

78-843/1

OGC 78-1874
27 March 1978

78-0965/1

OGC

MEMORANDUM FOR: Acting Director of Central Intelligence

FROM : Anthony A. Lapham
General Counsel

SUBJECT : Response to Inquiry from Senator Kennedy Regarding
the Agency's Efforts to Notify MKULTRA "Victims"

1. Action Requested: It is requested that you review and sign the proposed response, attached as Tab A, to Senator Kennedy's letter of 13 March, attached as Tab B, inquiring as to the status of the Agency's efforts, in coordination with the Department of Justice, to identify, locate, and notify individuals who may have been the subjects of CIA-sponsored drug-testing as part of Project MKULTRA.

2. Background: Admiral Turner testified on 3 August 1977 before a joint hearing of the Senate Select Committee on Intelligence and the Subcommittee on Health and Scientific Research of the Senate Committee on Human Resources, and again on 21 September 1977 before the latter subcommittee alone, concerning documents discovered last summer revealing many previously unknown details of the Agency-sponsored drug testing which was conducted under Project MKULTRA in the 1950s and 1960s. In both instances, Admiral Turner endorsed, and committed the Agency to, the concept of a program to attempt to identify, locate, and notify individuals who may have been the subjects of such drug testing. As is indicated in the proposed response to Senator Kennedy's inquiry, we have requested the opinion of the Justice Department as to the proper form of such a program. However, the problems raised in this connection are novel as well as immense and have not yet been resolved satisfactorily even on a conceptual level. Apparently there was some misunderstanding between Admiral Turner and the Attorney General as to the progress of the Justice Department's consideration of this matter at the time of Admiral Turner's appearance before Senator Kennedy's subcommittee.

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3. The most recent draft Justice Department opinion, now under consideration in the Office of Legal Counsel at Justice, concludes that there is a nonstatutory obligation on the part of the government to locate and notify individuals whose health may reasonably be expected to have been effected adversely by these drug tests, and a policy judgment to be made concerning notice to other drug test subjects where no such adverse effects seem likely to have resulted. The opinion also recognizes, among other things, that the records of the various universities and institutions involved are essential to the success of such a program, that CIA may well not be the entity best-suited to engage in this effort because of its disfavored standing in academic circles, and that the scope of the investigations required to locate subjects once identified must be limited to public sources so as not to intrude further into the lives of the subjects. My office has been considering the most practical means for the Agency to implement the Justice opinion so as to be in a position to make recommendations to you and Admiral Turner as soon as possible after that opinion is finalized.

4. For your information, relevant information concerning a similar inquiry in December 1977 from Senator Inouye, and Admiral Turner's response, is attached as Tab C.

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5. Recommendation: It is recommended that you sign the attached letter to Senator Kennedy.

[Redacted Signature]

Anthony A. Lapham

Attachments

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