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M E M O R A N D U M

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TO: [REDACTED]

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FROM: [REDACTED]

RE: Operation Stargate

DATE: 11 December 1992

1. Background. You informed me that AFMIC was to assume control of DTI-S and its Operation Stargate. You asked my opinion about whether Operation Stargate was in compliance with the laws concerning human experimentation.

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2. Sources. I reviewed the DIA paper on parapsychology at Tab A and the chronology of human experimentation issues of Operation Stargate's predecessors at Tab B. I interviewed the director of DTI-S, [REDACTED] and reviewed some of his historical files on the topic. I also discussed the matter with DIA Assistant General Counsel [REDACTED]. I did not perform a detailed analysis of DTI-S's current functional files or contractor records, nor did I perform an in-depth analysis of human experimentation regulations.

3. References.

a. Executive Order 12333, Paragraph 2.10, 8 Dec 81, "United States Intelligence Activities", Tab C.

b. 45 Code of Federal Regulations Part 46, 8 Mar 83, Dept of Health & Human Services, National Institutes of Health Office for Protection From Research Risks, "Protection of Human Subjects", Tab D.

c. Federal Register, Vol. 56, Number 117, 18 Jun 91, "Federal Policy for the Protection of Human Subjects", Tab E.

d. Department of Defense Directive 3216.2, 7 Jan 83, "Protection of Human Subjects in DoD Supported Research", Tab F.

e. Department of Defense Directive 5240.1, Procedure 13, December, 1982, "Department of Defense Procedures Governing Activities of Department of Defense Components that Affect U.S. Persons", Tab G.

4. Findings of Fact. An Operation Stargate contractor is conducting human parapsychology testing; the contract requires that the informed consent of human subjects be obtained, and it appears that the contractor does this. DTI-S personnel are conducting parapsychological training as well as episodic operations in support of various agencies including DEA and DOE. In its early years, the operation was also scrupulous in observing

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related procedural safeguards of an advisory panel review and annual reauthorization. Since the operation left INSCOM's control there has been no request for reauthorization. It appears that DTI-S does not conduct its own advisory panel, but that it may rely on its contractor to do so.

5. Discussion.

a. There was some doubt about whether or not Operation Stargate's activities constituted human experimentation at all. An early opinion suggested that they did not, Tab H. However, a later opinion by General Counsel Spurlock took the opposite position, Tab I. In an abundance of caution, it was decided to treat Operation Stargate's activities as if they constituted human experimentation. This led to annual reauthorization such as at Tab J and advisory panel review such as at Tab K.

b. Assuming that Operation Stargate's activities constitute human experimentation, Executive Order 12333 requires adherence to the HHS regulations. These call for well-documented informed consent of human subjects and review by an advisory panel. These rules are specifically applied to the Department of Defense by DoD Directive 3216.2. The Department of Defense requires the further safeguard of high-level approval before human experimentation can take place, (Paragraph C.2., Procedure 13, DoD Directive 5240.1.) It is not clear how often this approval must be obtained, or how broadly the approval can be applied.

6. Conclusions. Operation Stargate seems to be in substantial compliance with the most prominent human experimentation regulation, informed consent. Further confirmation is called for on this point. Further investigation is also required on the advisory panel review and DoD approval issues. AFMIC should obtain the documented concurrence of DIA General Counsel in any legal positions that AFMIC takes on this subject.

7. Miscellaneous.

a. [REDACTED] and I discussed documents contained in the DTI-S materials which were mislabelled as TOP SECRET; they are included at Tab L.

b. Additional copies of documents received from DTI-S files which I reviewed but did not refer to in this memorandum are collectively included at Tab M.

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