

1 IAN GERSHENGORN
 Deputy Assistant Attorney General
 2 MELINDA L. HAAG
 United States Attorney
 3 VINCENT M. GARVEY
 Deputy Branch Director
 4 CAROLINE LEWIS WOLVERTON
 District of Columbia Bar No. 496433
 5 Senior Counsel
 KIMBERLY L. HERB
 6 Illinois Bar No. 6296725
 Trial Attorney
 7 LILY SARA FAREL
 North Carolina Bar No. 35273
 8 Trial Attorney
 BRIGHAM JOHN BOWEN
 9 District of Columbia Bar No. 981555
 Trial Attorney
 10 Civil Division, Federal Programs Branch
 U.S. Department of Justice
 11 P.O. Box 883
 Washington, D.C. 20044
 12 Phone: (202) 514-6289
 Facsimile: (202) 616-8470
 13 Email: Brigham.Bowen@usdoj.gov

14 Attorneys for DEFENDANTS

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

18 VIETNAM VETERANS OF AMERICA, *et al.*,
 19 Plaintiffs,
 20 v.
 21 CENTRAL INTELLIGENCE AGENCY, *et al.*,
 22 Defendants.
 23
 24
 25
 26

Case No. CV 09-0037-CW

Noticed Motion Date and Time:
 October 6, 2010
 9:30 a.m.

**DEFENDANTS' OPPOSITION TO
 MOTION TO COMPEL 30(B)(6)
 DEPOSITIONS**

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PAGE

- I. BACKGROUND 1
 - A. The Overbreadth of Plaintiffs’ Discovery Requests and Extreme Burden on Defendants..... 2
 - B. Defendants’ Document Searches and Productions 4
 - 1. Plaintiffs’ Mischaracterizations 4
 - 2. Defendants’ Searches and Productions 5
 - 3. CIA’s Previous Exhaustive Searches of Its Records of Human Testing and the Limited Nexus to Testing on Military Personnel..... 6
 - 4. The Ongoing DoD Investigation and Previous Investigation of Army Chemical and Biological Test Programs 7
- II. ARGUMENT 9
 - A. Notwithstanding the Overbreadth of Plaintiffs’ Discovery Requests, Defendants Have Designated Witnesses to Testify Regarding a Wide Range of Topics 9
 - B. Deposition Testimony Regarding the Remaining Topics Is Unwarranted..... 12
 - 1. Topics 2 and 3: “Interface” with VA Regarding Claims Brought by Test Subjects 12
 - 2. Topics 10 and 11: The 1963 CIA Inspector General Report 13
 - 3. Topic 14: The Scope and Conduct of Document Searches Conducted Pursuant to Congressional Requests 15
 - 4. Topic 17: Doses of Substances Administered to Test Subjects and the Expected Effects of Those Doses 16
 - 5. Topics 20, 22, 23, 24: Third-Party Contracts and Cut-Outs 17
 - 6. Topic 32: Test Subjects’ Attempts to Withdraw Consent or Refusal to Participate in the Test Programs..... 18
 - 7. Topic 34: Human Testing Conducted From 1975 to Date..... 19
 - 8. Topics 36-37: Use of Patients from VA Medical Facilities as Test Subjects 19
 - 9. Topics 44-48: Use of Septal Implants 20

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 10. Topic 50: Application of MKULTRA Materials to Unwitting Subjects in Normal Life Settings 20
- 11. Topic 51: Studies and Experiments Conducted by Paul Hoch 22
- 12. Topic 52: The Basis for Redactions to the 1963 Inspector General Report 23
- 13. Topic 54: Confidential Army Memorandum Concerning the Use of Volunteers In Research..... 24
- C. Deposition Testimony Regarding Defendants’ Searches Is Unwarranted Prior to Their Completion 25

III. CONCLUSION 25

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE(S)</u>
<i>Barrett v. United States</i> , 660 F. Supp. 1291 (S.D.N.Y. 1987).....	22
<i>Carlson Cos., Inc. v. Sperry & Hutchinson Co.</i> , 374 F. Supp. 1080 (D. Minn. 1974).....	23
<i>Dravo Corp. v. Liberty Mut. Ins. Co.</i> , 164 F.R.D. 70 (D. Neb. 1995).....	11, 16
<i>FDIC v. Wachovia Ins. Svcs., Inc.</i> , No. 3:05CV929, 2007 WL 2460685 (D. Conn. Aug. 27, 2007).....	11
<i>Freeman v. Seligson</i> , 405 F.2d 1326 (D.C. Cir. 1968).....	22
<i>Krasney v. Nationwide Mut. Ins. Co.</i> , No. 3:06CV1164, 2007 WL 4365677 (D. Conn. Dec. 11, 2007).....	11
<i>Metropolitan Life Ins. Co. v. Muldoon</i> , Civ. No. 06-2026, 2007 WL 4561142 (D. Kan. Dec. 20, 2007).....	<u>passim</u>
<i>Mohamed v. Jeppesen Dataplan, Inc.</i> , ___F.3d ___,2010 WL 3489913 (9th Cir. Sept. 8, 2010).....	21
<i>Pub. Serv. Enter. Grp. Inc. v. Philadelphia Elec. Co.</i> , 130 F.R.D. 543 (D.N.J. 1990).....	22
<i>In re Indep. Servs. Org. Antitrust Litig.</i> , 168 F.R.D. 651(D. Kan. 1996).....	7
<i>United States v. Sims</i> , 471 U.S. 159 (1985).....	6
 <u>STATUTORY LAW</u>	
50 U.S.C. § 403g.....	15, 18, 21, 23, 24

1 Plaintiffs insist that Defendants must designate witnesses to testify regarding a wide-
2 ranging array of topics that they contend bear on their claims concerning Defendants' long-ago-
3 terminated — and previously investigated — research programs. Their demands are
4 unreasonable. Notwithstanding Defendants' objections to Plaintiffs' exceedingly expansive view
5 of the scope of discovery in this action, Defendants have designated witnesses to testify
6 concerning a broad range of topics, including Department of Defense (“DoD”) testing programs,
7 Army Regulation 70-25, the Wilson Directive, the Nuremberg Code, the ethics of human testing,
8 health effects arising from DoD testing programs, Central Intelligence Agency (“CIA”)
9 involvement (or non-involvement) in DoD testing programs at Edgewood Arsenal or Fort
10 Detrick, Edgewood medical files and databases, DoD referral processes for test participants, DoD
11 communications with Congress concerning military chemical and biological testing, DoD's
12 ongoing investigation regarding chemical test programs (the Battelle investigation), and the
13 secrecy oaths contained in DoD test consent forms. Plaintiffs' demands that Defendants must
14 produce witnesses concerning other topics fall well beyond the scope of reasonable discovery and
15 are manifestly burdensome and wasteful.

18 **I. BACKGROUND**

19 This case arises out of the testing of chemical and biological agents by DoD during the
20 Cold War era. Plaintiffs allege that they and other service members have been harmed as a result
21 of chemical and biological tests conducted at Edgewood Arsenal, a U.S. Army research facility in
22 Maryland, and several other military installations. In January 2010, Defendants moved to dismiss
23 Plaintiffs' claims or, in the alternative, for summary judgment. Defs.' Mot. to Dismiss [Dkt.
24 # 57]. Judge Wilken granted Defendants' motion in part, leaving a narrow set of remaining
25 claims. Jan. 19, 2010 Order at 19 [Dkt. # 59]. Most significantly, the Court concluded that
26 Plaintiffs lacked standing to assert claims regarding the lawfulness of the test programs. *Id.* at
27
28

1 11–12 (concluding that the requested relief would neither redress Plaintiffs’ injuries nor prevent
2 future injury). It also limited the scope of Plaintiffs’ broad claims arising from the Army’s use of
3 consent forms. The Court held that Plaintiffs had standing to challenge the consent forms only
4 “to the extent that [the Army] required the individual Plaintiffs to take a secrecy oath.” *Id.* at 13.
5 With regard to Plaintiffs’ notice claims, the Court stated that “an Army regulation ... suggest[ed]
6 that Defendants had a non-discretionary duty to warn the individual Plaintiffs about the nature of
7 the experiments.” *Id.* at 16 (citing Army Regulation 70-25 (indicating that test participants
8 should be informed regarding “the nature, duration, and purpose of the experiment, the method
9 and means by which it is to be conducted ... [and] the effects upon [their] health”)). The Court
10 also concluded that Plaintiffs had “sufficiently alleged a claim for medical care.” *Id.* at 17. Thus,
11 the Court narrowed the claims in this action to three issues: (1) the validity of consent forms as
12 they relate to secrecy oaths; (2) whether the individual Plaintiffs are entitled to notice of
13 chemicals to which they were exposed and any known health effects; and (3) whether Defendants
14 are obligated to provide medical care to the individual Plaintiffs.
15
16

17 **A. The Overbreadth of Plaintiffs’ Discovery Requests and Extreme Burden on**
18 **Defendants**

19 The breadth and scope of Plaintiffs’ 193 document requests and 86 topics for 30(b)(6)
20 testimony are on par with a full-scale investigation of all of the chemical and biological testing
21 that the federal government conducted or sponsored after World War II, and encompass many
22 aspects that are not relevant to the three claims that the Court has identified to proceed. Bowen
23 Decl. Exs. A, B (Pls.’ 30(b)(6) Notices & Pls.’ 1st, 2nd, 3rd, & 4th Sets of RFPs). Plaintiffs seek
24 discovery not only regarding military testing programs, but regarding a wide range of
25 government-funded research programs, in varied circumstances, over decades. Plaintiffs also
26 seek testimony regarding topics with no relation to drug research whatsoever. To the extent
27 records exist concerning these wide-ranging topics, and even to the extent such records arguably
28

1 may remotely be relevant to Plaintiffs' expansive view of the matters at issue in this case, the
2 testimony Plaintiffs seek from Defendants is unreasonable and unwarranted.

3 As Defendants' Answer reflects, after World War II and during the Cold War, the United
4 States conducted multiple chemical and biological tests and also contracted with outside
5 institutions that were performing tests of interest to the government's research of chemical and
6 biological agents. *See* Answer [Dkt. # 74]. Those tests spanned more than 20 years, beginning
7 over 60 years ago, and involved myriad investigations — few of which involved testing on
8 military service members. Plaintiffs' discovery requests seek extensive records generated over
9 that long period of time, as well as testimony concerning this entire breadth of subject matter.

10
11 Given the breadth of Plaintiffs' demands and the decades which have passed since any
12 relevant chemical testing on service members ceased — and in light of the fact that the testing
13 programs Plaintiffs believe are at issue have been fully, and repeatedly, investigated — the
14 number of records implicated by the requests is enormous, and the burden imposed by requiring
15 Defendants to produce these records and to provide knowledgeable witnesses concerning them is
16 extreme. Decl. of Michael Kilpatrick ¶ 17. Conducting searches merely for all of the DoD and
17 Army records that Plaintiffs seek would require an enormous amount of time and resources. *Id.*
18 Indeed, DoD is currently undertaking a massive investigation targeting service member testing,
19 and this investigation alone has spanned years and cost millions of dollars. *Id.* Requiring that
20 Defendants not only produce these ancient records, but somehow to designate witnesses to
21 review, familiarize themselves with, and testify concerning them would constitute an
22 unreasonable — and ultimately wasteful — burden.

23
24 The burdensome discovery that Plaintiffs seek is unnecessary to produce information
25 bearing on the straightforward claims before the Court and therefore is not reasonably calculated
26 to lead to the discovery of admissible evidence. As set forth above, the Court has identified a
27
28

1 confined set of issues for resolution, and a full-scale investigation into tests conducted over a
2 period of more than 20 years that began over 60 years ago is not necessary to decide them.¹

3 **B. Defendants' Document Searches and Productions**

4 **1. Plaintiffs' Mischaracterizations**

5 Defendants observe at the outset that they take issue with numerous contentions made by
6 Plaintiffs in their recent discovery filings, in particular with regard to the nature and scope of
7 Defendants' responses to Plaintiffs' discovery requests. In particular, Defendants feel compelled
8 to respond to two particularly significant mischaracterizations.
9

10 First, Plaintiffs wrongly assert that no documents have been identified as having been
11 produced by CIA. *See* Pls.' 30(b)(6) Mot. at 17 ("Defendants have yet to identify a single
12 specific document produced by the agency."); Pls.' RFP Mot. at 2, 5 (representing that "[n]otably,
13 Defendants have yet to identify a single document produced by the CIA" and that "Defendants
14 have yet to identify any documents produced by the CIA"). CIA produced documents to
15 Plaintiffs both as part of Defendants' Initial Disclosures and in response to Plaintiffs' first set of
16 RFPs. Decl. of Patricia Cameresi, Assoc. Info. Review Officer for the Directorate of Sci. &
17 Tech.; Bowen Decl. Ex. C (Defs.' Am. Interrogatory Resps. Nos. 4, 5, 16, 24, 25) (stating that
18 CIA previously produced documents responsive to the RFPs), Ex. D (July 30, 2010 Wolverton
19 Ltr.) at 4 ("CIA has produced documents in support of the Agency's good faith conclusion."). In
20 addition, CIA produced to Plaintiffs more than 20,000 pages of documents concerning CIA's
21 behavioral research programs outside of discovery. Cameresi Decl. ¶ 24. Both Defendants'
22
23
24

25 ¹ Contrary to Plaintiffs' characterization of the meet-and-confer efforts regarding the scope of
26 discovery, Defendants have exercised their best efforts to negotiate a workable scope of
27 discovery, including making two proposals for a definition of scope that targets information
28 bearing on the claims before the Court while accounting for the substantial impediments of the
passage of time, the large span of time, and the corresponding enormous number of documents.
See Defs.' Opp'n to Mot. to Compel Production at n.4.

1 discovery responses and correspondence make it quite plain that CIA has produced specific
2 documents. *See, e.g.*, Bowen Decl. Ex. C (Resps. Nos. 4, 5, 16, 24, 25), Ex. D at 4. And some of
3 Plaintiffs' subsequent RFPs specifically discuss documents produced to Plaintiffs by CIA, with
4 reference to specific Bates numbers (*see, e.g.*, Pls.' RFP Nos. 128, 138, and 139) and to CIA. It is
5 therefore not tenable that Plaintiffs were unaware that CIA has, in fact, produced documents.
6

7 Second, Plaintiffs erroneously assert that it appears that DoD and Army have not searched
8 for documents at Edgewood Arsenal, which was the Army's center for chemical research. Pls.'
9 Mot. at 16 n.12. Not only is this untrue, but Plaintiffs were on notice weeks before they filed
10 their motions that it was not true. Edgewood Arsenal was the focus of DoD's and Army's
11 searches in response to Plaintiffs' first set of RFPs. Decl. of DoD Program Analyst Anthony Lee
12 at ¶¶ 2, 3. By July 30, at the very latest, Plaintiffs were on express notice that DoD has been
13 searching Edgewood Arsenal for documents. *See* Bowen Decl. Ex. D at 2 ("Edgewood and Fort
14 Detrick are the focus of the ongoing DoD and Army document searches referenced above.")²
15

16 2. Defendants' Searches and Productions

17 Plaintiffs' characterizations aside, the facts demonstrate that Defendants have responded
18 to discovery with robust and reasonable responses. In response to Plaintiffs' first set of document
19 requests, DoD and Army conducted numerous searches of multiple offices and have produced a
20 large volume of documents. *See generally* Defs.' Opp'n to Mot. to Compel Production. CIA
21 likewise conducted searches and produced documents responsive to Plaintiffs' requests. *See*
22
23
24

25 ² Defendants also emphatically reject Plaintiffs' implication that Defendants are deliberately
26 attempting to delay discovery, "knowing that the named Plaintiffs are aging veterans with a
27 myriad of ailments, and at least one has terminal cancer." Pls.' 30(b)(6) Mot. at 2. The
28 suggestion that any of Defendants' actions in this lawsuit bear any relation to the health or age of
the named Plaintiffs, much less that they are directly connected as part of some sort of "strategy
of delay," is as baseless as it is offensive.

1 Cameresi Decl. ¶ 13. And, as mentioned above, Defendants have designated witnesses to testify
2 regarding a broad range of topics.

3 **3. CIA’s Previous Exhaustive Searches of Its Records of Human Testing and the**
4 **Limited Nexus to Testing on Military Personnel**

5 As the Court is aware, this is not the first time these matters have been the subject of
6 searching public scrutiny. In the wake of World War II, the United States received reports that
7 foreign nations were developing programs to alter human behavior through the use of drugs. *Id.*
8 ¶ 4; *see also United States v. Sims*, 471 U.S. 159, 173 (1985) (“[T]he Agency was concerned, not
9 without reason, that other countries were charting new advances in brainwashing and
10 interrogation techniques.”). CIA sought to counter this perceived threat by developing its
11 research capabilities concerning human behavior. Cameresi Decl. ¶ 4. It did so by supporting
12 “research into behavior modification underway at a number of universities and research
13 organizations,” but “did not attempt to develop its own research capability.” *Id.*

14
15 Beginning in the 1970s, information concerning CIA’s support for behavioral research
16 became publicly known, which set in motion numerous investigations of CIA’s research
17 programs. *Id.* ¶ 5–6. In response to Congressional and executive investigations, numerous
18 requests under the Freedom of Information Act (“FOIA”), civil litigation, and an internal
19 investigation commissioned by the CIA Director, CIA conducted exhaustive hand searches of its
20 files in order to identify all records in its possession relating to any drug testing program
21 sponsored by CIA. *Id.* ¶¶ 5–7. In the span of a few years, CIA’s closely guarded and classified
22 research programs morphed into “one of the most thoroughly investigated and exposed aspects of
23 the CIA’s past activities.” *Id.* ¶ 5. Furthermore, the results of these investigations — a set of
24 documents containing 20,000 pages concerning CIA’s behavioral research programs — have
25 been made available to the public and Plaintiffs in this case. *Id.* ¶ 6–7 & n.1.
26
27
28

1 An extensive review of records and information concerning CIA's behavioral research
2 program supports CIA's position that it did not conduct or fund testing on service members. *Id.*
3 ¶¶ 8, 11–12 (“After scouring the Agency for documents through these investigations and
4 conducting extensive interviews of CIA personnel and DoD personnel, the Agency has concluded
5 that it did not fund or conduct drug research on military personnel.”). Only one CIA program,
6 known as Project OFTEN, contemplated testing on service members, but CIA has concluded,
7 based on extensive, exhaustive searches, that such testing was never consummated. *Id.* ¶ 8, 11,
8 12; Bowen Decl. Ex. E (1977 memo stating that, with regard to Project OFTEN, “I do not
9 believe that any drug or substance was actually ... used in human experimentation”), Ex. F (1975
10 memo recounting that Van Sim, chief of clinical research at Edgewood Arsenal, “was positive
11 that no work on human subjects was performed under the contract with the Agency”).
12 Nonetheless, “[i]n an abundance of caution,” CIA also has searched for and produced, pursuant to
13 this litigation, documents “relating to the named Plaintiffs, Edgewood Arsenal, and Fort Detrick,”
14 with exceptions noted on its privilege log. Cameresi Decl. ¶ 13.

17 Additional searches beyond these topics in response to Plaintiffs' extensive and wide-
18 ranging discovery requests would be highly unlikely to identify additional documents relevant to
19 Plaintiffs' claims. *Id.* ¶¶ 7, 25. Ms. Cameresi's Declaration explains that such searches would
20 impose an extreme burden on CIA's limited resources. *Id.* ¶¶ 15-23. Beyond the searches
21 themselves, requiring CIA to produce witnesses to testify concerning these ancient matters would
22 be not only burdensome, but wasteful, given the passage of time and the lack of witnesses with
23 personal knowledge. *See In re Indep. Serv. Orgs. Antitrust Litig.*, 168 F.R.D. 651, 654 (D. Kan.
24 1996) (describing the 30(b)(6) deposition at issue as “a highly inefficient method through which
25 to obtain otherwise discoverable information”).
26

27
28 **4. The Ongoing DoD Investigation and Previous Investigations of Army
Chemical and Biological Test Programs**

1
2 DoD's research programs likewise have been heavily scrutinized. Beginning in 1975, the
3 Inspector General for the Department of the Army ("DAIG") conducted a seven-month
4 investigation of the Army's chemical agent testing between 1950 and 1975. Kilpatrick Decl. ¶ 3.
5 The resulting report, which has been made available to Plaintiffs, is comprehensive: "It describes
6 the history of chemical and biological warfare, the perceived threat that gave rise to the testing
7 programs, the authorities enacted for the testing programs, implementation of those authorities,
8 and specific tests conducted at Edgewood Arsenal and elsewhere." *Id.* The following year, the
9 Army published a comprehensive report on its biological testing program at Fort Detrick,
10 Maryland between 1942 and 1977, and this report also has been provided to Plaintiffs. *Id.* In
11 addition, there have been multiple Congressional and public investigations into DoD's test
12 programs, culminating in several reports of the Government Accountability Office ("GAO") and
13 the U.S. Senate Committee on Veterans' Affairs. *Id.* ¶ 10. As a result of these and other
14 investigations and inquiries, DoD's test programs have been aired extensively. *Id.* ¶ 11.

15
16 DoD's investigations have not only examined the nature of the test programs, but also
17 their associated health effects. In 1980, the Army published a report on the health effects
18 associated with exposure to LSD. *Id.* ¶ 4. This report was based on a follow-up study with 320
19 test volunteers, including 220 who received a one-week in-patient evaluation. *Id.* Between 1982
20 and 1985 and again in 2003, the National Research Council ("NRC"), working under contract
21 with the Army, examined test volunteers to determine the long-term health effects of the test
22 programs. *Id.* ¶¶ 5-6. Pursuant to these reviews, the NRC solicited and received 4,085 responses
23 from test participants in the 1980s and 2,748 in 2003 concerning the test subjects' participation in
24 the test programs and health effects. *Id.* Additionally, the Army contacted 358 biological test
25 program participants and published a report in 2005 regarding their health status. *Id.* ¶ 9.
26
27
28

1 concerning research programs was, in many respects, a nearly insurmountable challenge decades
2 ago when Congress and other entities subjected these same programs to numerous investigations.
3 As the 1976 Army IG Report observed, for example, “[s]ince the research spanned a 25-year
4 period, many of the personnel actively involved in the research programs were retired, quite
5 elderly, moved to new locations, or deceased.” Bowen Decl. Ex. G (DAIG-IN 21-75) at 4.
6 Similarly, when CIA conducted investigations in 1975 pursuant to the Church committee
7 hearings, the available material was, even then, sparse, due to the lack of records and “because
8 most of the CIA people who had been involved in 1953 to 1964 in this activity had retired from
9 the Agency.” Bowen Decl. Ex. H (*Project MKULTRA, the CIA’s Program of Research in*
10 *Behavioral Modification*, Joint Hearing before The S. Select Comm. on Intelligence and the
11 Subcomm, on Health and Scientific Research of the Comm. on Human Resources, 95th Cong.
12 (1977)) at 9. These challenges are rendered all the more profound by the fact that more than a
13 generation has passed since that time.
14
15

16 In short, the information Plaintiffs seek is almost exclusively retained, not in the memory
17 of current public officials who could serve as competent deponents, but in documents (the most
18 relevant of which already have been produced or are publicly available). Insisting on deposition
19 testimony regarding many of the topics designated by Plaintiffs invites great waste, as such
20 testimony, in most instances, will necessarily be limited to a duplicative summary of documents
21 that will offer little to no insight into their contents. Such wasteful deposition testimony has been
22 held to be unwarranted at all, much less warranted at the scope and scale for which Plaintiffs
23 clamor. See *Metropolitan Life Ins. Co. v. Muldoon*, Civ. No. 06-2026, 2007 WL 4561142, at *5
24 (D. Kan. Dec. 20, 2007) (“[I]t would be unduly burdensome, if not impossible, for the
25 Government to reconstruct the facts surrounding [a settlement agreement and annuity] . . . , when
26 the [documents were prepared] twenty five years ago. Such facts are neither known nor
27
28

1 ‘reasonably known’ by the United States, and the burden of attempting to reconstruct the
2 requested information simply outweighs its minimal benefit.”). As one court has observed, if an
3 organization “does not possess such knowledge as to [adequately] prepare [a witness], then its
4 obligations under Rule 30(b)(6) obviously cease, since the rule requires testimony only as to
5 ‘matters known or reasonably available to the organization.’” *Dravo Corp. v. Liberty Mut. Ins.*
6 *Co.*, 164 F.R.D. 70, 76 (D. Neb. 1995); *see also Krasney v. Nationwide Mut. Ins. Co.*, No.
7 3:06CV1164, 2007 WL 4365677 at *4 (D. Conn. Dec. 11, 2007) (where 30(b)(6) notice listed
8 forty topics and would have required an estimated twenty witnesses, noting that “under similar
9 circumstances federal judges have not hesitated to issue protective orders when corporations are
10 asked to respond to overly broad or unfocused Rule 30(b)(6) Notices”); *FDIC v. Wachovia Ins.*
11 *Svcs., Inc.*, No. 3:05CV929, 2007 WL 2460685 at *3 (D. Conn. Aug. 27, 2007) (quashing
12 30(b)(6) notice which would have burdened “plaintiff with educating representatives with respect
13 to twenty-seven areas of inquiry (many of which are open ended) and with producing thirteen
14 different categories of documents, many of which are of marginal, tangential, or dubious
15 relevance” and noting that “on balance, plaintiff is correct that to enforce this deposition notice
16 would be ‘abusive’”).³

17
18
19 Notwithstanding the overbreadth of Plaintiffs’ designations, Defendants have designated
20 numerous witnesses to testify concerning a wide range of topics, including, *inter alia*, DoD
21 testing programs, Army Regulation 70-25, the Wilson Directive, the Nuremberg Code, the ethics
22

23
24 ³ As courts have recognized, when parties issue broad deposition notices like Plaintiffs’, the
burden relating to preparing witnesses increases significantly. As one court recently observed:

25 As the scope of the subject matters to be explored at deposition becomes broader the
26 difficulty and burdensomeness of the contemplated discovery increases. The time and
effort required to “educate” a designated representative, who has no first-hand knowledge
27 of the area of inquiry is directly proportional to the breadth of the designated subject
matters. The expenditure of time increases as the areas of inquiry multiply.

28 *FDIC*, 2007 WL 2460685 at *3 (internal quotation marks and citation omitted).

1 of human testing, health effects arising from DoD testing programs, CIA involvement (or non-
2 involvement) in DoD testing programs at Edgewood Arsenal or Fort Detrick, Edgewood medical
3 files and databases, DoD referral processes for test participants, DoD communications with
4 Congress concerning military chemical and biological testing, DoD's ongoing investigation
5 regarding chemical test programs, and the secrecy oaths contained in DoD test consent forms.

6
7 *See* Bowen Decl. Ex. I. These deposition topics cover a wide span of information and should be
8 more than sufficient to provide opportunities to obtain legitimately discoverable information.

9 **B. Deposition Testimony Regarding the Remaining Topics Is Unwarranted.**

10 Other designated topics, regarding which Defendants maintain their objections, seek
11 information that is irrelevant, protected from disclosure, and/or not reasonably available to
12 Defendants. They are addressed in detail below.

13
14 **1. Topics 2 and 3: "Interface" with VA Regarding Claims Brought by Test Subjects**

15 Plaintiffs seek deposition testimony concerning "the interface between and representatives
16 involved in contacts between [Defendants] and the DVA regarding death and disability claims
17 brought by TEST SUBJECTS" and "[e]ach instance in which a veteran claimed to be involved in
18 one or more of the TEST PROGRAMS, but YOU informed anyone, including the DVA, that
19 YOU had no record of such participation." Bowen Decl. Ex. A at 7. This request, targeting
20 putative interactions between DoD and the VA when service members file claims with VA, bears
21 no relevance to any of Plaintiffs' claims.⁴ Plaintiffs' healthcare claims turn on facts concerning
22 DoD's relationships and duties concerning the Plaintiffs, but not on how DoD allegedly interacts
23 with VA when service members seek care from VA. Nor does this alleged interaction bear on
24
25

26 _____
27 ⁴ Because CIA records reflect that CIA did not conduct testing on service members, there is
28 no reason to suggest that "interface" between CIA and VA has taken place regarding these topics,
or to require testimony to this effect.

1 whatever notice may be required from DoD to Plaintiffs concerning research programs. And
2 these topics have nothing to do with consent or with secrecy oaths. All Plaintiffs could hope to
3 determine from deposition testimony on this topic is to understand the administrative mechanism
4 by which VA determines whether a claimant participated in DoD testing programs. Such
5 information has no bearing on healthcare-provision obligations putatively undertaken by DoD,
6 notice to Plaintiffs from DoD, or on the secrecy oaths.⁵

8 **2. Topics 10 and 11: The 1963 CIA Inspector General Report**

9 As set forth above, CIA's records reflect that CIA did not participate in service member
10 testing. Nonetheless, Plaintiffs insist that CIA behavioral research programs are relevant to their
11 secrecy oath, notice, and healthcare claims. They are not. In any event, Defendants have not
12 only produced the 1963 report outside of discovery but have subjected it to a revised and updated
13 classification review which resulted in numerous additional disclosures beyond those previously
14 made public.⁶ Unsatisfied with the report itself, Plaintiffs somehow believe that they are entitled
15 to testimony concerning the "authorship, creation and approval" of the report (Topic 10), "the
16

17 ⁵ In any event, the attached declarations from DoD answer some of these questions, insofar as
18 they pertain to the mechanism by which VA presently assesses service member participation. As
19 set forth in the declaration of Arnold Dupuy, the Chem-Bio database was, in part, designed to
20 enable the VA to "compile identifying information it can use to contact test volunteers." Dupuy
21 Decl. ¶ 4. The data entered into this database is compiled by Battelle, which provides individual
22 identifying information to the Office of the Under Secretary of Defense for Acquisition,
Technology, and Logistics. Lee Decl. ¶ 6. That office, in turn, forwards the information to the
Office of the Assistant Secretary of Defense for Health Affairs, which uploads the data into the
database. *Id.* If the VA has questions regarding individual participation, further coordination
takes place between VA and DoD as described by Mr. Dupuy. Dupuy Decl. ¶¶ 4–5.

23 ⁶ Despite its relevance objections regarding this document, CIA agreed in April 2010 to
24 undertake a new classification review of the document in express hopes of furthering resolution
25 of the case. The updated classification review resulted in numerous additional disclosures beyond
26 those previously made public, including disclosures that undermine the allegations of its
27 relevance in Plaintiffs' complaint. Specifically, Plaintiffs alleged in their complaint that "[m]ajor
28 program elements of MKULTRA have never been revealed. For example, key parts of the 1963
CIA IG Report were redacted, including all information concerning one of the two major
MKULTRA programs." SAC ¶ 134. The newly reviewed version of this report revealed to
Plaintiffs that the "program elements" that Plaintiffs insisted were relevant to their case did not
concern drug research at all, but "sensitive document reproduction." Bowen Decl. Ex. J at 4, 6,
30, 34.

1 PERSONS contacted or interviewed in connection with” the report, and “the notes, comments,
2 analysis or other writing CONCERNING its contents” (Topic 11).

3 Plaintiffs’ insistence that Defendants provide further testimony concerning the 1963 CIA
4 Inspector General Report regarding CIA research programs is manifestly unreasonable, for
5 numerous reasons. First, the marginal topics plaintiffs have designated — regarding authorship,
6 preparation, and other peripheral matters — bear no relation whatsoever to Plaintiffs’ claims,
7 which relate to DoD testing programs.⁷ To the extent CIA activities could be deemed relevant,
8 the actual report more than adequately addresses them. To contend that further testimony is
9 required, or is relevant, is to stretch Rule 26 well beyond its limits.⁸

10
11 Second, Defendants have already produced, outside of discovery, over 20,000 pages of
12 documents concerning CIA’s behavioral research programs — the full range and collection of
13 documents compiled pursuant to numerous prior investigations. This production should provide
14 more than enough information for Plaintiffs to understand and comprehend these programs, to the
15 extent they may bear any relevance to their claims.

16
17 Third, Plaintiff’s arguments for why the designated topics are relevant lack merit.
18 Plaintiffs suggest that such testimony “may demonstrate the CIA’s further involvement in testing
19 on military personnel,” Pls.’ Mot. at 7, but this notion is belied by CIA’s well-established
20 conclusion that CIA’s participation in human testing on military personnel was limited to
21 contemplated, but not consummated, funding, as set forth in the Cameresi Declaration. *See also*
22 Bowen Decl. Exs. E, F. In any event, it is not at all clear how present-day deposition testimony

24 ⁷ Plaintiffs’ insistence that these topics must be relevant because of the mere fact that the IG
25 Report is cited in the Complaint does nothing to render them relevant to the claims actually
pending before the Court.

26 ⁸ CIA has designated a witness to testify regarding CIA’s involvement, if any, in the specified
27 test programs and other chemical or biological testing involving service members conducted at
Edgewood Arsenal or Fort Detrick, based solely upon non-privileged, unclassified information
28 contained in the documents produced in this litigation. *See* Bowen Decl. Ex. I at 7.

1 regarding the IG report could somehow cast further light on these topics, which have been fully
2 investigated for decades.

3 Finally, given the passage of decades since the Report issued, Defendants observe that, at
4 best, deposition testimony on these topics could only be expected to summarize documents
5 already produced and would constitute an obvious waste of time and resources. Bowen Decl. Ex.
6 I at 7 (discussing passage of time and lack of available witnesses), Ex. H at 9 (same, in 1977);
7 *Muldoon*, 2007 WL 4561142, at *5. Accordingly, the request is not reasonably calculated to the
8 discovery of admissible evidence.

9
10 Plaintiffs also are wrong to take issue with Defendants' objection based on the Central
11 Intelligence Agency Act of 1949, 50 U.S.C. § 403g. Section 6 of the Central Intelligence Agency
12 Act of 1949, as amended, 50 U.S.C.A. § 403g, provides that CIA shall be exempted from the
13 provisions of any law which requires the publication or disclosure of the organization, functions,
14 names, official titles, salaries, or numbers of personnel employed by CIA. As a result, CIA
15 employees' names and personal identifiers (for example, employee signatures, employee numbers
16 or initials), titles, file numbers, and internal organizational data are absolutely protected from
17 disclosure by law. Suppl. Cameresi Decl. at 1-2. Inherent in any inquiry into the "authorship"
18 and preparation of the IG report, as well as into the personnel contacted and interviewed, directly
19 implicates information absolutely protected by section 403g, and there is no basis for requiring
20 testimony on these matters.
21

22 23 **3. Topic 14: The Scope and Conduct of Document Searches Conducted** 24 **Pursuant to Congressional Requests**

25 Plaintiffs seek deposition testimony concerning the "scope and conduct of the search for
26 documents pursuant to requests from Congress" made in the course of various investigations in
27 the 1970s. Bowen Decl. Ex. A at 8. The results of these inquiries have been made public, and
28 documents further memorializing the underlying searches for documents undertaken a generation

1 ago are would not be expected to be reasonably available to Defendants. As set forth in the
2 Declaration of Lieutenant Colonel Raymond Laurel, the U.S. Army Medical Research Institute of
3 Chemical Defences (“USAMRICD”) has identified a single set of documents titled “Human
4 Volunteer Historical Information – U.S. Senate Inquiries” which bears some relation to this topic.
5 Laurel Decl. ¶ 4. However, “[o]ther than that source, neither USAMRICD nor [the U.S. Army
6 Medical Research Institute of Infectious Diseases] maintains a record of specific documents used
7 to support congressional testimony concerning the test programs.” *Id.* For its part, CIA has
8 provided to Plaintiffs the full range of documents it has collected, over the course of years and
9 numerous investigations, concerning its testing programs. Cameresi Decl. ¶ 7 & n.1. The
10 existence of further documentation is highly unlikely. *Id.* ¶¶ 7, 25. In light of these facts, the
11 unwarrantedness of further testimony on this matter is plain. To the extent such documents exist,
12 their location or existence is not reasonably available to Defendants, and requiring testimony to
13 re-hash these matters would be wasteful and not likely to lead to the discovery of admissible
14 evidence. *Dravo Corp.*, 164 F.R.D. at 76.

17 **4. Topic 17: Doses of Substances Administered to Test Subjects and the**
18 **Expected Effects of Those Doses**

19 Unsatisfied that Defendants have designated witnesses to testify concerning relevant
20 matters relating to military testing programs, Plaintiffs insist that testimony is required regarding
21 the particular subjects of “doses administered to test subjects” and, substance by substance, the
22 “dose response relationship,” and the “estimated dose that would induce death.” As with other
23 topics designated by Plaintiffs, locating and preparing a witness to testify at this level of
24 pharmacological detail concerning each substance tested across the breadth of decades-long (and
25 decades-ago-ceased) testing programs is simply unreasonable, if not impossible. Available DoD
26 dose-response information would be expected to be located in individual medical records and
27 reports, and review of these documents to glean this sought-after information (in addition to the
28

1 effort required to collect them) would require a massive investment of time and resources — an
2 investment duplicating, if not surpassing, that undertaken pursuant to the ongoing DoD
3 investigation.⁹ The full scope of available CIA information regarding its long-ago terminated
4 behavioral research programs has been produced. Even if Defendants could prepare witnesses to
5 testify competently concerning these subjects (including substances DoD has not tested for
6 decades), the burden such an exercise would require would far exceed its utility, especially in
7 light of the fact that the question of health effects (1) has been thoroughly investigated and
8 reported on publicly; and (2) is the subject of still-pending document searches that may provide
9 far more useful (and reliable) information on this topic. To require more from Defendants on this
10 score, especially at this stage of the litigation, plainly would be unreasonable.

11 12 **5. Topics 20, 22, 23, 24: Third-Party Contracts and Cut-Outs**

13
14 CIA's behavioral research programs have been the subject of intense public scrutiny over
15 many years. Unsatisfied with the results of these investigations, Plaintiffs insist that they are
16 entitled to wide-ranging discovery concerning contracts and front organizations, apparently to
17 explore Plaintiffs' theory that, notwithstanding evidence to the contrary, CIA participated in
18 service member testing with DoD. As noted above, CIA records reflect that this is not true.
19 Plaintiffs' theory of relevance seems to be that testimony regarding cut-outs and contracts will
20 lead them to information concerning DoD testing programs or unearth some sort of evidence that
21 CIA was involved in — and is therefore liable for — service member testing programs.
22 Whatever may be said for these attenuated theories of relevance, Plaintiffs' questions have been
23 answered (in the negative) in the numerous more contemporaneous investigations already
24

25 _____
26 ⁹ Dose administration information, to the extent it is available, is in the Chem-Bio Database,
27 which has been produced to Plaintiffs. DoD has also produced a third-party *Review of Acute*
28 *Human-Toxicity Estimates for Selected Chemical-Warfare Agents* prepared in 1997 by the
National Research Council's Committee on Toxicology, which contains information relating to
these topics.

1 conducted and by documents already produced to them. To require a deponent to submit to
2 further questioning regarding these decades-old programs regarding such peripheral subjects
3 would be wasteful. As with so many other topics at issue here, the discoverable information one
4 would expect to find on these topics already has been discovered. Moreover, the nature of these
5 contractual arrangements simply has no bearing on whether DoD must provide healthcare and/or
6 notice to Plaintiffs. The Court should not permit Plaintiff to engage in a fishing expedition under
7 the guise of a 30(b)(6) deposition on these tangential topics.¹⁰

9 **6. Topic 32: Test Subjects' Attempts to Withdraw Consent or Refusal to**
10 **Participate in the Test Programs**

11 Plaintiffs also seek witness testimony concerning attempts by test subjects to withdraw
12 consent or to refuse to participate in experiments conducted in the testing programs. As
13 explained in the attached declaration of Lloyd Roberts of the U.S. Army Medical Research
14 Institute of Chemical Defense, USAMRICD “does not maintain a record of test volunteers who,
15 having consented to testing, withdrew their consent or otherwise refused to participate in testing.”
16 Roberts Decl. ¶ 7. While Defendants are aware that, according to the 1976 DAIG Report, at least
17 six volunteers refused to participate in testing after arriving at Edgewood Arsenal, the only known
18 source for these facts is the Report itself. *Id.*; DAIG Rpt. at 70. As stated by Mr. Roberts
19 regarding the six individuals identified above, “[t]he only potential method to identify those six
20 individuals is to individually review 6,723 personnel files to determine if those individuals’
21 refusal was noted in their record. Such a review would require individual, by-hand analysis of
22 each record” and “would encompass approximately 1680 man-hours of effort” and leave Mr.
23
24

25 ¹⁰ Nor are Plaintiffs’ contentions regarding the protections afforded by section 403g of any
26 moment. As discussed, *supra*, this statute absolutely protects from disclosure the organization,
27 functions, names, official titles, salaries, or numbers of personnel employed by CIA. As a result,
28 CIA employees’ names and personal identifiers (for example, employee signatures, employee
numbers or initials), titles, file numbers, and internal organizational data are absolutely protected
from disclosure by law.

1 Roberts' other major duties "essentially ... undone for 10 months." Roberts Decl. ¶ 7. Indeed,
2 even if Defendants could be required to undertake such an arduous review of individual files to
3 identify these personnel documents, the only discoverable information arising from these
4 documents would exist in the documents themselves. To require, in addition, 30(b)(6) testimony
5 concerning these stale records would be wasteful and duplicative.¹¹
6

7 **7. Topic 34: Human Testing Conducted From 1975 to Date**

8 The relevant DoD testing programs at issue in this suit, and all DoD testing of chemical
9 and biological agents on human subjects, ceased in 1975. DAIG Rpt. at 55.¹² Plaintiffs insist,
10 however, that all testing on veterans concerning "existing or potential chemical or biological
11 weapons done on veterans from 1975 to date" is not only relevant but warrants 30(b)(6)
12 testimony. To the extent any of DoD's activities since 1975 can be deemed "testing" at all, they
13 are not relevant to the testing which ceased in 1975. Plaintiffs' discovery must be cabined by
14 their claims.
15

16 **8. Topics 36-37: Use of Patients from VA Medical Facilities as Test Subjects**

17 As set forth above, CIA's records reflect that CIA did not participate in human testing
18 programs on military service members. To the extent CIA conducted or funded other research
19 programs in other contexts, such testing has no bearing on the claims presently before the Court.
20 For the same reasons that testimony concerning similar topics regarding CIA testing is not
21 warranted, CIA testimony is not warranted on this topic. *See* Part II.B.2, *supra*. Likewise,
22 alleged DoD or third-party testing on subjects other than service members and/or not at DoD
23 facilities (and Plaintiffs have offered no evidence to suggest DoD use of patients from VA
24

25 _____
26 ¹¹ Defendants are unaware of any records, much less relevant records concerning these topics
as they pertain to CIA. To the extent they may in theory exist, they would likely be found within
the thousands of pages already released to Plaintiffs.

27 ¹² CIA research programs ceased long before 1975, Cameresi Decl. ¶ 4, and are not relevant,
28 in any event.

1 facilities as test subjects) is not relevant. Moreover, given the passage of time, to require
2 Defendants to prepare witnesses to testify concerning these alleged tests — regarding which all
3 reasonably discoverable information is likely to reside in already-produced documents (such as
4 the very briefing book Plaintiffs cite) — would constitute burdensome and wasteful duplication,
5 as the witness testimony could not be expected to further illuminate these decades-old documents.
6 *Muldoon*, 2007 WL 4561142, at *5; Bowen Decl. Ex. H at 9 (1977 testimony observing that
7 witnesses were difficult to locate “because most of the CIA people who had been involved in
8 1953 to 1964 in this activity had retired from the Agency”).

9
10 **9. Topics 44-48: Use of Septal Implants**

11 As Defendants have informed Plaintiffs with respect to Plaintiffs’ discovery requests
12 concerning “septal implants,” Defendants’ written responses explain that “after [] conducting a
13 reasonable search, Defendants have identified only information concerning nasal implants used in
14 the 1950s to treat pilots for disease and radiation contamination.” Bowen Decl. Ex. K at 9, Ex. I
15 at 22-24. Further supporting DoD’s position is the fact that no mention is made of such
16 experimentation in the comprehensive IG report issued in 1976. Because Defendants have been
17 unable to find any information on purported “septal implants” on service members, there can be
18 no basis to further expand discovery to cover alleged implants in non-service members.
19

20 To the extent Plaintiffs seek information and/or testimony concerning any alleged device
21 or implant in Plaintiff Bruce Price’s brain, such information — if it exists — would, to
22 Defendants’ knowledge, only be contained within individual medical and/or personnel files
23 regarding Mr. Price (which have been produced in discovery). Additional testimony regarding
24 these facts will not further illuminate these documents or their contents.
25

26 **10. Topic 50: Application of MKULTRA Materials to Unwitting Subjects in**
27 **Normal Life Settings**
28

1 As set forth above, CIA's records reflect that CIA did not participate in human testing
2 programs on military service members. To the extent CIA funded other research programs in
3 different contexts, such research funding has no bearing on the claims presently before the Court.
4 For the same reasons that testimony concerning similar topics regarding CIA research funding is
5 not warranted, testimony is not warranted on this topic. *See* Part II.B.2, *supra*. Moreover, given
6 the passage of time, to require Defendants to prepare witnesses to testify concerning these tests —
7 regarding which all reasonably discoverable information is likely to reside in already-produced
8 documents, would constitute burdensome and wasteful duplication. *Muldoon*, 2007 WL
9 4561142, at *5; Bowen Decl. Ex. H at 9 (1977 testimony observing that witnesses were difficult
10 to locate “because most of the CIA people who had been involved in 1953 to 1964 in this activity
11 had retired from the Agency”).
12

13
14 Nor are Plaintiffs' contentions regarding the protections afforded by section 403g of any
15 moment. As discussed, *supra*, this statute absolutely protects from disclosure the organization,
16 functions, names, official titles, salaries, or numbers of personnel employed by CIA. As a result,
17 CIA employees' names and personal identifiers (for example, employee signatures, employee
18 numbers or initials), titles, file numbers, and internal organizational data are absolutely protected
19 from disclosure by law.
20

21 Finally, although certain matters concerning CIA research funding programs and
22 MKULTRA remain classified (*see* Part II.B.2, *supra*, discussing CIA's recent classification
23 review of the 1963 IG Report), Plaintiffs' challenge to Defendants' preservation of its right to
24 invoke the state secrets privilege likewise should be disregarded. Defendants have prudently
25 noted that information implicated by this deposition topic could be subject to the state secrets
26 privilege, but it is simply premature to determine whether invoking the privilege will be
27 necessary. *See Mohamed v. Jeppesen Dataplan, Inc.*, ___F.3d ___, 2010 WL 3489913, at *10 (9th
28

1 Cir. Sept. 8, 2010) (“The [state secrets] privilege may be asserted at any time....”). Moreover,
2 Defendants are not obligated formally to invoke the state secrets privilege unless and until the
3 Court determines that Defendants’ other objections to discovery do not protect the information.
4 *Id.*; *Freeman v. Seligson*, 405 F.2d 1326, 1338 (D.C. Cir. 1968) (stating that “matters of privilege
5 can appropriately be deferred for definitive ruling until after the production demand has been
6 adequately bolstered by a general showing of relevance and good cause, and at least the rough
7 dimensions of the [government’s] burden have been set. This technique may, as to particular
8 items, eliminate a ‘showdown’ on privilege.”). Should it become necessary, Defendants reserve
9 the right to invoke the privilege, as needed, but request the Court’s ruling on their other
10 objections before Defendants are required to consider the need to commence the process required
11 to make a formal assertion. *Freeman*, 405 F.2d at 1338.

12
13
14 **11. Topic 51: Studies and Experiments Conducted by Paul Hoch**

15 Plaintiffs’ allegations regarding Paul Hoch are facially irrelevant to their claims. Plaintiffs
16 acknowledge that Harold Blauer, the alleged subject of an allegedly Army-funded test, was not in
17 the military, and that the alleged test neither occurred on a military base nor was administered by
18 Army personnel. These circumstances are irrelevant to secrecy oath, notice, and healthcare
19 claims brought by individuals who uniformly allege that they were enlisted in the Army,
20 volunteered for testing, and were tested at a military installation. Moreover, the circumstances of
21 the Blauer death have been widely aired and were the subject of years of litigation. *See, e.g.*,
22 *Barrett v. United States*, 660 F. Supp. 1291 (S.D.N.Y. 1987) (thoroughly rehearsing facts and
23 summarizing litigation history). To the extent these decades-old matters are even arguably
24 relevant, there is no justification for requiring witness testimony regarding them — testimony
25 which would, at best, merely summarize documents already available to Plaintiffs. *Muldoon*,
26 2007 WL 4561142, at *5; *see also Pub. Serv. Enter. Grp. Inc. v. Philadelphia Elec. Co.*, 130
27
28

1 F.R.D. 543, 551–52 (D.N.J. 1990) (finding that Rule 26(b)(1)(1) was implicated where “the
 2 essential information ... is readily available” by virtue of government hearings and other
 3 litigation); *Carlson Cos., Inc. v. Sperry & Hutchinson Co.*, 374 F. Supp. 1080, 1085 (D. Minn.
 4 1974) (refusing to require productions, “the contents of which will possibly serve only to
 5 supplement material already revealed”).

6
 7 Setting aside the facial irrelevance of the topic to all Defendants, Plaintiffs offer no
 8 justification for their insistence CIA was involved with tests upon Mr. Blauer allegedly conducted
 9 by Dr. Hoch. In support of Plaintiffs’ presumption, Plaintiffs have pointed the Court to a
 10 document that says on its face that CIA was not involved.^{13,14}

11 **12. Topic 52: The Basis for Redactions to the 1963 Inspector General Report**

12 Notwithstanding its lack of relevance to service member testing and to Plaintiffs’ claims,
 13 CIA has provided to Plaintiffs a copy of the 1963 CIA IG Report concerning CIA testing, after
 14 subjecting it to renewed classification review. This copy includes more than twenty disclosures
 15 in addition to those made in previously released versions of the report. As Defendants have
 16 informed Plaintiffs, the remaining redactions, which constitute a small fraction of the report
 17 (single-line/word redactions on four of 42 pages, paragraph redactions on one page, and one page
 18 redaction), are protected from disclosure either by section 403g or because they are classified.¹⁵

19
 20
 21
 22 ¹³ See Vecchio Decl. Ex. M (“[CIA offices] have searched their files for any evidence of a
 23 CIA association with the death on 8 January 1953 of Harold Blauer while a patient at the New
 24 York Psychiatric Institute. The results of the search were negative except for the attached
 25 Memorandum for the Record.” The attachment stated: “At no time had [CIA] requested this
 26 experiment” and that CIA “had no funds involved nor were we involved in any way.”).

27 ¹⁴ To the extent that the Court could require CIA testimony on this topic, Defendants have
 28 noted that questions on the topic may implicate information privileged under 50 U.S.C. § 403g.
 For example, in the document cited by Plaintiffs in the Vecchio Declaration, CIA has redacted
 CIA functional information and the names of CIA personnel. As described, *supra*, section 403g
 absolutely privileges such information from disclosure.

¹⁵ To the extent Plaintiffs seek, through deposition testimony on this topic, information other
 than the provisions under which the redactions are justified (*i.e.*, information concerning the
 redacted information itself), there is no basis for Plaintiffs to conduct further inquiry. The

(Footnote continues on next page.)

1 Plaintiffs insist that the particularized reasons for the individual remaining redactions are
2 somehow relevant to their claims, on the theory that they are entitled to challenge them in this
3 action. There is no basis for Plaintiffs to use this action, however, which concerns service
4 member testing, to test these redactions on the discredited theory that the redactions somehow
5 may demonstrate CIA involvement in service member testing. In any event, Plaintiffs have been
6 informed of the reasons for the redactions: the redacted information is protected either by section
7 403g or because it is classified.

9 **13. Topic 54: Confidential Army Memorandum Concerning the Use of**
10 **Volunteers in Research**

11 Finally, Plaintiffs insist that a witness be deposed regarding a single document cited in the
12 1975 Army Inspector General report concerning the use of volunteers in chemical agent research:
13 a 1953 memorandum entitled “Use of Volunteers in Research.” *See* DAIG Rpt. at 35. As set
14 forth more fully in Defendants’ memorandum regarding Defendants’ production of documents
15 and declarations in support thereof, DoD is conducting an ongoing search for all documents cited
16 in the 1975 report, which search would be expected to encompass this particular document,
17 should it be discoverable. *See also* Decl. of Richard Wiltison ¶ 4; Decl. of Patsy D’Eramo, Jr.
18 ¶ 3. Apart from this laborious search and the information provided in the 1975 report concerning
19 it, DoD is unaware of the nature, location, or contents of this 57-year-old document. *See id.*

20 Accordingly, information concerning it is not reasonably available to Defendants, and there is no
21 basis to require the wasteful exercise of conducting a deposition on this matter. *Muldoon*, 2007
22 WL 4561142, at *5; DAIG Rpt. at 4 (“Since the research spanned a 25-year period, many of the
23
24

25
26 (Footnote continued from previous page.)

27 information is irrelevant to their claims and, ultimately, protected to the same extent as the
28 information subject to redaction.

1 personnel actively involved in the research programs were retired, quite elderly, moved to new
2 locations, or deceased.”).

3 **C. Deposition Testimony Regarding Defendants’ Searches Is Unwarranted Prior to**
4 **Their Completion.**

5 As noted above and as set forth more fully in Defendants’ concurrent filings, DoD has
6 been actively searching for responsive documents to Plaintiffs’ requests for production, as well as
7 for other documents which either are relevant or for which Defendants have agreed to search, as
8 an offer of compromise, throughout the pendency of this litigation. These searches are ongoing.
9 For its part, CIA’s production has been robust and comprehensive.¹⁶ Moreover, should the Court
10 deny Defendants’ requests for a stay of discovery and/or for a protective order, Defendants will
11 be conducting further searches in response to Plaintiffs’ numerous additional requests for
12 production (Pls.’ 2nd, 3rd, and 4th Requests). Given the pendency of all these searches, there is
13 no basis for Plaintiffs’ premature insistence that deposition testimony be taken now. *See* Bowen
14 Decl. Ex. L (July 23, 2010 Wolverton Ltr.), Ex. M (Pls.’ Suppl 30(b)(6) Notices).
15

16 **III. CONCLUSION**

17 For the foregoing reasons, Plaintiffs’ motion to compel 30(b)(6) deposition testimony
18 should be denied.
19

20
21 Dated: September 15, 2010

Respectfully submitted,

22 IAN GERSHENGORN
23 Deputy Assistant Attorney General
24 MELINDA L. HAAG
25 United States Attorney
VINCENT M. GARVEY

26 ¹⁶ As to CIA, given that Plaintiffs are willing to accept “a written description, under oath, of
27 CIA’s searches for and production of documents,” Pls.’ Mot. at 17 n.13 — and that CIA has
28 provided such a description, *see* Cameresi Decl., this matter should be deemed moot insofar as it
relates to CIA.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Deputy Branch Director

/s/ Brigham J. Bowen
CAROLINE LEWIS WOLVERTON
Senior Counsel
KIMBERLY L. HERB
Trial Attorney
LILY SARA FAREL
Trial Attorney
BRIGHAM JOHN BOWEN
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044
Telephone: (202) 514-6289
Facsimile: (202) 616-8470
E-mail: Brigham.Bowen@usdoj.gov

Attorneys for Defendants

Beaudoin, Kathy E.

From: ECF-CAND@cand.uscourts.gov
Sent: Wednesday, September 15, 2010 11:44 PM
To: efiling@cand.uscourts.gov
Subject: Activity in Case 4:09-cv-00037-CW Vietnam Veterans of America et al v. Central Intelligence Agency et al Memorandum in Opposition

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

U.S. District Court
Northern District of California
Notice of Electronic Filing or Other Case Activity

NOTE: Please read this entire notice before calling the Help Desk. If you have questions, please email the Help Desk by replying to this message; include your question or comment along with the original text.

Please note that these Notices are sent for all cases in the system when any case activity occurs, regardless of whether the case is designated for e-filing or not, or whether the activity is the filing of an electronic document or not.

If there are **two** hyperlinks below, the first will lead to the docket and the second will lead to an e-filed document.

If there is no second hyperlink, there is no electronic document available .

See the FAQ posting 'I have a Notice of Electronic Filing that was e-mailed to me but there's no hyperlink...' on the ECF home page at <https://ecf.cand.uscourts.gov> for more information.

The following transaction was received from by Bowen, Brigham entered on 9/15/2010 11:44 PM and filed on 9/15/2010

Case Name: Vietnam Veterans of America et al v. Central Intelligence Agency et al
Case Number: [4:09-cv-00037-CW](#)
Filer: United States of America
Central Intelligence Agency
United States Department of the Army
Leon Panetta
United States Department of Defense
Michael V. Hayden
Robert M. Gates
Michael B. Mukasey
Pete Geren

9/16/2010

Eric H. Holder, Jr

Document Number: [142](#)

Docket Text:

Memorandum in Opposition re [125] MOTION to Overrule Objections and Compel 30(b)(6) Depositions MOTION to Overrule Objections and Compel 30(b)(6) Depositions filed by Central Intelligence Agency, Robert M. Gates, Pete Geren, Michael V. Hayden, Eric H. Holder, Jr, Michael B. Mukasey, Leon Panetta, United States Department of Defense, United States Department of the Army, United States of America. (Attachments: # (1) Affidavit Decl. of Michael Kilpatrick, # (2) Affidavit Decl. of Anthony Lee, # (3) Affidavit Decl. of Lloyd Roberts, # (4) Affidavit Decl. of Arnold Dupuy, # (5) Affidavit Decl. of Richard Wiltson, # (6) Affidavit Decl. of Patsy D'Eramo, Jr., # (7) Affidavit Decl. of Lt. Col. Raymond Laurel, # (8) Affidavit Decl. of Patricia Cameresi, # (9) Affidavit Suppl. Decl. of Patricia Cameresi, # (10) Affidavit Decl. of Brigham Bowen, # (11) Exhibit Bowen Decl. Ex. A, # (12) Exhibit Bowen Decl. Ex. B, # (13) Exhibit Bowen Decl. Ex. C, # (14) Exhibit Bowen Decl. Ex. D, # (15) Exhibit Bowen Decl. Ex. E, # (16) Exhibit Bowen Decl. Ex. F, # (17) Exhibit Bowen Decl. Ex. G, # (18) Exhibit Bowen Decl. Ex. H, # (19) Exhibit Bowen Decl. Ex. I, # (20) Exhibit Bowen Decl. Ex. J, # (21) Exhibit Bowen Decl. Ex. K, # (22) Exhibit Bowen Decl. Ex. L, # (23) Exhibit Bowen Decl. Ex. M, # (24) Proposed Order (Bowen, Brigham) (Filed on 9/15/2010)

4:09-cv-00037-CW Notice has been electronically mailed to:

Adriano Hrvatin ahrvatin@mofo.com, patherton@mofo.com

Brigham John Bowen Brigham.Bowen@usdoj.gov

Caroline Lewis Wolverton caroline.lewis-wolverton@usdoj.gov, caroline.lewis-wolverton@usdoj.gov, Stephanie.Parker@usdoj.gov

Gordon P. Erspamer GErspamer@mofo.com, jdwright@mofo.com, kbeaudoin@mofo.com, lsario@mofo.com

Kimberly L. Herb Kimberly.L.Herb@usdoj.gov

Lily Sara Farel lily.farel@usdoj.gov

Stacey Michelle Sprenkel ssprenkel@mofo.com, jhaskins@mofo.com

Timothy W. Blakely tbladely@mofo.com

4:09-cv-00037-CW Please see [General Order 45 Section IX C.2 and D](#); Notice has NOT been electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:K:\VVA\30b6 opposition 9-10\For filing\001 VVA Opp to motion to compel 30b6 testimony FINAL.pdf

9/16/2010

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-0]
[5aa04495b7ab9cd17cbf659334dbec35f616a357f0ac8b5b796c850c26aa74e09f616
fcd19551c0c4274baac370e4c807127e325424608dc07492ac7e878cf43]]

Document description:Affidavit Decl. of Michael Kilpatrick

Original filename:K:\VVA\30b6 opposition 9-10\For filing\002 Kilpatrick Declaration Signed with Exhibit 1.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-1]
[78788c42ccbe9e8ca9e4632cada56c5c77200ba0ef1fcc3f1b28dd24cbb25ad01307b
e75ec2b8edad818960d81759cfd8ec204df15863d07fcee5cf27e03e01]]

Document description:Affidavit Decl. of Anthony Lee

Original filename:K:\VVA\30b6 opposition 9-10\For filing\003-Lee (Final) Lined Paper.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-2]
[a0426be899bc108956864e93fdb675241486653c81046e70bed84e7573faad2e86c61
86c9934caacb187f06ba03af9e51cfc74e501655d7af0432a19c703df9f]]

Document description:Affidavit Decl. of Lloyd Roberts

Original filename:K:\VVA\30b6 opposition 9-10\For filing\004-Roberts Declaration - Signed.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-3]
[883b491bffeab7c1feb9a8dc86728af403a2f48ddae5e4d25f526e113bd7757b5ad16
42b3bef1c908051a11ec30ba7723077290103e67ba2398166ac07a1c6fe]]

Document description:Affidavit Decl. of Arnold Dupuy

Original filename:K:\VVA\30b6 opposition 9-10\For filing\005-Dupuy Declaration_15 September 2010.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-4]
[41143b0cc0548072ad8424dbcd13a01119a463b273682a0cfa5b8c3deb8cd5c2f73b8
e241fcd5cfe653015e1a05455b0a0913a9c3dd24ee4b31f5dc583e42e0d]]

Document description:Affidavit Decl. of Richard Wiltison

Original filename:K:\VVA\30b6 opposition 9-10\For filing\006-Wiltison Declaration (Signed).PDF

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-5]
[9d3f60070a7b66b1688e55f56952b09569c6ea7239e997522c5f098fa2e336433efb1
962b279f2fbb50d3b18097cb08f4b25f73779519309865dde8d508fb6]]

Document description:Affidavit Decl. of Patsy D'Eramo, Jr.

Original filename:K:\VVA\30b6 opposition 9-10\For filing\007-Declaration_D'Eramo_CV09-0037-CW.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-6]
[4ac3b6c0e7bb0e6b0d95e1805512ba802afd3a351f49317a9a587d0db887434dcf583
feae4693dddc8c404cce529a2fdfd4b0d4dc990074662beabb62425cbd2]]

Document description:Affidavit Decl. of Lt. Col. Raymond Laurel

Original filename:K:\VVA\30b6 opposition 9-10\For filing\008-LTC Laurel Declaration - Signed.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-7]
[8c4d2c088de9077020f764a25fd07df3187a58df82a07c1302a9306baf9d3e1e9c0af
bcdf886be70db5606deff271ea4ac62cbd136d071cc7a5502afefe7a4e1]]

Document description:Affidavit Decl. of Patricia Cameresi

Original filename:K:\VVA\30b6 opposition 9-10\For filing\009 Signed Cameresi Declaration

reduced.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-8]
[9f9451ba95e2d9b5d65538abf65b2e6f5649e3d6f55379ad6f85d4946274926222c8a
423c5e2ead91f792c89acd444cd50c181ef4384b867b22f74bc36a44b92]]

Document description:Affidavit Suppl. Decl. of Patricia Cameresi

Original filename:K:\VVA\30b6 opposition 9-10\For filing\010 Supplemental Cameresi Declaration 9.15.10.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-9]
[aa62a9d6747a631cb5975cf4d915e4cf6a8dfd83e9feca00cef67e613e724f2696961
69df1434db20f4677c836af092b30a434716a9d09be0a1444d965ca8ecf]]

Document description:Affidavit Decl. of Brigham Bowen

Original filename:K:\VVA\30b6 opposition 9-10\For filing\011 Bowen Declaration re 30b6 motion.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-10]
[6832949f717352384020648605cee68ddd4387ab5769da9433b421a80d90b4ea3383
e2fb4d0ed210d9bd24d9a9b4ab40722f073fab721e469a473cb208bb30bf]]

Document description:Exhibit Bowen Decl. Ex. A

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex A - Pls 30b6 Notice.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-11]
[2fb38fe13cdb357865b8c1b28ec560794f60dc82fa207ba154cc993eefb0e2e2ba99
aaf25895a63ff77c8ff4ce95726a705222f8c27c945508012deae66d41b1]]

Document description:Exhibit Bowen Decl. Ex. B

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex B - Pls RFPs.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-12]
[97d345cd6da3ac70afabfa0c4705b8ac6b24f507a8fc21fedd84026a7dc0b727250f
f69da39c63fb10ef0e870204508062699498dea6be64f95a9636b3e7443e]]

Document description:Exhibit Bowen Decl. Ex. C

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex C - Defs Am ROG Resp 8-12-10.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-13]
[525ff6bd83db271dc15a0e81cb51746550946483c5684b72ba8493034294d1d176ea
4f7925f338f883f046f3d05bc193645746ff7d64b70689d4592889f44281]]

Document description:Exhibit Bowen Decl. Ex. D

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex D - Wolverton Ltr 7-30-2010.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-14]
[5b724ab30dec1858dbd2a58ec80e4926bb16ce7fc988323297d5da5c10e65ac53f62
bdb778ab09f1911962bd634f16ed662fc09faee87b0ff157bda71bda1549]]

Document description:Exhibit Bowen Decl. Ex. E

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex E - 8-2-1977 Memo.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-15]
[3c3843fd8a1459c218ce37ae766ef7be8ff1c8ded544e5f18c808a27937aabbfc4fc
370a2efde736587d8eda84f52a652e6a1ba3da0651b4c2101a171efb8bdb]]

Document description:Exhibit Bowen Decl. Ex. F

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex F - 2-12-1975 Memo.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-16]
[54dc4196cdaf0bf08722a4cb9fc57350d84a1f7d4d26819782dfdf3df17bf28a1b42
82a7750144c075baa616a2e1f546ca04e1968ec074bcc4d095e60b74d1b0]]

Document description:Exhibit Bowen Decl. Ex. G

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex G - DAIG Rpt
Excerpts.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-17]
[72f794b3df29d9efd4e374b79088943917dab4714841eb5ee720df7a79f0ff5dbc58
9d961069260d803bc7f82a76ebd9bd3f09a9d05691e85510525d4e73343e]]

Document description:Exhibit Bowen Decl. Ex. H

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex H - 1977 S Hearing
Excerpts.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-18]
[265b5158f8a0eb137032fbc3bb66d7e50531b349939017928f06fd41c0afc4bc52f3
9c01ae3d2ed9af26ad6a029c02c70a97eae4376c6619e87dfb200ce3c910]]

Document description:Exhibit Bowen Decl. Ex. I

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex I - Defs 30b6 Resp 3-4-
2010.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-19]
[551f32b2730461bb96a7254482e06a0848a01d19c1c10f64a24d81e576f7702d875a
62b59547134d55e02b66018b882af20978418421354425ed2ac95f4a2eab]]

Document description:Exhibit Bowen Decl. Ex. J

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex J - 1963 IG Rpt.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-20]
[86ba154f74e2d1bf92197c846a4087a74f15f530b9530c013157e5f2f6fc2f70c2d8
bd3c58eccc6db07bdc558a349dfa659b2573c423c3d28ac381f24215c760]]

Document description:Exhibit Bowen Decl. Ex. K

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex K - Defs RFP Resp 3-4-
10.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-21]
[9d2dd736de9dbcb7a5db93924cb75b3086ad169b5466002363e8a4b5a5d7b40db617
f0cc6a3c0007055a6a87008d464d6a76517e2376b0cd3db15283f1de2ce4]]

Document description:Exhibit Bowen Decl. Ex. L

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex L - Wolverton Ltr 7-23-
2010.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-22]
[6faf326440863655d30df4fb3a786c866c767d329db33685b6ee7d3449ab8cb31e54
712f212a9d9bf45de78bd0e99f67fcc21b672a113f5e72f33cf0c4ff555a]]

Document description:Exhibit Bowen Decl. Ex. M

Original filename:K:\VVA\30b6 opposition 9-10\For filing\Bowen Decl Ex M - Pls Suppl 30b6
Notices.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-23]

[74c12c8fa04b337f2a722861fbc55916391803a060dff866c0976d4ae087eac7ed0f
46da80ff4ee58645294d3daf920d9bb0751df86277f46325a3bebac7e41a]]

Document description:Proposed Order

Original filename:K:\VVA\30b6 opposition 9-10\For filing\VVA v CIA 09-cv-37 Defs oppn to mot to
compel 30b6 testimony - prop order.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=9/15/2010] [FileNumber=6723409-24]

[2cb052738da0d6b9cf7d5258d495859294430059b236fd63693070fa9f08664a8fe2

162a6185e898fad35154bcddcae445b479868aaf5fecdff0c5b1f55ba40c]]