to Plaintiffs’ request as overly broad, not reasonably
27 calculated to lead to the discovery of admissible evidence, and protected from disclosure by one
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1 or more privileges or immunities. Finally, Defendants object because the disclosure of software
2 and hardware requirements is not relevant to the claims in this action and this request is not
3 reasonably calculated to lead to the discovery of admissible evidence.

4 RESPONSE

5 Subject to these objections and Defendants' General Objections above, Defendants
6 respond as follows:
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- 8 • DoD: DoD produced the contents of its chem-bio database (VVA 029358) as of
9 March 2010. The purpose of the database is to identify each service member
10 participant, though names have been redacted pursuant to the objections above, the
11 substance(s) tested, and any additional information about the tests, including the
12 amount administered and route of administration (e.g., oral or percutaneous),
13 where available. Pursuant to the objections stated above, DoD can provide no
14 further information responsive to this request.
15
- 16 • CIA: CIA has a copy of certain potentially responsive, classified DoD information
17 contained on magnetic tapes that are unreadable to CIA. CIA also has printout of
18 classified DoD information that it believes to be the contents of the magnetic
19 tapes. Pursuant to General Objection 9, CIA has no further response to this
20 interrogatory.
21
- 22 • DOJ: Pursuant to General Objection 11, DOJ did not search for information
23 related to this interrogatory as it pertains to "TEST PROGRAMS." With regard to
24 this request as it pertains to "TEST SUBJECTS," DOJ is not aware of any
25 databases that existed for the Attorney General, Deputy Attorney General, or
26 Associate Attorney General at that time; records were maintained in paper format.
27 DOJ's Executive Secretariat maintains a correspondence tracking system, which
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1 reflects the dates of correspondence. Based on the searches conducted to date, the
2 Office of Legal Counsel has identified an internal electronic database that allows
3 OLC personnel to locate documents prepared by OLC from 1945 to the present.
4

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6 **INTERROGATORY NO. 10:**

7 Please IDENTIFY the full text of all DOCUMENTS CONCERNING the TEST
8 PROGRAMS withheld from prior releases in response to FOIA requests or requests from
9 Congress, the DAIG, or any other investigatory agency or department, and the full text of any
10 DOCUMENTS which were provided in response to any such request only in redacted form.
11

12 **OBJECTION**

13 Defendants object to this Interrogatory for the reasons described in General Objections 2–
14 3, 5–7, 9-10, and 11–12. Defendants further object to Plaintiffs’ request as overly broad, unduly
15 burdensome, irrelevant to the claims remaining in this action, and not reasonably calculated to
16 lead to the discovery of admissible evidence, and protected from disclosure by one or more
17 privileges or immunities.
18

19 **RESPONSE**

20 Subject to these objections and Defendants’ General Objections above, Defendants
21 respond as follows:

- 22
- 23 • DoD: Any responsive documents in the DoD’s care, custody, or control may only
24 be identified and released subject to a protective order.
 - 25 • CIA: Any responsive documents in the CIA’s care, custody, or control are
26 protected from disclosure by one or more privileges or immunities, the reasons
27 stated in General Objections 9 and 10, and because such a request would be unduly
28 burdensome.

- 1 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
2 related to this interrogatory.
3

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5 **INTERROGATORY NO. 11:**

6 Please IDENTIFY all DOCUMENTS and COMMUNICATIONS CONCERNING any
7 release from secrecy oaths of any TEST SUBJECT.

8 OBJECTIONS

9 Defendants object to this Interrogatory for the reasons described in General Objections 2,
10 4, 6–7, and 11–12. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to
11 the claims remaining in this action, not reasonably calculated to lead to the discovery of
12 admissible evidence, and protected from disclosure by one or more privileges or immunities.

13 RESPONSE

14 Subject to these objections and Defendants’ General Objections above, Defendants
15 respond as follows:
16

- 17 • DoD: DoD previously produced documents responsive to RFP # 2.
18 • CIA: CIA has no information that is responsive to this request.
19 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
20 related to this interrogatory.
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24 **INTERROGATORY NO. 12:**

25 For each project and sub-project in the TEST PROGRAMS, please indicate whether or
26 not the CIA was involved in any way, and, if so, describe that involvement in complete detail, and
27 IDENTIFY all PERSONS who were involved.
28

1 OBJECTION

2 Defendants object to this Interrogatory for the reasons described in General Objections 3,
3 5–7, and 9–10, and 11–12. Defendants further object to Plaintiffs’ request because it contains
4 two distinct subparts and because it is overly broad, irrelevant to the claims remaining in this
5 action, not reasonably calculated to lead to the discovery of admissible evidence, and protected
6 from disclosure by one or more privileges or immunities.
7

8 RESPONSE

9 Subject to these objections and Defendants’ General Objections above, Defendants
10 respond as follows:

- 11 • DoD: DoD has no information that is responsive to this request.
- 12 • CIA: Project OFTEN involved a joint testing program with Edgewood Arsenal
13 Research Laboratories and CIA between approximately 1967 and 1973. Though
14 this program contemplated testing on volunteer military personnel, CIA’s past
15 reviews determined that the CIA ceased its funding for the testing program prior to
16 the advancement of the program to the human testing phase. Defendants produced
17 a copy of “Historical Documentation of the [CIA’s] Role in the Human Subject
18 Test Program at Edgewood Arsenal Research Laboratories” (Oct. 21, 1994) as part
19 of their initial disclosures. (VVA 023789-023965)
- 20 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
21 related to this interrogatory.
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26 **INTERROGATORY NO. 13:**

27 Please IDENTIFY all PERSONS who died as a result of their participation in the TEST
28 PROGRAMS, and for each such PERSON identify the TEST PROGRAM project or sub-project

1 in which that PERSON participated, and the substances or chemicals to which that PERSON was
2 exposed as part of the TEST PROGRAMS.

3 OBJECTION

4 Defendants object to this Interrogatory for the reasons described in General Objections 3,
5 5-7, 9, and 11–12. Defendants also object to Plaintiffs’ request as overly broad, irrelevant to the
6 claims remaining in this action, protected from disclosure by one or more privileges or
7 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.
8

9 RESPONSE

10 Subject to these objections and Defendants’ General Objections above, Defendants
11 respond as follows:

- 12 • DoD: DoD has no information that is responsive to this request.
- 13 • CIA: CIA has no information that is responsive to this request.
- 14 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
15 related to this interrogatory.
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19 **INTERROGATORY NO. 14:**

20 Please IDENTIFY all TEST SUBJECTS who, after signing a consent to participate in the
21 TEST PROGRAMS, revoked consent or refused to continue participation, and summarize the
22 outcome of each case.

23 OBJECTION

24 Defendants object to this Interrogatory for the reasons described in General Objections 3-
25 4, 5–6, 9, and 11–12. Defendants object to Plaintiffs’ request as irrelevant to the claims
26 remaining in this action, protected from disclosure by one or more privileges or immunities, and
27 not reasonably calculated to lead to the discovery of admissible evidence.
28

1 RESPONSE

2 Subject to these objections and Defendants' General Objections above, Defendants
3 respond as follows:

- 4 • DoD: DoD previously produced documents responsive to RFP # 73.
- 5 • CIA: CIA has no information that is responsive to this request.
- 6 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
7 related to this interrogatory.
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11 **INTERROGATORY NO. 15:**

12 Please provide the text of each form of consent used in the conduct of the TEST
13 PROGRAMS, indicating the period of time it was operative.

14 OBJECTION

15 Defendants object to this Interrogatory for the reasons described in General Objections 3,
16 5-7, 9, and 11-12. Defendants further object to Plaintiffs' request as overly broad, and irrelevant
17 to the claims remaining in this action, protected from disclosure by one or more privileges or
18 immunities.
19

20 RESPONSE

21 Subject to these objections and Defendants' General Objections above, Defendants
22 respond as follows:

- 23 • DoD: DoD previously provided signed consent forms by all named plaintiffs in its
24 response to Plaintiffs' Request for Production ## 10 and 73. Pursuant to the
25 objections stated above, DoD can provide no further information responsive to this
26 request.
27
28

- CIA: CIA has no information that is responsive to this request.
- DOJ: Pursuant to General Objection 11, DOJ has not searched for information related to this interrogatory.

INTERROGATORY NO. 16:

Please describe in complete detail all efforts YOU made to contact or locate TEST SUBJECTS once their participation in the TEST PROGRAMS had concluded.

OBJECTION

Defendants object to this Interrogatory for the reasons described in General Objections 3, 5–7, 9–10, and 12. Defendants further object for the reasons identified in General Objection 8 in so far as the requested information is in the possession of a third party, the Department of Veterans Affairs (“VA”). Finally, Defendants object to Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more privileges or immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE

Subject to these objections and Defendants’ General Objections above, Defendants respond as follows:

- DoD: In the 1990s, DoD provided a list of names of test subjects with exposure to mustard to the VA. From 2000 to 2003, DoD provided the VA with a list of service members exposed to chemical and biological warfare agents and stimulants during the 1960s and 1970s. DoD provided an additional list of service members participating in testing on identifying and treating exposures to chemical and

1 biological warfare agents to the VA in 2004, and updates that list monthly based
2 on reports from Batelle.

- 3
- 4 • CIA: CIA efforts to locate human subjects of Project OFTEN determined that the
5 CIA's funding of the program ceased before it progressed to human subject
6 testing. CIA also provided documents in its initial disclosures that may be
7 responsive. Pursuant to General Objection 9–10, no further information may be
8 provided.
 - 9 • DOJ: Based on the searches conducted to date, DOJ has identified no information
10 that is responsive to this request.
- 11

12

13 **INTERROGATORY NO. 17:**

14 Please IDENTIFY and describe all COMMUNICATIONS between or among
15 DEFENDANTS and/or between DEFENDANTS and the DVA CONCERNING this action,
16 including without limitation, the facts alleged in the Complaint or the First Amended Complaint
17 and the discovery served upon the DVA.

18

19 **OBJECTION**

20 Defendants object to this Interrogatory for the reasons described in General Objections 2,
21 5-6, 8, and 9–10. Defendants further object to Plaintiffs' request as overly broad, irrelevant to the
22 claims remaining in this action, protected from disclosure by one or more privileges or
23 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

24

25 **RESPONSE**

26 The above stated objections and Defendants' General Objections comprise Defendants'
27 entire response to this interrogatory.

28

1 **INTERROGATORY NO. 18:**

2 Please IDENTIFY and describe all COMMUNICATIONS between or amongst
3 DEFENDANTS, or any of them, and the DVA, and IDENTIFY all DOCUMENTS,
4 CONCERNING the results of tests or experiments involving any chemical or biological
5 substance conducted by the DVA using veterans as subjects between 1975 and the present.
6

7 **OBJECTION**

8 Defendants object to this Interrogatory for the reasons described in General Objections 2,
9 and 5–7 and 9–10. Defendants further object for the reasons identified in General Objection 8 in
10 so far as the requested information is in the possession of a third party, the VA. Finally,
11 Defendants object to Plaintiffs’ request as having multiple parts, overly broad, irrelevant to the
12 claims remaining in this action, protected from disclosure by one or more privileges or
13 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.
14

15 **RESPONSE**

16 The above stated objections and Defendants’ General Objections comprise Defendants’
17 entire response to this interrogatory.
18

19 **INTERROGATORY NO. 19:**

20 Please IDENTIFY each substance administered to any PERSON as part of the TEST
21 PROGRAMS that caused or contributed to or was asserted to cause or contribute to any type of
22 mental disease or condition, including, without limitation, depression or post-traumatic stress
23 disorder, shell shock, combat fatigue, and IDENTIFY all DOCUMENTS CONCERNING the
24 incidence and nature of mental health care problems experienced by any such PERSON exposed
25 to such substances as part of the TEST PROGRAMS.
26

27 **OBJECTION**

1 Defendants object to this Interrogatory for the reasons described in General Objections 3,
2 5–7, 9–10, and 11–12. Defendants further object to Plaintiffs’ request as having multiple parts,
3 overly broad, irrelevant to the claims remaining in this action, protected from disclosure by one or
4 more privileges or immunities, and not reasonably calculated to lead to the discovery of
5 admissible evidence. In addition, Defendants object to this Request on the ground that it seeks
6 information protected by the Privacy Act, 5 U.S.C. § 552a, the Health Insurance Portability and
7 Accountability Act of 1996 (“HIPAA”), 42 U.S.C. § 1320d-2, the HIPAA Privacy Rule, and/or
8 45 C.F.R. parts 160 and 164.

10 RESPONSE

11 Subject to these objections and Defendants’ General Objections above, Defendants
12 respond as follows:

- 13 • DoD: DoD has provided this information in response to Plaintiffs’ RFP #3.
- 14 • CIA: CIA has no information that is responsive to this request.
- 15 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
16 related to this interrogatory.
17

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20 **INTERROGATORY NO. 20:**

21 Please IDENTIFY each incident in which the provisions of the Official Directives, as that
22 term is defined Paragraph 123 of the First Amended Complaint, were violated, and IDENTIFY
23 the PERSON(S) involved and DOCUMENTS CONCERNING the same.

24 OBJECTION

25 Defendants object to this Interrogatory for the reasons described in General Objections 2,
26 5–7, and 9–12. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the
27

1 claims remaining in this action, protected from disclosure by one or more privileges or
2 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

3 RESPONSE

4 Subject to these objections and Defendants' General Objections above, Defendants
5 respond as follows:
6

- 7 • DoD previously produced documents responsive to RFP # 73.
- 8 • CIA: CIA has no information that is responsive to this request.
- 9 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
10 related to this interrogatory.
11

12
13 **INTERROGATORY NO. 21:**

14 Please IDENTIFY any information that YOU learned, through a published scientific study
15 or other means, CONCERNING: (a) the actual or potential physical or mental health effects of
16 any chemical or biological substance administered to TEST SUBJECTS as part of the TEST
17 PROGRAMS; or (b) YOUR conduct of or the TEST SUBJECTS' participation in the TEST
18 PROGRAMS; that may affect the well-being of the TEST SUBJECTS, including the date on
19 which YOU learned such information.
20

21 OBJECTION

22 Defendants object to this Interrogatory for the reasons described in General Objections 3-
23 7 and 9-12. Defendants further object to Plaintiffs' request as having multiple parts, overly
24 broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more
25 privileges or immunities, and not reasonably calculated to lead to the discovery of admissible
26 evidence.
27

28 RESPONSE

1 Subject to these objections and Defendants' General Objections above, Defendants
2 respond as follows:

- 3
- 4 • DoD: DoD has provided this information in response to Plaintiffs' Request for
5 Production ## 3, 7, 20, 32, 57, 67, 75, 76, 77. DoD has also identified the
6 following document: Bibliography, "Involving Whitecoat Volunteers as Human
7 Subjects," U.S. Army Medical Research Institute of Infectious Diseases, unknown
8 date and recipients, containing a bibliography of studies. Pursuant to General
9 Objection 7, DoD has no further information.
 - 10 • CIA: CIA has approximately six DoD documents that may be responsive. CIA
11 also provided documents in its initial disclosures that may be responsive. Pursuant
12 to General Objection 9–10, no further information may be provided.
 - 13 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
14 related to this interrogatory.
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- 16

17
18 **INTERROGATORY NO. 22:**

19 Please IDENTIFY each and every statute, regulation, directive, policy, or instruction
20 governing YOUR conduct and execution of the TEST PROGRAMS, including, without
21 limitation, each statute, regulation, directive, or instruction CONCERNING the provision of
22 information to TEST SUBJECTS CONCERNING any risks associated with their participation in
23 the TEST PROGRAMS, the procurement or evaluation of the informed consent of any PERSON
24 participating in the TEST PROGRAMS, and the provision of medical care and evaluations for
25 any PERSON participating in the TEST PROGRAMS.
26

27 **OBJECTION**

28

1 Defendants object to this Interrogatory for the reasons described in General Objections 3–
2 7 and 11–12. Defendants further object to Plaintiffs’ request as overly broad, irrelevant to the
3 claims remaining in this action, protected from disclosure by one or more privileges or
4 immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

5
6 RESPONSE

7 Subject to these objections and Defendants’ General Objections above, Defendants
8 respond as follows:

- 9
- 10 • DoD: DoD has provided this information in response to Plaintiffs’ Request for
11 Production ## 2 and 30.
 - 12 • CIA: CIA has no information that is responsive to this request.
 - 13 • DOJ: Pursuant to General Objection 11, DOJ did not search for information
14 related to this interrogatory as it pertains to “TEST PROGRAMS.” Based on the
15 searches conducted to date, DOJ has identified no information that is responsive to
16 this request as it pertains to “TEST SUBJECTS.”
- 17
18

19 **INTERROGATORY NO. 23:**

20 Please IDENTIFY any medical follow up that YOU have conducted CONCERNING any
21 TEST SUBJECT for any reason, including without limitation, to ensure that any long-range
22 problems are detected and treated.

23 OBJECTION

24 Defendants object to this Interrogatory for the reasons described in General Objections 4,
25 5–7, and 11–12. Defendants further object for the reasons identified in General Objection 8 in so
26 far as the requested information is in the possession of a third party, the VA. Finally, Defendants
27 object to Plaintiffs’ request as overly broad, irrelevant to the claims remaining in this action,
28

1 protected from disclosure by one or more privileges or immunities, and not reasonably calculated
2 to lead to the discovery of admissible evidence.

3 RESPONSE

4 Subject to these objections and Defendants' General Objections above, Defendants
5 respond as follows:
6

- 7 • DoD: Pursuant to the objections stated above and Defendants' General
8 Objections, DoD has no further information beyond the studies disclosed below:
 - 9 ○ Charles S. White, III M.D., et al., Repeated Immunization: Possible
10 Adverse Effects, Annals of Internal Medicine 1974 Volume 81, pg 594.
 - 11 ○ Phillip R. Pittman, Long-Term Health Effects of Repeated Exposure to
12 Multiple Vaccines, Vaccine 23 (2004) 525–536.
 - 13 ○ Phillip R. Pittman, et al., An Assessment of Health Status among Medical
14 Research Volunteers Who Served in the Project Whitecoat Program at Fort
15 Detrick, Maryland, MILITARY MEDICINE. 170. 3:183, 2005.
- 16 • CIA: CIA has no information that is responsive to this request.
- 17 • DOJ: Pursuant to General Objection 11, DOJ has not searched for information
18 related to this interrogatory.
19
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22 **INTERROGATORY NO. 24:**

23 Please IDENTIFY and describe all efforts being undertaken by YOU to notify TEST
24 SUBJECTS about information CONCERNING their participation in the TEST PROGRAMS or
25 to warn TEST SUBJECTS about any information concerning their participation in the TEST
26 PROGRAMS that may affect the well-being of the TEST SUBJECTS, including YOUR efforts
27
28

1 completed to date and the anticipated date of completion of any such effort to notify or warn
2 TEST SUBJECTS.

3 OBJECTION

4 Defendants object to this Interrogatory for the reasons described in General Objections 3-
5 7 and 12. Defendants further object for the reasons identified in General Objection 8 in so far as
6 the requested information is in the possession of a third party, the VA. Finally, Defendants object
7 to Plaintiffs' request as overly broad, irrelevant to the claims remaining in this action, protected
8 from disclosure by one or more privileges or immunities, and not reasonably calculated to lead to
9 the discovery of admissible evidence.
10

11 RESPONSE

12 Subject to these objections and Defendants' General Objections above, Defendants
13 respond as follows:
14

- 15 • DoD: DoD has collected information from archived records and compiled a list of
16 names of service members who were exposed, along with dates, locations, and the
17 substances to which they were exposed, where available. DoD has provided that
18 information to the VA. DoD anticipates that its contract to identify test
19 participants will conclude in September 2011.
- 20 • CIA: CIA efforts to locate human subjects of Project OFTEN determined that the
21 CIA's funding of the program ceased before it progressed to human subject
22 testing. CIA also provided documents in its initial disclosures that may be
23 responsive. Pursuant to General Objection 9-10, no further information may be
24 provided.
- 25 • DOJ: Based on the searches conducted to date, DOJ has identified no information
26 that is responsive to this request.
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INTERROGATORY NO. 25:

Please IDENTIFY all DOCUMENTS and COMMUNICATIONS CONCERNING the legal memorandum attached as Exhibit A to the First Amended Complaint, or any other DOCUMENT or COMMUNICATION concerning YOUR duty to notify and warn any PERSON who participated in the TEST PROGRAMS.

OBJECTION

Defendants object to this Interrogatory for the reasons described in General Objections 2-3, 5-7, and 9-10. Defendants further object to Plaintiffs' request as overly broad, irrelevant to the claims remaining in this action, protected from disclosure by one or more privileges or immunities, and not reasonably calculated to lead to the discovery of admissible evidence.

RESPONSE

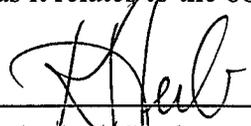
Subject to these objections and Defendants' General Objections above, Defendants respond as follows:

- DoD: DoD has no information that is responsive to this request.
- CIA provided documents in its initial disclosures that may be responsive. Pursuant to General Objection 9-10, no further information may be provided.
- DOJ: DOJ has identified to date four documents related to Exhibit A of the First Amended Complaint. Pursuant to General Objection 6, no further information may be provided at this time beyond the details below:
 - Memorandum, August 10, 1977, John M. Harmon, for the Attorney General, concerning MKULTRA.
 - Letter, September 9, 1977, John M. Harmon, to Benjamin R. Civiletti, concerning MKULTRA.

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- Letter, December 20, 1977, John N. Gavin, to John M. Harmon, concerning MKULTRA.
- Letter, January 5, 1978, John M. Harmon, to Benjamin R. Civiletti, concerning MKULTRA.

To the best of my knowledge, the above is true as it relates to the objections stated herein.



Kimberly L. Herb
Trial Attorney
Department of Justice

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I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Justice, Executive Secretariat.



Dana E. Faige
Departmental Executive Secretariat
Department of Justice

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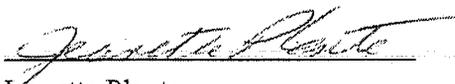
I declare under penalty of perjury that the foregoing is true and correct as it relates to the Central Intelligence Agency.



Patricia B. Camerese
Central Intelligence Agency

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I declare under penalty of perjury that the foregoing is true and correct as it relates to the offices of the Attorney General, Deputy Attorney General, and Associate Attorney General.



Jeanette Plante
Office of Records Management Policy
Department of Justice

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I declare under penalty of perjury that the foregoing is true and correct as it relates to the Office of Legal Counsel, Department of Justice.



Jeannie S. Rhee
Office of Legal Counsel
Department of Justice

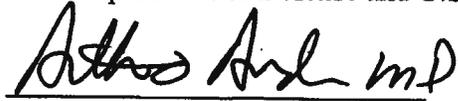
1 For Interrogatories 16, 17, 21, and 24, I declare under penalty of perjury that the foregoing is true
2 and correct as it relates to the Department of Defense and U.S. Army.

3 

4 Michael E. Kilpatrick, MD, FACP
5 Department of Defense
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For Interrogatories 7, 8, 13, 14, 15, 19, 20, 22, 23, and 25, I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Defense and U.S. Army.



Arthur O. Anderson, MD
Department of Defense

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For Interrogatories 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, and 18, I declare under penalty of perjury that the foregoing is true and correct as it relates to the Department of Defense and U.S. Army.



Anthony Lee
Department of Defense