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

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

Case No. CV 09-0037-CW

DEFENDANTS' ANSWER TO THIRD AMENDED COMPLAINT

1 Defendants in this action, by and through undersigned counsel, hereby answer the
2 numbered paragraphs of Plaintiffs' Third Amended Complaint ("Complaint") as follows:¹

3 1. Paragraph 1 of the Complaint contains Plaintiffs characterization of the nature of
4 this action, argument, and conclusions of law, to which no response is required; to the extent a
5 response is deemed required, Defendants deny the allegations contained in the paragraph.
6

7 2. First sentence: Defendant Department of Defense ("DOD") admits. Second
8 sentence: this sentence contains Plaintiffs' characterization of DOD's research of chemical and
9 biological weapons, argument, and conclusions of law regarding the extent of such programs, to
10 which no response is required; to the extent a response is deemed required, Defendants deny the
11 allegations contained in this sentence except to admit that DOD and the Central Intelligence
12 Agency ("CIA") studied chemical and biological weapons. Third sentence: this sentence
13 contains Plaintiffs' characterization of the CIA's work with the Federal Bureau of Narcotics
14 ("FBN"), to which no response is required; to the extent a response is deemed required,
15 Defendants deny the allegations contained in this sentence except to admit that the CIA had a
16 relationship with the FBN for a drug research program that involved human subjects. Fourth
17 sentence: this sentence contains Plaintiffs' characterization of the research of chemical and
18 biological weapons, argument, and legal conclusions regarding the extent of such programs, to
19 which no response is required; to the extent a response is deemed required, Defendants deny the
20 allegations contained in this sentence except to admit that DOD's experimentation program
21 involving human subjects was centered at Edgewood Arsenal and Fort Detrick. Fifth sentence:
22 this sentence contains a conclusion of law, to which no response is required; to the extent a
23 response is deemed required, Defendants deny the allegations contained in this sentence. Sixth
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26 ¹ Plaintiffs' headings and prefatory quote are argument and do not constitute allegations
27 requiring an answer.
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1 sentence: Defendants deny. Seventh and ninth sentences: these sentences contain Plaintiffs'
2 characterization of DOD's research programs and argument, to which no response is required; to
3 the extent a response is deemed required, Defendants deny the allegations. Eighth sentence: this
4 sentence constitutes argument, to which no response is required; to the extent a response is
5 deemed required, Defendants are without knowledge or information sufficient to admit or deny
6 this sentence.
7

8 3. First sentence, including subparts a–q: this sentence contains Plaintiffs'
9 characterization of government research of chemical and biological weapons, to which no
10 response is required; to the extent that a response is deemed required, Defendants are without
11 knowledge or information sufficient to admit or deny the allegations contained in this paragraph
12 except to admit that DOD's research program had many purposes. Defendants aver that the
13 purpose of the program at Fort Detrick from 1943–73 was twofold: develop defensive mechanism
14 against biological attack and develop weapons with which the United States could respond “in
15 kind” if attacked by an enemy that used biological weapons. Defendants further aver that the
16 purpose of the studies at Edgewood Arsenal was to ensure that the U.S. military could adequately
17 protect its service members from possible wartime exposures to chemical warfare agents. The
18 Central Intelligence Agency (“CIA”) avers that it researched behavior modification. Second
19 sentence: The last sentence of paragraph 3 contains Plaintiffs' characterization of DOD's
20 research programs, to which no response is required; to the extent a response is deemed required,
21 Defendants deny the allegations.
22

24 4. Paragraph 4 constitutes Plaintiffs' characterization of the cited 1976 Army IG
25 Report and the 1975 Memorandum from Army Office of the Adjutant General. Defendants
26 respectfully refer the Court to that report and memorandum, which speak for themselves, and
27 deny Paragraph 4 to the extent that the allegations are inconsistent with those documents.
28

1 5. First sentence: Defendants deny the allegations in this sentence except to admit
2 that DOD used approximately 7,800 armed services personnel in the experimentation program at
3 Edgewood Arsenal, most of whom were from the Army, although DOD also used troops from the
4 Air Force and Marines. Second sentence: Defendants deny the allegations in this sentence
5 except to admit that DOD administered 250 to 400 chemical and biological agents during the
6 course of its research at Edgewood Arsenal involving human subjects; Defendants are without
7 knowledge or information sufficient to admit or deny that the true identities, doses, and properties
8 of these agents were not disclosed. Third sentence: Defendants are without knowledge or
9 information sufficient to admit or deny the allegations contained in this sentence. Fourth
10 sentence, including the bulleted list: Defendants are without knowledge or information sufficient
11 to admit or deny the allegations contained in this sentence except that DOD admits that, of those
12 agents listed in this sentence, its records reflect that DOD used the following agents at Edgewood
13 Arsenal: mylaxen, VX, GB, GA, GD, G agents, atropine, scopolamine, BZ (3-quinuclidinyl
14 benzilate), CAR 302,688, EA 3580, 2-PAM (pralidoxime), toxogonin (obidoxim) irritant, CA
15 (Bromobenzylcyanide), CS (ortho-chlorobenzalmalononitrile), CN (chloroacetophenone), EA
16 1778, mustard gas, mustard agents, Lewisite, CX (phosgene oxime), LSD, DMHP, EA 1476, EA
17 2233, valium, thorazine, secobarbitol, P2S, and TMB-4.
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20

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

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

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

5 9. Paragraph 9 constitutes Plaintiffs’ characterization of the 1976 Army IG Report.
6 Defendants respectfully refer the Court to that report, which speaks for itself, and deny Paragraph
7 9 to the extent that the allegations are inconsistent with that report.

8 10. First sentence: this sentence contains Plaintiffs’ characterization of government
9 research of chemical and biological weapons, to which no response is required; to the extent a
10 response is deemed required, Defendants lack knowledge or information sufficient to admit or
11 deny the allegations contained in this sentence except to aver that CIA obtained materials from
12 commercial drug manufacturers. Second sentence: Defendants are without knowledge or
13 information sufficient to admit or deny the allegations contained in this sentence except that DOD
14 admits its research program at Edgewood used the substances listed in this sentence. Third
15 sentence: Defendants are without knowledge or information sufficient to admit or deny the
16 allegations contained in this sentence.

17 11. First through third sentences: Defendants are without knowledge or information
18 sufficient to admit or deny the allegations contained in the first, second, and third sentences of
19 paragraph 11. Fourth sentence: Defendants deny. Fifth sentence: this sentence contains
20 Plaintiffs’ characterization of this case and DOD’s research of chemical and biological weapons,
21 to which no response is required; to the extent a response is deemed required, Defendants deny
22 the allegations contained in this sentence except to admit that DOD’s research program had
23 defensive and offensive purposes.
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1 12. Paragraph 12 contains Plaintiffs' characterization of this case, argument, and
2 conclusions of law, to which no response is required; to the extent a response is deemed required,
3 Defendants deny this paragraph.

4 13. First sentence: this sentence contains Plaintiffs' characterization of this case and
5 argument, to which no response is required; to the extent a response is deemed required,
6 Defendants are without knowledge or information sufficient to admit or deny the allegations
7 contained in the first sentence of paragraph 13. Second sentence: Defendants admit that
8 Congress convened hearings in 1975 and 1977 that, among other things, concerned activities at
9 Edgewood Arsenal; Defendants are without knowledge or information sufficient to admit or deny
10 the remaining allegations in this sentence. Third through fifth sentences: these sentences
11 constitutes Plaintiffs' characterizations of Admiral Turner's testimony. Defendants respectfully
12 refer the Court to that testimony, which speaks for itself, and deny the fourth and fifth sentences
13 to the extent they are inconsistent with that testimony. Sixth sentence: Defendants deny the
14 allegations contained in this sentence. Seventh sentence: this sentence contains Plaintiffs'
15 characterization of Defendants' efforts to locate participants, to which no response is required; to
16 the extent a response is deemed required, Defendants deny the allegations.

17 14. First and second sentences: these sentences constitute Plaintiffs' characterization
18 of the cited DOJ letter and memorandum. Defendants respectfully refer the Court to that letter
19 and memorandum, which speak for themselves, and deny the first and second sentences to the
20 extent they are inconsistent with those documents. Third sentence: this sentence contains
21 Plaintiffs' characterization of the cited memorandum. Defendants respectfully refer the Court to
22 that document, which speaks for itself, and deny the third sentence to the extent it is inconsistent
23 with that memorandum. Fourth sentence: Defendants admit.

1 15. First through third sentences: these sentences contain Plaintiffs' characterization
2 of this case and argument, to which no response is required; to the extent a response is deemed
3 required, Defendants deny the allegations. Fourth a sentence: this sentence contains Plaintiffs'
4 characterization of a July 6, 2004 letter. Defendants respectfully refer the Court to that document,
5 which speaks for itself, and deny the fourth sentence to the extent it is inconsistent with that letter.
6 Fifth sentence: Defendants aver that the CIA received magnetic computer tapes from Edgewood
7 Arsenal in the early 1970s and that these tapes may contain information about human testing,
8 though the CIA has been unable to read the tapes to confirm their contents; Defendants are
9 without knowledge or information sufficient to admit or deny the remaining allegations contained
10 in this sentence. Sixth sentence: Defendants admit that DoD is working to compile a registry of
11 participants and expects to complete the registry in 2011. The remainder of the sentence
12 constitutes argument, to which no response is required; to the extent a response is deemed
13 required, Defendants deny the allegations. Seventh sentence: this sentence constitutes Plaintiffs'
14 characterization of the cited website. Defendants respectfully refer the Court to that website,
15 which speaks for itself, and deny the seventh sentence to the extent it is inconsistent with the
16 website.
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19 16. Paragraph 16 contains Plaintiffs' characterization of this case and argument, to
20 which no response is required; to the extent a response is deemed required, Defendants deny the
21 allegations.
22

23 17. First and second sentences: these sentences constitute Plaintiffs' characterization
24 of Army regulations. Defendants respectfully refer the Court to those regulations, which speak
25 for themselves, and deny the first and second sentences to the extent they are inconsistent with the
26 regulations. Third sentence: this sentence contains Plaintiffs' characterization of this case,
27
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1 argument, and legal conclusions, to which no response is required; to the extent a response is
2 deemed required, Defendants deny the allegations.

3 18. First sentence: Defendants are without knowledge or information sufficient to
4 admit or deny the allegations contained in this sentence. Second sentence: Defendants admit that,
5 on April 28, 2005, Congressmen Lane Evans and Ted Strickland provided VA with a list of
6 participants in chemical and biological testing and requested that VA provide written notice to the
7 living veterans on the lists; Defendants deny the remaining allegations in this sentence. Third
8 sentence: Defendants admit that VA's notice letter offered a clinical examination to participants
9 in the chemical and biological tests and that ongoing medical care was provided to veterans who
10 qualified for such care under VA statutes and regulations; Defendants deny the remaining
11 allegations in this sentence. Fourth sentence: this sentence contains Plaintiffs' characterization
12 of this case and argument, to which no response is required; to the extent a response is deemed
13 required, Defendants deny the allegations.
14

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

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

23
24 21. Paragraph 21 contains Plaintiffs' characterization of the nature of this action and
25 its claims to relief, to which no response is required; to the extent a response is deemed required,
26 Defendants deny that Plaintiffs are entitled to the relief requested, or to any relief whatsoever.
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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
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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, fourth, and fifth sentences: Defendants
6 are without knowledge or information sufficient to admit or deny the allegations contained in
7 these sentences. Third sentence: Defendants are without knowledge or information concerning
8 what Mr. Price believes, but Defendants aver that Bruce Price has been provided with his
9 Edgewood Arsenal medical file, which he, in turn, has shared with other governmental bodies.
10 That medical file contains information concerning some of the substances on which he was tested
11 and the doses used, and Defendants deny the allegations in this sentence to the extent they are
12 inconsistent with that medical file.
13

14
15 33. Defendants are without knowledge or information sufficient to admit or deny the
16 allegations contained in paragraph 33.

17 34. First sentence: Defendants deny. Second sentence: Defendants are without
18 knowledge or information sufficient to admit or deny the allegations contained in this sentence.

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

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

23 37. First sentence, first clause: Defendants admit that Bruce Price received an
24 honorable discharge. First sentence, second clause through third sentences: Defendants are
25 without knowledge or information sufficient to admit or deny the allegations contained in this
26 clause and these sentences.
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1 38. Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in paragraph 38.

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

5 40. First and third sentences: Defendants are without knowledge or information
6 sufficient to admit or deny the allegations contained in these sentences. Second sentence:
7 Defendants admit that Bruce Price is rated 100% for post-traumatic stress disorder (“PTSD”) by
8 the Veterans Administration (“VA”), but Defendants are without knowledge or information
9 sufficient to admit or deny the remainder of the allegations in this sentence.
10

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

13 42. First through third sentences: Defendants admit. Fourth sentence: Defendants are
14 without knowledge or information sufficient to admit or deny the allegations contained in this
15 sentence except to admit that Eric Muth served in the National Guard from 1960 to 1969.
16

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

19 44. First, third, fifth, and sixth sentences: Defendants are without knowledge or
20 information sufficient to admit or deny the allegations contained in these sentences. Second
21 sentence: Defendants deny that Mr. Muth was given a security non-disclosure form as a
22 participant in the test programs, but admit that he signed a Volunteer Participation Agreement.
23 Fourth sentence: this sentence contains Plaintiffs’ characterization of the role of service
24 members, to which no response is required; to the extent a response is deemed required,
25 Defendants deny the allegations except to admit that service members are expected to follow
26 lawful orders.
27
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1 45. First, second, and fourth sentences: Defendants are without knowledge or
2 information sufficient to admit or deny the allegations contained in these sentences. Third
3 sentence: Defendants admit Eric Muth was enrolled as a medical volunteer at Edgewood. The
4 remaining allegations contained in the third sentence are Plaintiffs' characterization of the case, to
5 which no answer is required; to the extent a response is deemed required, Defendants deny the
6 allegations.
7

8 46. First sentence: Defendants admit. Second sentence: Defendants admit Eric Muth
9 was involved in at least five tests during his tours at Edgewood. Defendants are without
10 knowledge or information sufficient to admit or deny the remaining allegations contained in this
11 sentence. Third through sixth sentences: Defendants are without knowledge or information
12 sufficient to admit or deny the allegations contained in these sentences.
13

14 47. First sentence, first and second clauses: Defendants admit Eric Muth volunteered
15 for a second tour at Edgewood from November to December 1958. The remainder of the first and
16 second clauses constitutes Plaintiffs' characterization of this case and argument, to which no
17 response is required; to the extent a response is deemed required, Defendants deny the
18 allegations. First sentence, third clause through fourth sentences: Defendants are without
19 knowledge or information sufficient to admit or deny the allegations contained in this clause and
20 these sentences.
21

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

24 49. Defendants are without knowledge or information sufficient to admit or deny the
25 allegations contained in paragraph 49.
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1 50. Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in paragraph 50 except to admit that Eric Muth has been assigned a 100%
3 disability rating by the VA for PTSD.

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

7 52. First sentence: Defendants are without knowledge or information sufficient to
8 admit or deny the allegations contained in this sentence: Second and third sentences: Defendants
9 admit.

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

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

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

19 56. Defendants are without knowledge or information sufficient to admit or deny the
20 allegations contained in paragraph 56 except that DOD admits that Frank Rochelle was exposed
21 to Compound 302,668.

22 57. Defendants are without knowledge or information sufficient to admit or deny the
23 allegations contained in paragraph 57 except that DOD admits that Frank Rochelle was exposed
24 to EA 2233-1 and EA 2233-2.

1 58. First and second sentences: Defendants are without knowledge or information
2 sufficient to admit or deny the allegations contained in these sentences. Third sentence:
3 Defendants admit that Frank Rochelle served in Vietnam. The remainder of the sentence
4 constitutes argument, to which no response is required; to the extent a response is deemed
5 required, Defendants deny the allegations.
6

7 59. First through third sentences: Defendants are without knowledge or information
8 sufficient to admit or deny the allegations contained in these sentences. Fourth sentence:
9 Defendants deny that Frank Rochelle currently receives 80% VA disability compensation, and
10 Defendants aver that VA records show that Mr. Rochelle currently receives 100% VA disability
11 compensation
12

13 60. First sentence: Defendants are without knowledge or information sufficient to
14 admit or deny the allegations contained in this sentence except to the extent that Defendants admit
15 that Frank Rochelle received a certificate and a letter of commendation on June 2, 1958. Second
16 sentence: Defendants admit. Third sentence: Defendants are without knowledge or information
17 sufficient to admit or deny the allegations contained in this sentence.
18

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

21 62. Defendants admit.

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

25 64. Defendants are without knowledge or information sufficient to admit or deny the
26 allegations contained in paragraph 64 except that DOD admits that Larry Meirow reported to
27 Edgewood on November 3, 1972.
28

1 65. 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 are without knowledge or information sufficient to admit or deny the allegations
4 contained in this sentence except that DOD admits that Larry Meirow was given a medical exam.

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

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

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

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

13 70. First and fourth sentences: Defendants are without knowledge or information
14 sufficient to admit or deny the allegations contained in these sentences. Second and third
15 sentence: Defendants admit.

16 71. Defendants admit.

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

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

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

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

4 76. First sentence: Defendants deny the allegations contained in this sentence except
5 to admit that David Dufrane served at Edgewood in April and May 1965. Second sentence:
6 Defendants deny. Third and fourth sentences: Defendants are without knowledge or information
7 sufficient to admit or deny the allegations contained in these sentences.

8 77. Defendants are without knowledge or information sufficient to admit or deny the
9 allegations contained in paragraph 77. To the extent that sentences three through six refer to the
10 discussed releases, Defendants respectfully refer the Court to those documents, which speak for
11 themselves, and deny the allegations in these sentences to the extent they are inconsistent with the
12 documents to which they refer.

13 78. First sentence: Defendants are without knowledge or information sufficient to
14 admit or deny the allegations contained in this sentence. Second and third sentences: Defendants
15 deny the allegations contained in these sentences.

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

18 80. 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. Eighth sentence: Defendants deny the allegation in this sentence except to
21 admit that the VA granted David Dufrane a 30% rating for PTSD and a 40% rating for chronic
22 pain, headaches, dyesthesia in the arms and legs, and arthralgia in all joints, for an overall rating of
23 60%.

24 81. Defendants admit paragraph 81.

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

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

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

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

11 86. First sentence: Defendants are without knowledge or information sufficient to
12 admit or deny the allegations contained in this sentence. Second sentence: Defendants are
13 without knowledge or information sufficient to admit or deny the allegations in this sentence
14 except to admit that Wray Forrest did not receive a medal for his service at Edgewood and to
15 deny that he did not receive any other recognition. Defendants aver Wray Forrest received a
16 letter of commendation on August 31, 1973. Third sentence: Defendants are without knowledge
17 or information sufficient to admit or deny the allegations contained in this sentence. Fourth
18 sentence: Defendants are without knowledge or information sufficient to admit or deny the
19 allegations contained in this sentence except to admit that a VA outreach letter was sent to Wray
20 Forrest on May 17, 2007.

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

23 88. First sentence: this sentence contains Plaintiffs' characterization of this case,
24 argument, and conclusions of law, to which no response is required; to the extent a response is
25

1 deemed required, Defendants deny the allegations. Second sentence: Defendants are without
2 knowledge or information sufficient to admit or deny the allegations contained in this sentence
3 except to admit that none of the named Plaintiffs are currently active duty service members.

4 89. First sentence: Defendants admit that DVA and DoD are aware of two private
5 laws passed to compensate two participants for injuries suffered as a result of testing with lysergic
6 acid diethylamide by the Department of the Army. Defendants are without knowledge or
7 information sufficient to admit or deny the remaining allegations contained in this sentence.
8 Second and third sentences: Defendants are without knowledge or information sufficient to admit
9 or deny the allegations contained in these sentences. 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 except to admit that the CIA has provided
12 some compensation associated with participation in MKULTRA research and that the DVA has
13 provided some individuals health care related to their service at Edgewood Arsenal.

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

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

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

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

9
10 94. Defendants admit paragraph 94.

11 95. First through fourth sentences: Defendants admit. Fifth sentence: this sentence
12 contains Plaintiffs' characterization of this case, argument, and legal conclusions, to which no
13 response is required; to the extent a response is deemed required, Defendants deny the allegations
14 except to admit that DOD Instruction 5030.29 in 1964 stated, "DOD assumes full responsibility
15 for humans involved in research under its sponsorship, whether this involves investigational drugs
16 or other hazards." Sixth sentence: this sentence contains Plaintiffs' characterization of this case,
17 to which no response is required; to the extent a response is deemed required, Defendants deny
18 the allegations except to admit that Defendants entered into an agreement to supply the VA with
19 information to help service members with their claims to the VA. Seventh and eighth sentences:
20 these sentences constitute Plaintiffs' characterizations of the Bob Stump National Defense
21 Authorization Act for Fiscal Year 2003. Defendants respectfully refer the Court to that Act,
22 which speaks for itself, and deny the seventh and eighth sentences to the extent they are
23 inconsistent with the Act. Ninth sentence: this sentence constitutes Plaintiffs' characterizations
24 of the report of the Government Accountability Office ("GAO"). Defendants respectfully refer
25 the Court to the GAO report, which speaks for itself, and deny the ninth sentence to the extent it
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1 is inconsistent with that report. Tenth sentence: this sentence contains Plaintiffs' characterization
2 of this case, to which no response is required; to the extent a response is deemed required,
3 Defendants deny the allegations.

4 96. Defendants admit paragraph 96.

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

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

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

16 100. Defendants admit paragraph 100.

17 101. Defendants admit paragraph 101.

18 102. First sentence: Defendants are without knowledge or information sufficient to
19 admit or deny the allegations contained in this sentence. Second sentence: Defendants admit.

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

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

1 105. First through fourth sentences: Defendants are without knowledge or information
2 sufficient to admit or deny the allegations contained in these sentences except to admit the
3 existence of the cited legal authority, which speaks for itself and to which the Court is
4 respectfully referred for a full and accurate statement of its contents. Fifth and sixth sentences:
5 these sentences constitute Plaintiffs' characterizations of the cited appendix to Congressional
6 testimony. Defendants respectfully refer the Court to that appendix, which speaks for itself, and
7 deny the fifth and sixth sentences to the extent they are inconsistent with that appendix.
8

9 106. First and second sentence: Defendants are without knowledge or information
10 sufficient to admit or deny the allegations contained in these sentences. Third and fourth
11 sentences: Defendants deny except to admit the allegations with respect to DOD. Fifth through
12 seventh and eleventh sentences: Defendants are without knowledge or information sufficient to
13 admit or deny the allegations contained in these sentences. Eighth through tenth sentences: these
14 sentences contain Plaintiffs' characterization of this case and DOD's research programs, to which
15 no response is required; to the extent a response is deemed required, Defendants deny the
16 allegations except that Defendants admit that DOD's research programs shifted from offensive to
17 defensive purposes.
18

19 107. 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. Eighth sentence: Defendants deny the allegations except to admit that DOD's
22 research programs involving human subjects included tests on possible vaccines for biological
23 warfare agents.
24

25 108. 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 except that Defendants are without knowledge or information sufficient to admit or
28

1 deny the allegations concerning other government agencies. Second sentence: this sentence
2 contains Plaintiffs' characterization of this case and argument, to which no response is required;
3 to the extent a response is deemed required, Defendants are without knowledge or information
4 sufficient to admit or deny the allegations concerning other government agencies. Defendants
5 aver that DOD has provided the VA with over 6,000 names of service members who participated
6 in research programs at Edgewood Arsenal that involved over 254 substances. Third sentence:
7 Defendants are without knowledge or information sufficient to admit or deny the allegations
8 contained in this sentence.
9

10 109. Defendants deny the allegations in paragraph 109 except to admit that DOD tested
11 newer chemical agents including LSD, PCP, and synthetic cannabis analogs. Defendants aver
12 that DOD's objectives with regards to its activities at Edgewood and Fort Detrick included
13 understanding both the offensive and defensive uses of LSD.
14

15 110. First sentence: Defendants deny except to admit that DOD's Edgewood research
16 program involving human subjects included research on mustard agents. Second sentence:
17 Defendants admit that riot control agents have been tested at Edgewood and are without
18 knowledge or information sufficient to admit or deny the remaining allegations contained in this
19 sentence.
20

21 111. First sentence: Defendants are without knowledge or information sufficient to
22 admit or deny the allegations contained in this sentence except to admit that DOD performed field
23 tests as part of its research program. Second sentence: Defendants are without knowledge or
24 information sufficient to admit or deny the allegations contained in this sentence.
25

26 112. First sentence: Defendants deny the allegations except to admit that DOD
27 conducted field tests at Ford Ord using military personnel. Second through fourth sentences:
28 Defendants are without knowledge or information sufficient to admit or deny the allegations

1 contained in these sentences; to the extent that Plaintiffs' allegations rest on the cited
2 Congressional testimony, Defendants respectfully refer the Court to that testimony, which speaks
3 for itself, and deny the second, third, and fourth sentences to the extent they are inconsistent with
4 that testimony.

5
6 113. First sentence: this sentence contains Plaintiffs' characterization of this case and
7 government research programs, to which no response is required; to the extent a response is
8 deemed required, Defendants deny the allegations except that DOD and CIA admit involvement
9 in research programs involving human subjects. Second sentence: this sentence constitutes
10 argument and a legal conclusion, to which no response is required; to the extent a response is
11 deemed required, Defendants deny the allegations except that, to the extent that Plaintiffs'
12 allegations rest on 50 U.S.C. § 403-3(d)(1), Defendants respectfully refer the Court to that statute,
13 which speaks for itself, and deny the sentence to the extent it is inconsistent with that statute.
14

15 114. First sentence: this sentence contains Plaintiffs' characterization of this case, to
16 which no response is required; to the extent a response is deemed required, Defendants deny the
17 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the
18 Memorandum from Richard Helms. Defendants respectfully refer the Court to that
19 Memorandum, which speaks for itself, and deny this sentence to the extent it is inconsistent with
20 that Memorandum. Third sentence: Defendants are without knowledge or information sufficient
21 to admit or deny the allegations contained in this sentence except that CIA admits Richard Helms
22 was convicted of a crime.
23

24 115. First sentence: this sentence constitutes Plaintiffs' characterization of the cited
25 Memorandum from Allen Dulles, to which no response is required; to the extent a response is
26 deemed required, Defendants respectfully refer the Court to the Memorandum, which speaks for
27 itself, and deny the first sentence to the extent it is inconsistent with the Memorandum. Second
28

1 sentence: this sentence constitutes Plaintiffs' characterizations of the cited Advisory Committee
2 on Human Radiation Experiments ("ACHRE"), Interim Report. Defendants respectfully refer the
3 Court to the Interim Report, which contains the opinion of ACHRE and speaks for itself, and
4 deny the second sentence to the extent it is inconsistent with the Interim Report. Third and fourth
5 sentences: Defendants deny.

6
7 116. First sentence: Defendants deny. Second sentence: Defendants admit. Third and
8 fourth sentences: these sentences constitute Plaintiffs' characterizations of Dr. Gottlieb's
9 Congressional testimony. Defendants respectfully refer the Court to that testimony, which speaks
10 for itself, and deny the third and fourth sentences to the extent they are inconsistent with that
11 testimony.

12
13 117. First sentence: Defendants neither admit nor deny on the basis of privilege.
14 Second sentence: this sentence constitutes Plaintiffs' characterizations of Exhibit B to the Second
15 Amended Complaint. Defendants respectfully refer the Court to that document, which speaks for
16 itself, and deny the second sentence to the extent it is inconsistent with the exhibit. Third
17 sentence: Defendants deny the allegations in this sentence except to admit that MKULTRA is
18 believed to have had 149 research subprojects. Fourth sentence: this sentence contains Plaintiffs'
19 characterizations of this case, to which no response is require; to the extent a response is deemed
20 required, Defendants deny the allegations except to admit that CIA had relationships with
21 research organizations. These allegations are subject to privileges. Fifth sentence: this sentence
22 contains Plaintiffs' characterization of this case, to which no response is required; to the extent a
23 response is deemed required, Defendants deny the allegations.

24
25 118. Paragraph 118 constitutes Plaintiffs' characterizations of the cited Report on the
26 Covert Activities of the Central Intelligence Agency. Defendants respectfully refer the Court to
27
28

1 that report, which speaks for itself, and deny paragraph 118 to the extent it is inconsistent with
2 that report.

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

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

19 121. First sentence, first clause: Defendants are without knowledge or information
20 sufficient to admit or deny the allegations contained in the first clause of this sentence concerning
21 the reasons for the President's issuance of Executive Order 11905. First sentence, second clause:
22 this clause constitutes Plaintiffs' characterizations of Executive Order 11905. Defendants
23 respectfully refer the Court to Executive Order 11905, which speaks for itself, and deny the
24 second clause to the extent it is inconsistent with Executive Order 11905.
25

26 122. Paragraph 122 constitutes Plaintiffs' characterizations of the cited report from the
27 National Commission for the Protection of Human Subjects of Biomedical Research. Defendants
28

1 respectfully refer the Court to that report, which speaks for itself, and deny paragraph 122 to the
2 extent it is inconsistent with that report.

3 123. Paragraph 123 constitutes Plaintiffs' characterizations of Executive Order 12333.
4 Defendants respectfully refer the Court to Executive Order 12333, which speaks for itself, and
5 deny paragraph 123 to the extent it is inconsistent with Executive Order 12333.
6

7 124. Paragraph 124 constitutes Plaintiffs' characterizations of Directive No. 3216.2.
8 Defendants respectfully refer the Court to Directive No. 3216.2, which speaks for itself, and deny
9 paragraph 124 to the extent it is inconsistent with Directive No. 3216.2.

10 125. Paragraph 125 constitutes Plaintiffs' characterizations of Confidential
11 Memorandum 3247. Defendants respectfully refer the Court to Confidential Memorandum 3247,
12 which speaks for itself, and deny paragraph 125 to the extent it is inconsistent with Confidential
13 Memorandum 3247.
14

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

18 127. Paragraph 127 constitutes Plaintiffs' characterizations of Army Regulation 70-25.
19 Defendants respectfully refer the Court to Army Regulation 70-25, which speaks for itself, and
20 deny paragraph 127 to the extent it is inconsistent with that regulation.
21

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

25 129. First sentence: this sentence constitutes Plaintiffs' characterizations of 32 C.F.R.
26 Part 219. Defendants respectfully refer the Court to 32 C.F.R. Part 219, which speaks for itself,
27
28

1 and deny paragraph 129 to the extent it is inconsistent with 32 C.F.R. Part 219. Second sentence:
2 Defendants admit.

3 130. First sentence: Defendants admit. Second sentence: Defendants are without
4 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
5 Third and fourth sentences: these sentences contain Plaintiffs' characterization of this case and
6 argument, to which no response is required; to the extent a response is deemed required,
7 Defendants deny the allegations and aver the existence of standards governing the ethical use of
8 human subjects as discussed above in paragraphs 119–129 of this Answer.
9

10 131. Paragraph 131 constitutes Plaintiffs' characterization of this case and argument, to
11 which no response is required; to the extent a response is deemed required, Defendants deny the
12 allegations except to admit the existence of the quoted memorandum, which speaks for itself and
13 to which the Court is respectfully referred for a full and accurate statement of its contents;
14 Defendants deny the allegations to the extent that they are inconsistent with the quoted
15 memorandum.
16

17 132. First sentence: this sentence contains Plaintiffs' characterization of this case, to
18 which no response is required; to the extent a response is deemed required, Defendants deny the
19 allegations. Second sentence: this sentence contains Plaintiffs' characterization of this case, to
20 which no response is required; to the extent a response is deemed required, Defendants deny the
21 allegations except to admit that the CIA employed Dr. Treichler and to state that Defendants are
22 without knowledge or information sufficient to admit or deny allegations concerning his place of
23 employment. Third sentence: Defendants deny. Fourth sentence: this sentence contains
24 Plaintiffs' characterization of this case, to which no response is required; to the extent a response
25 is deemed required, Defendants deny the allegations. CIA avers that it provided funding to a
26 research project at Edgewood as a part of Project OFTEN. Fifth sentence: Defendants are
27
28

1 without knowledge or information sufficient to admit or deny the allegations contained in this
2 sentence. Sixth sentence: this sentence contains Plaintiffs' characterization of this case, to which
3 no response is required; to the extent a response is deemed required, Defendants deny the
4 allegations. Seventh and eighth sentences: these sentences contain Plaintiffs' characterization of
5 this case, argument, and legal conclusion, to which no response is required; to the extent a
6 response is deemed required, Defendants deny the allegations.
7

8 133. Paragraph 133 constitutes Plaintiffs' characterizations of the cited 1963 CIA IG
9 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for
10 itself, and deny paragraph 133 to the extent that it is inconsistent with that report.

11 134. First sentence: this sentence contains Plaintiffs' characterization of this case, to
12 which no response is required; to the extent a response is deemed required, Defendants deny the
13 allegations. Second sentence: this sentence constitutes Plaintiffs' characterizations of the 1963
14 CIA IG Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks
15 for itself, and deny this sentence to the extent that it is inconsistent with that report.
16

17 135. Paragraph 135 contains Plaintiffs' characterizations of the cited 1963 CIA IG
18 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for
19 itself, and deny paragraph 135 to the extent that it is inconsistent with that report.
20

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

24 137. First sentence, first and second clause: these clauses constitute Plaintiffs'
25 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that
26 exhibit, which speaks for itself, and deny this sentence to the extent that it is inconsistent with that
27 exhibit. Subpart a: this subpart constitutes Plaintiffs' characterizations of Exhibit B to the
28

1 Complaint, the cited ACHRE Interim Report, and the cited Memorandum from Allen Dulles.
2 Defendants respectfully refer the Court to that exhibit and those reports, which speak for
3 themselves, and deny subpart a to the extent that it is inconsistent with the cited exhibit and
4 reports. Subpart b: Defendants are without knowledge or information sufficient to admit or deny
5 the allegations in this subpart except CIA admits that it provided a small grant to Dr. Cameron.
6 Subparts c–f: these subparts constitute Plaintiffs’ characterizations of Exhibit B to the Complaint.
7 Defendants respectfully refer the Court to that exhibit, which speaks for itself, and deny subparts
8 c–f to the extent that they are inconsistent with that exhibit.
9

10 138. First sentence: this sentence contains Plaintiffs’ characterization of MKULTRA,
11 to which no response is required; to the extent a response is deemed required, Defendants deny.
12 Second sentence: this sentence constitutes Plaintiffs’ characterizations of Exhibit B to the
13 Complaint and the cited report “Project MKULTRA, The CIA’s Program of Research in
14 Behavior Modification.” Defendants respectfully refer the Court to that exhibit and report, which
15 speak for themselves, and deny the second sentence to the extent that it is inconsistent with that
16 exhibit and report. Third and fourth sentences: these sentences constitute Plaintiffs’
17 characterizations of Exhibit B to the Complaint. Defendants respectfully refer the Court to that
18 exhibit, which speaks for itself, and deny the third and fourth sentences to the extent that they are
19 inconsistent with that exhibit.
20
21

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

25 140. 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 except to admit that DOD administered LSD and other drugs to test subjects at
28

1 Edgewood and other locations. Second sentence: Defendants are without knowledge or
2 information sufficient to admit or deny the allegations contained in this sentence.

3 141. First sentence: Defendants deny. Second and third sentences: Defendants are
4 without knowledge or information sufficient to admit or deny the allegations in these sentences
5 except that CIA denies employing Paul Hoch as a CIA consultant; to the extent that Plaintiffs'
6 allegations rest on the cited legal authority, Defendants respectfully refer the Court to that
7 authority, which speaks for itself, and deny the sentences to the extent they are inconsistent with
8 that authority. Fourth sentence, first clause: this clause contains a legal conclusion, to which no
9 response is required; to the extent a response is deemed required, Defendants deny. Fourth
10 sentence, second clause: this clause contains Plaintiffs' characterization of Dr. Olson's death, to
11 which no response is required; to the extent a response is deemed required, CIA admits that Dr.
12 Olson jumped out of a window to his death subsequent to receiving a dose of LSD. Fifth
13 sentence: this sentence constitutes Plaintiffs' characterizations of the cited 1994 GAO Report.
14 Defendants respectfully refer the Court to the 1994 GAO Report, which speaks for itself, and
15 deny the fifth sentence to the extent that it is inconsistent with that report.

16 142. First sentence: Defendants are without knowledge or information sufficient to
17 admit or deny whether sporadic information regarding Defendants activities began to circulate.
18 The remainder of this sentence constitutes Plaintiffs' characterization of the cited 1963 CIA IG
19 Report. Defendants respectfully refer the Court to the 1963 CIA IG Report, which speaks for
20 itself, and deny the first sentence to the extent it is inconsistent with that report. Second sentence:
21 Defendants deny the allegations in this sentence except to admit the existence of MKSEARCH.
22 Third sentence: Defendants deny.

23 143. First sentence: Defendants are without knowledge or information sufficient to
24 admit or deny the allegations contained in this sentence. Second sentence: this sentence contains
25

1 Plaintiffs' characterization of this case and conclusions of law, to which no response is required;
2 to the extent a response is deemed required, Defendants deny the allegations. Third sentence:
3 this sentence constitutes Plaintiffs' characterization of Exhibit B to the Complaint. Defendants
4 respectfully refer the Court to that exhibit, which speaks for itself, and deny the third sentence to
5 the extent it is inconsistent with that exhibit. Fourth sentence: Defendants are without
6 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
7 Fifth sentence: Defendants deny the allegations in this sentence except to admit that Director
8 Helms authorized the destruction of certain documents relating to MKULTRA in 1973. Sixth
9 sentence: this sentence contains Plaintiffs' characterization of this case, to which no response is
10 required; to the extent a response is deemed required, Defendants deny the allegations except to
11 admit that many documents relating to MKULTRA were destroyed in 1973.
12

13
14 144. Paragraph 144 contains legal conclusions, to which no response is required; to the
15 extent a response is deemed required, Defendants deny the allegations.

16 145. First sentence: this sentence constitutes Plaintiffs' characterizations of the cited
17 1947 Haywood memo. Defendants respectfully refer the Court to the 1947 Haywood memo,
18 which speaks for itself, and deny the first sentence to the extent it is inconsistent with that memo.
19 Second sentence: this sentence constitutes Plaintiffs' characterizations of the cited CIA Inspector
20 General's Survey of Technical Services Division. Defendants respectfully refer the Court to the
21 CIA Inspector General's Survey of Technical Services Division, which speaks for itself, and deny
22 the second sentence to the extent it is inconsistent with that survey. Third sentence: this sentence
23 constitutes Plaintiffs' characterizations of the cited July 26, 1963 Memorandum. Defendants
24 respectfully refer the Court to the July 26, 1963 Memorandum, which speaks for itself, and deny
25 the third sentence to the extent it is inconsistent with that Memorandum.
26
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1 146. Paragraph 146 constitutes Plaintiffs' characterizations of the cited CIA's
2 Memorandum from WVB. Defendants respectfully refer the Court to the CIA's Memorandum
3 from WVB, which speaks for itself, and deny paragraph 146 to the extent it is inconsistent with
4 that Memorandum.

5 147. First sentence, introductory language: this sentence contains Plaintiffs'
6 characterization of this case and argument, to which no response is required; to the extent a
7 response is deemed required, Defendants deny the allegations. Subpart a: Defendants deny the
8 allegations in this subparagraph except to admit the existence of the MKULTRA and
9 MKSEARCH projects. Subpart b: Defendants deny the allegations in this subparagraph except
10 to admit the existence of the OFTEN and CHICKWIT projects. Subpart c: Defendants deny the
11 allegations in this subparagraph except to admit the existence of the BLUEBIRD and
12 ARTICHOKE projects. Subpart d: Defendants deny the allegations in this subparagraph except
13 to admit the existence of the MKDELTA project. Subpart e: Defendants deny the allegations in
14 this subparagraph except to admit the existence of the MKNAOMI project. Subpart f:
15 Defendants are without knowledge or information sufficient to admit or deny the allegations
16 contained in this subparagraph. Subpart g, first sentence: Defendants are without knowledge or
17 information sufficient to admit or deny the allegations contained in this sentence. Subpart g,
18 second sentence: this sentence contains Plaintiffs' characterization of this case, to which no
19 response is required; to the extent a response is deemed required, Defendants deny the
20 allegations.

21 148. Defendants deny.

22 149. First sentence: this sentence constitutes Plaintiffs' characterization of the cited
23 Memorandum for the Record re MKULTRA Subproject 119. Defendants respectfully refer the
24 Court to the Memorandum for the Record re MKULTRA Subproject 119, which speaks for itself,
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1 and deny the first sentence to the extent it is inconsistent with that Memorandum. Second
2 sentence: this sentence constitutes Plaintiffs' characterization of the cited Proposal Materials.
3 Defendants respectfully refer the Court to the Proposal Materials, which speak for themselves,
4 and deny the second sentence to the extent it is inconsistent with those materials. Third sentence:
5 this sentence constitutes Plaintiffs' characterization of the cited U.S. Army Med. Dep't, LSD
6 Follow-Up Study Report. Defendants respectfully refer the Court to that Report, which speaks
7 for itself, and deny the third sentence to the extent it is inconsistent with that report. Fourth
8 sentence: Defendants deny. Fifth sentence: Defendants are without knowledge or information
9 sufficient to admit or deny the allegations concerning "Agency Top Secret" classification, and
10 Defendants deny the remaining allegations in this sentence.
11

12 150. Defendants are without knowledge or information sufficient to admit or deny the
13 allegations contained in paragraph 150.
14

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

18 152. Defendants deny the allegations in paragraph 152 except that the CIA admits it
19 provided a small grant to Dr. Cameron.
20

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

23 154. Defendants are without knowledge or information sufficient to admit or deny the
24 allegations in paragraph 154 except to admit that the CIA financed some MKULTRA research at
25 Stanford University.
26
27
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1 155. Paragraph 155 contains Plaintiffs' characterization of this case, argument, and
2 conclusions of law, to which no response is required; to the extent a response is deemed required,
3 Defendants deny the allegations.

4 156. First sentence: Defendants deny the allegations in this paragraph to the extent it
5 pertains to volunteer service members who participated in the test programs at issue in this case,
6 but are without knowledge or information sufficient to admit or deny whether other service
7 members were asked to sign an agreement containing the quoted text. Defendants further aver
8 that most of the named volunteer service members who participated in the test programs signed a
9 volunteer participation agreement, but that agreement does not contain any information or
10 reference to an alleged secrecy oath. Second sentence: Defendants deny the allegations in this
11 sentence except to admit that plaintiffs' personnel records contain copies of signed forms
12 consenting to the videotaping of experiments.

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

16 158. First sentence: this sentence contains Plaintiffs' characterization of this case and
17 legal conclusions, to which no response is required; to the extent a response is deemed required,
18 Defendants deny the allegations in this sentence and further aver that some of the named
19 Plaintiffs have sought medical care and other services for more than a decade. Second and third
20 sentences: Defendants are without knowledge or information sufficient to admit or deny the
21 allegations contained in these sentences.

22 159. Defendants admit that Plaintiffs have quoted a portion of a document that VA
23 published in 2003 and refer the Court to that document for a full and complete statement of its
24 content. Defendants deny this allegation to the extent that there are inconsistencies in the quote.

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

5
6 161. Paragraph 161 contains Plaintiffs' characterization of this case, argument, and
7 legal conclusions, to which no response is required; to the extent a response is deemed required,
8 Defendants deny the allegations.

9 162. First sentence: this sentence contains Plaintiffs' characterization of this case and
10 legal conclusions, to which no response is required; to the extent a response is deemed required,
11 Defendants deny the allegations. Second sentence: Defendants deny the allegations contained in
12 this sentence and aver that many service members, including the named Plaintiffs, have requested
13 and received their Edgewood medical records

14
15 163. First sentence: this sentence constitutes Plaintiffs' characterization of the cited
16 1958 Army publication. Defendants respectfully refer the Court to that publication, which speaks
17 for itself, and deny the allegations to the extent that they are inconsistent with that publication.
18 Second sentence: this sentence constitutes Plaintiffs' characterization of the cited 1972 Army
19 publication. Defendants respectfully refer the Court to that publication, which speaks for itself,
20 and deny the allegations to the extent that they are inconsistent with that publication.

21
22 164. Paragraph 164 constitutes Plaintiffs' characterization of the 1976 Army IG Report.
23 Defendants respectfully refer the Court to the 1976 Army IG Report, which speaks for itself, and
24 deny paragraph 164 to the extent that it is inconsistent with that report.

25 165. First through fourth sentences: these sentences constitute Plaintiffs'
26 characterization of the 1976 Army IG Report. Defendants respectfully refer the Court to the 1976
27 Army IG Report, which speaks for itself, and deny the first four sentences to the extent that they
28

1 are inconsistent with that report. Fifth sentence: this sentence contains Plaintiffs'
2 characterizations of this case, argument, and legal conclusions, to which no response is required;
3 to the extent a response is deemed required, Defendants deny the allegations in this sentence.

4 166. 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: Defendants admit.

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

10 168. First through third sentences: these sentences constitute Plaintiffs'
11 characterizations of the 1976 Army IG Report. Defendants respectfully refer the Court to the
12 1976 Army IG Report, which speaks for itself, and deny the first three sentences to the extent that
13 they are inconsistent with that report. Fourth sentence: this sentence contains Plaintiffs'
14 characterizations of this case and conclusions of law, to which no response is required; to the
15 extent a response is deemed required, Defendants deny the allegations in this sentence. Fifth
16 sentence: Defendants deny except to admit that DOD drew volunteers from Army bases
17 throughout the country. Sixth sentence: this sentence contains Plaintiffs' characterizations of this
18 case and its expectations with regard to discovery, to which no response is required; to the extent
19 a response is deemed required, Defendants deny the allegations in this sentence except that they
20 are without knowledge or information regarding Plaintiffs' expectations with regard to discovery.
21 Seventh sentence: Defendants admit that VA sent 135 letters dated September 14, 2006, to
22 identifiable test subjects residing in California.
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1 169. Paragraph 169 constitutes Plaintiffs' characterizations of the cited 1993 GAO
2 Report. Defendants respectfully refer the Court to the 1993 GAO Report, which speaks for itself,
3 and deny paragraph 169 to the extent it is inconsistent with that report.

4 170. Defendants admit that Plaintiffs have quoted a portion of a document that VA
5 published in 2003 and refer the Court to that document for a full and complete statement of its
6 content. Defendants deny this allegation to the extent that there are inconsistencies in the quote.

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

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

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

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

22 175. Paragraph 175 contains Plaintiffs' allegations regarding the proposed class
23 representatives, to which no response is required; to the extent a response is deemed required,
24

1 Defendants are without knowledge or information sufficient to admit or deny the allegations
2 contained in paragraph 175.

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

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

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

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

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

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

25 182. Defendants incorporate by reference the responses set forth in paragraphs 1
26 through 181, inclusive.
27
28

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

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

6 185. Paragraph 185 consists of conclusions of law and/or statements of Plaintiffs' case
7 to which no response is required. To the extent a response is deemed necessary, the paragraph is
8 denied.

9 186. Paragraph 186 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.

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

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

16 189. Paragraph 189 constitutes Plaintiffs' prayer for relief on their second claim for
17 relief, to which no response is required. To the extent a response is required, the paragraph is
18 denied.

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

21 191. First sentence: Defendants are without knowledge or information sufficient to
22 admit or deny the allegations contained in the first sentence. Second sentence: the second
23 sentence constitutes a characterization of Plaintiffs' claim and of this Court's Order.

24 **Tim Michael Josephs**

1 192. Defendants admit.

2 193. Defendants are without knowledge or information sufficient to admit or deny the
3 allegations contained in paragraph 193 except to the extent that Defendants admit that Mr.
4 Josephs was assigned to Fort Benning after Officer Candidate School.

5 194. Defendants are without knowledge or information sufficient to admit or deny the
6 allegations contained in paragraph 194.

7 195. Defendants are without knowledge or information sufficient to admit or deny the
8 allegations contained in this sentence except to admit that Mr. Josephs received a letter of
9 commendation signed by Dr. Frederick R. Sidell.

10 196. First sentence: Defendants admit that Mr. Josephs signed a document titled
11 “Volunteer’s Participation Agreement” on January 3, 1968. Defendants admit that the
12 “Volunteer’s Participation Agreement” does not list the “drugs or substances to be given.”
13 Second and fourth sentences: Defendants are without knowledge or information sufficient to
14 admit or deny the allegations contained in these sentences. Third sentence: Defendants deny the
15 allegations contained in this sentence.

16 197. Defendants are without knowledge or information sufficient to admit or deny the
17 allegations contained in paragraph 197.

18 198. Defendants are without knowledge or information sufficient to admit or deny the
19 allegations contained in paragraph 198 except that Mr. Josephs was given physical tests on
20 January 4, 1968 and written screening questionnaires on November 14, 1967.

21 199. First sentence: Defendants are without knowledge or information sufficient to admit
22 or deny the allegations contained in the first sentence except to admit that as a test volunteer Mr.
23 Josephs participated in chemical agent tests while assigned to Edgewood Arsenal. Second and
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1 third sentences: Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in these sentences.

3 200. Defendants are without knowledge or information sufficient to admit or deny the
4 allegations contained in paragraph 200.

5 201. Defendants admit that on 17 September 1975 an official assigned to Edgewood
6 Arsenal responded to correspondence from Mr. Josephs and informed Mr. Josephs that he had
7 been exposed to the following substances: pyridine-2-aldoxime methane sulfate, scopolamine,
8 and Prolixin. Plaintiffs further admit that information contained in the Chemical and Biological
9 Tests Repository indicates Mr. Josephs was exposed to Artane, Cogentin, and saline. Defendants
10 are without knowledge or information sufficient to admit or deny the remaining allegations
11 contained in paragraph 201.

12 202. Defendants admit that information contained in the Chemical and Biological Tests
13 Repository indicates Mr. Josephs received 9.0 grams of P2S-RA on February 1, 1968.
14 Defendants are without knowledge or information sufficient to admit or deny the remaining
15 allegations contained in paragraph 202.

16 203. First sentence: Defendants admit that Mr. Josephs received prolixin on 20 February
17 1968. Defendants further admit that Mr. Josephs experienced “muscle spasms” after receiving
18 prolixin. Second sentence: Defendants admit that Mr. Josephs received Cogentin and Artane.
19 Defendants further admit that Mr. Josephs’ symptoms subsided. Defendants are without
20 knowledge or information sufficient to admit or deny the remaining allegations contained in
21 paragraph 203.

22 204. Defendants are without knowledge or information sufficient to admit or deny the
23 allegations contained in paragraph 204.

1 205. Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in paragraph 205.

3 206. First sentence: Defendants admit. Second sentence: Defendants admit that Mr.
4 Josephs was treated for “nerves” at Fort Benning, Georgia on 4 March 1968. First sentence:
5 Defendants are without knowledge or information sufficient to admit or deny the allegations
6 contained in this sentence.

7 207. First sentence: Defendants admit that Mr. Josephs served in Thailand between
8 August 1968 and August 1969. Defendants further admit that Mr. Josephs was honorably
9 discharged in August 1969. Defendants are without knowledge or information sufficient to admit
10 or deny the remaining allegations contained in this sentence. Second sentence: Defendants deny
11 the allegations contained in this sentence.

12 208. Defendants are without knowledge or information sufficient to admit or deny the
13 allegations contained in paragraph 208.

14 209. First sentence: Defendants admit that officials at Edgewood received a letter from
15 Mr. Josephs concerning his participation in “drug experiments at Edgewood Arsenal, Maryland.”
16 Defendants are without knowledge or information sufficient to admit or deny the allegations
17 contained in the remainder of the first sentence. Second sentence: Defendants are without
18 knowledge or information sufficient to admit or deny the allegations contained in the second
19 sentence, except to admit that Dr. C. McClure sent Mr. Josephs a letter dated 17 September 1975
20 informing Mr. Josephs that he had been exposed to pyridine-2-aldoxime methane sulfate,
21 scopolamine, and prolixin during his service at Edgewood Arsenal. Third and fourth sentences:
22 Defendants are without knowledge or information sufficient to admit or deny the allegations
23 contained in these sentences.

1 215. Defendants are without knowledge or information sufficient to admit or deny the
2 allegations contained in paragraph 215.

3 216. First sentence: Defendants admit that Mr. Blazinski completed a “Medical
4 Volunteer Information” form on 11 January 1968 before his duty at Edgewood began.
5 Defendants further admit that Mr. Blazinski completed the Minnesota Multiphasic Personality
6 Inventory on 25 January 1968 before his duty at Edgewood began. Defendants are without
7 knowledge or information sufficient to admit or deny the remaining allegations contained in this
8 sentence. Second sentence: Defendants admit that Mr. Blazinski completed a “Volunteer’s
9 Participation Agreement” on 1 March 1968. Defendants are without knowledge or information
10 sufficient to admit or deny the remaining allegations contained in this sentence. Third sentence:
11 Defendants are without knowledge or information sufficient to admit or deny the allegations
12 contained in this sentence. Fourth sentence: Defendants are without knowledge or information
13 sufficient to admit or deny the allegations contained in this sentence. Fifth sentence: Defendants
14 admit that Mr. Blazinski was assigned volunteer number 5031.

15 217. First sentence: Defendants admit that Mr. Blazinski participated in five experiments
16 while on temporary duty at Edgewood Arsenal. Second sentence: Defendants admit that Mr.
17 Blazinski was exposed to CS during three tests. Third sentence: Defendants are without
18 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
19 Fourth sentence: Defendants admit that volunteers were instructed to remain in the exposure
20 facility for as long as tolerable, but no longer than 600 seconds. Fifth sentence: Defendants
21 admit that Mr. Blazinski remained in the exposure facility for 600 seconds for each of the three
22 tests. Defendants are without knowledge or information sufficient to admit or deny the remaining
23 allegations in this sentence.

1 218. First sentence: Defendants are without knowledge or information sufficient to admit
2 or deny the allegations contained in this sentence. Second sentence: Defendants admit that Mr.
3 Blazinski participated in a test during which he received scolpolamine and physostigmine.
4 Defendants further admit that part of the test occurred in a padded area. Defendants are without
5 knowledge or information sufficient to admit or deny the remaining allegations contained in this
6 sentence. Third sentence: Defendants are without knowledge or information sufficient to admit
7 or deny the allegations contained in this sentence. Fourth sentence: Defendants are without
8 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
9 Fifth sentence: Defendants are without knowledge or information sufficient to admit or deny the
10 allegations contained in this sentence. Six sentence: Defendants are without knowledge or
11 information sufficient to admit or deny the allegations contained in this sentence. Seventh
12 sentence: This sentence contains characterizations to which no answer is required except to admit
13 that Mr. Blazinski wore glasses to help him see during the test. Eighth sentence: Defendants
14 admit that Mr. Blazinski at lunch during the test. Ninth sentence: Defendants are without
15 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
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18 219. First sentence: This sentence contains characterizations to which no response is
19 required except to admit that Mr. Blazinski participated in a Cutaneous Communications test in
20 which he had electrodes attached to his forearms. Defendants further admit that current was
21 applied to the electrodes so that the stimulation pulse was increased to the level of feeling.
22 Defendants further admit that the current level was then increased 25% and then reduced to the
23 point of no feeling. Second sentence: Defendants admit that some test participants received
24 “drugs” on their forearms before the electrodes were applied. Defendants are without knowledge
25 or information sufficient to admit or deny the remaining allegations contained in this sentence.
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28 220. Defendants admit.

1 221 First sentence: Defendants admit that Mr. Blazinski has been diagnosed with
2 chronic lymphocytic leukemia and ulcerative colitis. Second sentence: Defendants are without
3 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
4 Third sentence: Defendants are without knowledge or information sufficient to admit or deny the
5 allegations contained in this sentence. Fourth sentence: Defendants admit that in 2008, VA
6 notified Mr. Blazinski that his claim for service connection for colitis and leukemia was denied.
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8 222. Paragraph 222 contains a characterization and a legal conclusion to which no
9 response is required. To the extent a response is required, Defendants deny.

10 **FOURTH CLAIM FOR RELIEF BY VVA AND ALL INDIVIDUAL PLAINTIFFS**
11 **AGAINST DVA AND SECRETARY SHINSEKI**
12 **(Declaratory and Injunctive Relief)**

13 223. First sentence: Defendants incorporate by reference the responses set forth in
14 paragraphs 1 through 222, inclusive, subject to this Court's rulings in its January 19, 2010, Order
15 Granting in Part and Denying in Part Defendants' Motions to Dismiss and Denying Defendants'
16 Alternative Motion for Summary Judgment (Docket No. 59) and its Order Granting in Part and
17 Denying in Part Defendants' Motion to Dismiss in Part Plaintiffs' Third Amended Complaint and
18 Denying Plaintiffs' Motion to Strike (Docket No. 233).

19 **Defendant Department of Veterans Affairs**

20 224. First sentence: This sentence constitutes Plaintiffs' characterizations of 38 U.S.C.
21 §§ 301, 1110, 1131, 1310, and 1710. Defendants respectfully refer the Court to 38 U.S.C.
22 §§ 301, 1110, 1131, 1310, and 1710, which speak for themselves, and deny these sentences to the
23 extent they are inconsistent with those statutes. Second sentence: this sentence constitutes
24 Plaintiffs' characterizations of 38 U.S.C. §§ 1710, 7301, 7701, and 7703. Defendants respectfully
25 refer the Court to 38 U.S.C. §§ 1710, 7301, 7701, and 7703, which speak for themselves, and
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1 deny these sentences to the extent they are inconsistent with those statutes. Third sentence:
2 Defendants admit.

3 225. First sentence: Defendants deny. Second sentence: Defendants are without
4 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
5 Third sentence: This sentence contains Plaintiffs' characterization of this case and argument, to
6 which no response is required; to the extent a response is deemed required, Defendants are
7 without knowledge or information sufficient to admit or deny the allegations contained in this
8 sentence. Fourth sentence: Defendants deny. Fifth sentence: Defendants deny. Sixth sentence:
9 Defendants are without knowledge or information sufficient to admit or deny the allegations
10 contained in this sentence.
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12 226. First sentence: This sentence contains Plaintiffs' characterization of this case and
13 argument, 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 this sentence. Second sentence: Defendants admit that DVA tested LSD on veterans
16 in the past. Defendants are without knowledge or information sufficient to admit or deny the
17 allegation regarding the period of testing contained in this sentence. Third sentence: Defendants
18 neither admit nor deny on the basis of privilege. Fourth sentence: Defendants are without
19 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
20 Fifth sentence: Defendants admit that tests conducted in VHA research facilities include anthrax.
21 Defendants are without knowledge or information sufficient to admit or deny the other allegations
22 contained in this sentence.
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25 227. First sentence: Defendants are without knowledge or information sufficient to
26 admit or deny the allegations contained in this sentence except to admit that, in approximately
27 2005-2006, VA became involved in outreach activities and notification concerning a DoD
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1 database containing the names of veterans who had participated in chemical and biological testing
2 programs at Edgewood Arsenal. Second sentence: Defendants deny. Third sentence: This
3 sentence contains characterizations to which no response is required. To the extent a response is
4 required, Defendants admit that, according to the September 2009 report on outreach activities by
5 the DVA Compensation and Pension Service, there were 4,495 veterans in a mustard gas and
6 lewisite database provided by DoD to DVA. Fourth sentence: This sentence contains
7 characterizations to which no response is required. To the extent a response is required,
8 Defendants deny that DVA compiled a database of veterans exposed to chemical or biological
9 substances at Edgewood Arsenal. Defendants admit that DVA was provided with a DoD
10 database of 10,528 veterans who were exposed to chemical or biological substances at Edgewood
11 Arsenal. Fifth sentence: Defendants deny that VA knew that the DoD database omitted all
12 veterans exposed before 1954. Defendants are without knowledge or information sufficient to
13 admit or deny the allegation regarding the number of veterans exposed before 1954.

16 228. First sentence: Defendants deny. Second sentence: Defendants are without
17 knowledge or information sufficient to admit or deny the allegations contained in this sentence.
18 Third sentence: Defendants deny the generalized assertion that VA has not contacted survivors of
19 deceased veterans who may be entitled to DIC. Defendants admit that VA has not initiated a
20 separate process to contact the survivors of deceased veterans whose names were included in the
21 DoD database of veterans exposed to chemical and biological agents at Edgewood Arsenal,
22 although such contacts may have occurred in the processing of claims and death notices in
23 individual cases. Fourth sentence: This sentence contains Plaintiffs' characterization of this case
24 and argument, to which no response is required; to the extent a response is deemed required,
25 Defendants are without knowledge or information sufficient to admit or deny the allegations
26 contained in this sentence.
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1 229. First sentence: Defendants admit that, according to the September 2009 report on
2 outreach activities by the VA Compensation and Pension Service, almost half of the Veterans in
3 the Mustard Gas database were deceased. Defendants deny the remaining allegations in the first
4 sentence. Second sentence: Defendants are without knowledge or information sufficient to admit
5 or deny the allegations contained in this sentence except to admit that, as of the release of the
6 September 2009 report on outreach activities by the DVA Compensation and Pension Service,
7 DVA had found addresses of 371 Veterans in the Mustard Gas Group. Third sentence:
8 Defendants admit that, as reflected in the September 2009 report on outreach activities by the
9 DVA Compensation and Pension Service, VA had received 1518 mustard gas claims, 142 of
10 which were pending. Fourth sentence: Defendants admit. Fifth sentence: Defendants deny.

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12 230. First sentence: This sentence contains characterizations to which no response is
13 required. To the extent a response is required, Defendants deny except to aver that as the
14 September 2009 report on outreach activities by the DVA Compensation and Pension Service
15 reflects, DVA had notified 3,218 of the 10,528 veterans, exposed to chemical or biological
16 substances at Edgewood Arsenal, contained in DoD's database. Second sentence: Defendants are
17 without knowledge or information sufficient to admit or deny the allegations contained in this
18 sentence except to admit that VA has attempted to notify veterans whose names were included in
19 the database compiled by DoD. Third sentence: Defendants deny except to admit that, according
20 to the September 2009 report on outreach activities by the VA Compensation and Pension
21 Service: VA had received 87 chem-bio claims and VA had issued two decisions granting service
22 connection. Fourth sentence: This sentence contains characterizations to which no response is
23 required. To the extent a response is required, Defendants deny.

24 231. First sentence: Defendants admit that the DVA notice letter included Frequently
25 Asked Questions (FAQs) and a DOD Deployment Health Support Directorate Fact Sheet.
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1 Second sentence: This sentence 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. Third sentence: This sentence constitutes argument and Plaintiffs' characterization of
4 the VA notice letter, FAQs, and DoD Deployment Health Support Directorate Fact Sheet to
5 which no response is required. To the extent a response is required, Defendants respectfully refer
6 the Court to the notice letter, FAQs, and Fact Sheet, which speak for themselves, and deny this
7 sentence to the extent it is inconsistent with the letter, FAQs, or Fact Sheet. To the extent this
8 sentence alleges that such statements are misrepresentations, Defendants deny. Fourth sentence:
9 This sentence constitutes Plaintiffs' characterization of the FAQs. Defendants respectfully refer
10 the Court to the FAQs, which speak for themselves, and deny this sentence to the extent it is
11 inconsistent with the FAQs. Fifth sentence: Defendants deny.

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14 232. Paragraph 232 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.

17 233. Paragraph 233 contains Plaintiffs' characterization of this case, argument, and
18 legal conclusions, to which no response is required; to the extent a response is deemed required,
19 Defendants deny.

20 234. Paragraph 234 contains Plaintiffs' characterization of this case, argument, and
21 legal conclusions, to which no response is required; to the extent a response is deemed required,
22 Defendants deny.

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24 Defendants hereby deny all allegations in Plaintiffs' Complaint not expressly admitted or
25 denied or otherwise responded to.
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AFFIRMATIVE AND OTHER DEFENSES

First Affirmative Defense

The Court lacks subject matter jurisdiction.

Second Affirmative Defense

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

Third Affirmative Defense

One or more Plaintiffs are barred from asserting any claims against DoD or CIA by virtue of the applicable statute of limitations, 28 U.S.C. § 2401(a). One or more Plaintiffs have been aware of the facts underlying such claims for more than six years prior to the filing of the Complaint.

Fourth Affirmative Defense

Plaintiffs are barred from asserting any claims by laches. One or more Plaintiffs have been aware of the facts underlying their claims for an unreasonable period of time, and in some circumstances, decades, without timely bringing a lawsuit. Given the staleness of such claims, and the difficulty in identifying and obtaining potentially relevant information, Defendants have been, and continue to be, prejudiced by Plaintiffs unreasonable delay in bringing their lawsuit.

Fifth Affirmative Defense

Plaintiff Bruce Price is barred from asserting any causes of action against the CIA and DoD by res judicata because he has previously brought claims against the United States. The claims in his prior action are the same as those in the present one; the prior suit resulted in final judgment on the merits; and both suits involved the same parties or their privities.

THEREFORE, having fully answered, Defendants deny that Plaintiff are entitled to the relief requested or to any relief whatsoever, and request that this action be dismissed in its entirety

1 with prejudice and that Defendants be given such other relief as this Court deems proper,
2 including costs and disbursements.

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Dated: June 14, 2011

Respectfully submitted,

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