Flash

THE WHITE HOUSE

WASHINGTON

Secret

July 11, 1975

~~SECRET~~

MEMORANDUM FOR: DON RUMSFELD

FROM: DICK CHENEY R. Cheney

SUBJECT: The Olson Matter/ CIA Suicide

Attached is a proposed brief statement for the President to use at his Press Conference. It would be best for him to use it in response to a question, although if he wished, he can use it as an opening statement.

There is also attached a four page memo prepared by the Civil Division, the Department of Justice, based upon information obtained from the CIA regarding the events surrounding Mr. Olson's death.

Rod Hills has questions concerning the last paragraph of the Justice Department memo which expresses the Justice Department opinion that court action against the U.S. would be barred. He will pursue the matter with the Attorney General.

At this point, we do not have enough information to be certain we know all of the details of this incident. Furthermore, there are serious legal questions that will have to be resolved concerning the Government's responsibility, the possibility of additional compensation, and the possibility that it might be necessary to disclose highly classified national security information in connection with any court suit, or legislative hearings on a private bill intended to provide additional compensation to the family.

Therefore, Marsh, Hills and Cheney strongly recommend that the President limit his remarks to an expression of regret over this tragic event and a willingness to meet personally with Mrs. Olson and her children to offer an apology on behalf of the Government. Any discussion that goes beyond those issues raises questions which we are not yet in a position to answer.

In response to any questions which go beyond the above, we would recommend that the President indicate that the entire matter, both with regard to the adequacy of compensation and circumstances surrounding Mr. Olson's death, are under review by the Justice Department.

Attachments

cc: Jerry Jones

As An Answer To A Question or An Opening Statement

The recent disclosure of the facts concerning the death of Dr. Frank Olson are of great concern to me. I am equally distressed by the fact that the full details of Dr. Olson's death were not made known to Mrs. Olson and other members of his family.

Mrs. Olson and her family deserve our deepest sympathy. I hope to meet with the family at the earliest opportunity to personally extend an apology on behalf of the United States Government.

Justice Department Report

The Rockefeller Report states on p. 226:

> "In the late 1940's, the CIA began to study the properties of certain behavior-influencing drugs (such as LSD) and how such drugs might be put to intelligence use. This interest was prompted by reports that the Soviet Union was experimenting with such drugs and by speculation that the confessions introduced during trials in the Soviet Union and other Soviet Bloc countries during the late 1940's might have been elicited by the use of drugs or hypnosis. Great concern over Soviet and North Korean techniques in 'brainwashing" continued to be manifested into the early 1950's."

Dr. Frank A. Olson, a bio-chemist, was a civilian employee of the Army working at Fort Detrick in a cooperative effort with the CIA. On November 19, 1953, at one of the periodic meetings of Ft. Detrick and CIA personnel, a dosage of LSD was placed by CIA personnel in drinks consumed by Dr. Olson and others, all of whom were members of the group. Prior to receiving the LSD, Dr. Olson had participated in discussions where the testing of such substances on unsuspecting subjects was agreed to in principle. However, neither Dr. Olson, nor any of the others was made aware that they had been given LSD until about 20 minutes after the fact.

During the next several days Dr. Olson developed side effects, as a result of which he was taken to New York City on November 24, 1953, to be treated by a doctor who was a consultant to the agency on drug-related matters, Dr. Harold A. Abramson. On November 24, 25 and 26, he met with Dr. Abramson.

After seeing him on the 27th, Dr. Abramson believed that hospitalization would be in Dr. Olson's best interest. Arrangements were made for a hospital room near Dr. Olson's home (in the Washington area), but his room could not be prepared until the following day. Consequently, Dr. Lashbrook, of CIA, and Dr. Olson stayed at the Hotel Statler in New York on the night of November 27.

Dr. Lashbrook reported that during cocktails and dinner Dr. Olson appeared cheerful and spoke freely of his forthcoming hospitalization. Lashbrook and Olson retired at about 11:00 PM. They occupied separate twin beds in the same room on the tenth floor. At approximately 2:30 Saturday morning, Lashbrook was awakened by a loud noise; he reported that Olson had crashed through

the closed window blind and closed window and had fallen to his death.

The CIA General Counsel rendered an opinion that the death resulted from "circumstances arising out of an experiment undertaken in the course of his official duties for the U. S. Government.

The Bureau of Employee's Compensation adopted this view, thus awarding survivor benefits to the widow and children. To date $143,582.22 have been paid to the widow and three children. These tax-free benefits continue to be paid in the current total amount of $792.00 per month. The payments to the children terminate when they reach majority (as two already have), but the widow's benefits continue until death or re-marriage, and are periodically adjusted for cost of living increases.

The CIA has never made any contact with the family. Prior to the publication of the Rockefeller Report, no government representative has ever disclosed the full details concerning Dr. Olson's death.

Upon a preliminary review of the facts, it is the opinion of Justice Department lawyers that any tort action against the United States arising out of the above-stated facts would be barred by the Federal Employees' Compensation Act, and specifically 5 USC 8116(c). This Act would not bar suit against any individuals.

DRAFT

[Sept. 1975]

MEMORANDUM FOR THE PRESIDENT

~~FROM~~ THROUGH: RICHARD CHENEY

FROM: RODERICK HILLS

SUBJECT:

The Justice Department and attorneys for the Olson family have met to discuss the claim filed on behalf of the Olson family for the wrongful death of Dr. Frank ~~O~~ A. Olson. They have reached an impasse and the attorneys have announced their intention to sue.

Although there has been a preliminary negotiation as to the sum of money that could settle the dispute, further negotiations have been frustrated by a somewhat procedural entanglement by the Justice Department and the Olson attorneys. Essentially, the Civil Division believes we have a very good technical defense to the Olsons' claim and the Civil Division is insisting that we win the case on the merits before negotiating a settlement.

The Defense to the Olson Claim. The Civil Division of the Department of Justice is of the opinion that any tort action against the United States by the Olsons is barred by the Federal Employees Compensation Act on the ground that he was injured "in the course of his official duties" and, therefore, the family is entitled to survivors' benefits and nothing more.

There is no doubt but the legal position is substantial even though the Department of Labor determined 22 years ago that

memo, Hills to Cheney, 9/75, folder "Olson, Frank Gen (1)" Box 20, Schmults Files.

[MILLS, 07/75]

Dr. Olson died "in the course of official duties" based upon "false evidence." Moreover, two circumstances affect our analysis of the Justice Department position.

(i) The bizarre circumstances of his death could well cause a court of law to determine as a matter of public policy that he did not die in the course of his official duties.

(ii) Dr. Olson's job is so sensitive that it is highly unlikely that we would submit relevant evidence to the court on the issue of his duties.

The latter circumstance may mean as a practical matter we would have no defense against the Olson law suit. In this connection, you should know that the CIA and the Counsel's office both strongly recommend that the evidence concerning his employment not be released in a civil trial.

In short, there is a significant possibility that a court would either (a) grant full discovery to the Olsons' attorneys to learn of Dr. Olson's job responsibilities; or (b) rule that as a matter of public policy, a man who commits suicide as a result of a drug criminally given him cannot as a matter of law be determined to have died "in the course of his official duties."

[Nills 09/75].

If there is a trial, it is apparent that the Olsons' lawyer will seek to explore all of the circumstances of Dr. Olson's employment as well as those concerning his death. It is not at all clear that we can keep such evidence from becoming relevant even if the government waives the defense of the Federal Employees Compensation Act. Thus, in the trial it may become apparent that we are concealing evidence for national security reasons and any settlement or judgement reached thereafter could be perceived as money paid to cover-up the activities of the CIA.

ALL Caps Recommendation.

For all of the above reasons we recommend that the Attorney General be authorized now to seek to negotiate a settlement with the Olsons' lawyer.

(a) The Civil Division has advised us that the case has a settlement value between $500,000 and $1 million, assuming there are no defenses.

(b) The Civil Division also has stated that any settlement may require a private bill to approve the settlement, but they are re-considering this decision in view of point No. 3 above. A private bill in the House would be introduced in Congressman Walter Flowers' subcommittee which probably would not encourage any in depth hearings about Dr. Olson's job. In the Senate the Judiciary Committee assigns private bills to the staff for recommendations back to the full committee. Again, we would expect that there would be only a small chance of extensive hearings on the underlying facts.

[Hills 09/75]

(c) Depending upon the exact amount of the settlement and a final decision from the Department of Justice, it may be possible for the Attorney General to approve a settlement and pay it without a private bill.

DECISION

Specifically, the issue is whether a claim should be negotiated with the Olson family somewhat above

THE WHITE HOUSE

WASHINGTON

September 30, 1975

MEMORANDUM FOR THE PRESIDENT

THROUGH: RICHARD CHENEY

FROM: RODERICK HILLS

SUBJECT: Olson Family Compensation Claim

The pending law suit by the Olson family against the United States Government by reason of the death of Dr. Olson threatens to be a reality this week if no new effort to settle the case is made. The Attorney General has made a final offer of $500,000 which has been rejected by the Olson family.

The Olson family has countered with a request for $3 million but has indicated a willingness to settle for less.

Essentially, the Attorney General concludes that the claim of the Olson family is worth $1 million, but must be discounted by $500,000 by reason of the possibility that the government will ultimately succeed in the case on the grounds that exclusive remedy for the Olson family comes from the benefits provided by the Federal Employees Compensation Act. In short, the Justice Department argues that there is a substantial possibility that a court will find that Dr. Olson died in the course of his employment.

I frankly disagree with this analysis and believe that there is a real probability that an appellate court would decide that as a matter of law when one dies under the circumstances such as those causing Dr. Olson's death, he cannot be said to have died "in the course of his employment." In any event, the Department of Justice will not

memo, Hills to GRF, 9/30/75, folder "Frank Olson Gen. (1)" Box 20 Edward C. Schmults Files.

[Hills 09/30/75]

offer a larger sum in settlement. However, the Justice Department would support a private bill which would waive the FECA defense for a total of $1 million and would not object if a private bill provided "compensation for the extraordinary deceit" employed in the case of Dr. Olson. For this element of damages they would provide $250,000.

Adding all the elements of the Justice Department together, they would then support a private bill for $1,250,000 and they would also forego an offset of the approximately $150,000 that the Olson family has received to date in compensatory benefits.

The Justice Department analysis is attached at Tab A.

RECOMMENDATION

I recommend that you authorize Special Counsel to the CIA Mitchell Rogovin to attempt a settlement with the Olson family at a sum not to exceed $1,250,000 plus a waiver of an offset of the monies received to date by the Olson family.

In the event a settlement can be reached within these guidelines, the CIA and the Olson family can jointly petition the Department of Labor to re-consider its 22 year old decision that Dr. Olson did die in the course of his employment. Should the Labor Department so rule, the Justice Department is on record as supporting a settlement of $1 million without an offset.

The CIA could agree in a settlement with the Olson family that any excess amount would be made the subject of a private bill and supported by the Administration. Alternatively, if the Labor Department does waive the FECA decision, we could ask the Justice Department to re-consider its settlement limitation. In the event that the Labor Department should reaffirm the 22 year old decision that Dr. Olson did die in the course of his employment, we would agree that the private bill would be in the amount of $750,000.

[Nellis, 09/30/75]

Mitchell Rogovin should be authorized to attempt a settlement of the Olson family claim for a sum not to exceed $1,250,000 without an offset.

Agree _____

Disagree _____

See Me _____

~~Attch~~ Letter, Colby to Gist, 10/29/75, folder "Olson Frank Gen (2)" Box 20 Schmults

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

29 October 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Pursuant to your instructions, efforts were made to negotiate a settlement of the claim of the family of Mr. Frank R. Olson against the Government based on the circumstances of his untimely death. Although the family has agreed to settle its far larger initial claim for $1,250,000, the Attorney General is not prepared to certify under existing law that such a settlement is appropriate.

The Olson family is prepared to file suit. Such litigation would doubtless be prolonged and in the view of the Department of Justice, it would fail. Under the circumstances this would not appear to be in the best interests of the nation or the Olson family. I believe in good conscience that the circumstances of this case require an equitable response from the Government.

The only vehicle by which to obtain such recompense would be by passage of private legislation. Consequently, I recommend that you forward a request to the Congress for passage of a private bill in the sum of $1,250,000.

Respectfully,

W. E. Colby
Director

Memo, James Frey to Schmults, 12/10/75, Folder "Olson, Frank Private Relief Bill (2)" Box 20 Schmults Files.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 10, 1975

MEMORANDUM TO MR. SCHMULTS

Subject: Private relief bill for the family of Dr. Frank R. Olson

The subject draft bill was sent informally to Labor, Defense, and Justice on the basis that the decision has already been made to support such a bill although it would not be formally proposed by the Executive Branch.

Defense, nevertheless, is extremely concerned about supporting the bill, particularly because of its precedential implications. They indicate that they already have claims from people in the same or similar circumstances as the Olson case. They also questioned the large amount provided in the bill and wondered what it was based on.

Specifically, Defense would like certain changes in the text of the bill as marked on the attached copy. The thrust of their suggestions is that, to mitigate precedential problems, the bill itself need not explicitly accept "responsibility of the United States." They feel that the facts and circumstances of this particular case can better be brought out in the legislative history.

Labor, institutionally, would oppose such a bill as being discriminatory against others covered by FECA. They feel that, if the bill is to be supported, it should at least provide an offset for FECA payments already made to the members of the family. (Their rough guess is that this amounts to $100,000-$200,000, but they are going to work up precise figures for each family member.) The Department's proposed language is also marked on the attached copy of the bill.

Justice, under the circumstances, raised no objections.

Frey

James M. Frey
Assistant Director for
Legislative Reference

Attachments

Draft memo, Hills to GRF 7/16/75, folder "Olson, Frank" Pls meeting w/ Olson's family 7/22/75" Box 20 scanned

THE WHITE HOUSE

WASHINGTON

July 16, 1975

MEMORANDUM FOR THE PRESIDENT

THROUGH: JERRY JONES
JAMES CONNOR

FROM: RODERICK HILLS R. H.

SUBJECT: Scheduling of Meeting re Invitation to Mrs. Frank Olson and her three children to meet with the President

The circumstances of the death of Dr. Frank A. Olson are described in a previously submitted memorandum, a copy of which is attached (Tab A). His widow and her three children have indicated their shock and outrage at the circumstances surrounding Dr. Olson's death and the fact that the details have been concealed from them for 20 years (See news story at Tab B). The Olson family has hired David Rudovsky to represent them and he has indicated the intention of the family to sue for several million dollars. This memorandum will deal with the question of what considerations are relevant in deciding whether the President should meet with Mrs. Olson and her three children to express his sympathy on behalf of the American people and his apology on behalf of the United States Government.

1. The fact that the President expresses his own outrage at the circumstances of Dr. Olson's death could be some encouragement to the family's determination to sue and could also raise their expectation as to the amount of money they expect to receive in settlement of that law suit. It could also affect the judge who tries the case and will have the authority to set damages.

While this is a factor in determining whether or not to meet with the Olsons, it is not, in our judgement, a conclusive factor, given the circumstances of this incident.

[Hills, 07/16/75]

2. The intensity of the family's reaction and background of the lawyer they have hired do raise some possibility that they may react discourteously toward the President's invitation. This factor, however, we do not regard as material, since any such reaction would be more harmful to them than embarrassing to the President. However, it is conceivable that their lawyer may insist that he be present at such a meeting. We recommend that it be made clear that the lawyer not be invited.

3. The Civil Division of the Department of Justice ~~in its initial memorandum (Tab A) stated "upon preliminary review" it~~ is their opinion that ~~any~~ tort action against the United States by the Olsons ~~would be~~ barred by the Federal Employees Compensation Act on the ground that he was injured "in the course of his official duties" and, therefore, the family is entitled to survivors' benefits and nothing more. ~~Our discussions with the Civil Division has led us to the opinion to conclude that the defense is not conclusive~~ because

(i) The bizarre circumstances of his death could well cause a court of law to determine as a matter of public policy that he did not die in the course of his official duties.

(ii) Dr. Olson's job is so sensitive that it is highly unlikely that we would submit relevant evidence to the court on the issue of his duties.

The latter circumstance may mean as a practical matter we would have no defense against the Olson law suit. In this connection, you should know that the CIA and the Counsel's office both strongly recommend that the evidence concerning his employment not be released in a civil trial. ~~We may wish to discuss this matter in more detail at this time.~~

There is a statutory provision saying that the finding by the Bureau of Compensation is conclusive but we have some doubts both as to its applicability and constitutionality in this case.

4. If there is a trial, it is apparent that the Olsons' lawyer will seek to explore all of the circumstances of Dr. Olson's employment

as well as those concerning his death. It is not at all clear that we can keep such evidence from becoming relevant even if the government waives the defense of the Federal Employees Compensation Act. Thus, in the trial it may become apparent that we are concealing evidence for national security reasons and any settlement or judgement reached thereafter could be perceived as money paid to cover-up the activities of the CIA.

4. For all of the above reasons we recommend that the Attorney General be authorized now to seek to negotiate a settlement with the Olsons' lawyer.

(a) The Civil Division has advised us preliminarily that the case has a settlement value between $500,000 and $1 million. I have asked for a final recommendation.

(b) The Civil Division also has stated that any settlement may require a private bill to approve the settlement, but they are re-considering this decision in view of point No. 3 above. A private bill in the House would be introduced in Congressman Walter Flowers' subcommittee which probably would not encourage any in depth hearings about Dr. Olson's job. In the Senate the Judiciary Committee assigns private bills to the staff for recommendations back to the full committee. Again, we would expect that there would be only a small chance of extensive hearings on the underlying facts.

(c) Depending upon the exact amount of the settlement and a final decision from the Department of Justice, it may be possible for the Attorney General to approve a settlement and pay it without a private bill.

DECISION:

1. Should Mrs. Olson and her children be invited to a meeting at the White House to receive from the President an expression of sympathy on behalf of the American people and an apology on behalf of the United States Government?

Recommendation: We see no significant objection to such an invitati

Agree _____ Disagree _____

THE WHITE HOUSE

WASHINGTON

August 4, 1975

MEMORANDUM FOR: DICK CHENEY

FROM: RODERICK HILLS

SUBJECT: Attorneys for the Olson Family

The attorneys for the Olson family are pushing very hard for information and are claiming a lack of cooperation with the CIA and DOD. I cannot be certain, of course, but it appears to me that they have been increasingly belligerent. Rex Lee, Assistant Attorney General, Civil Division, believes that there is no way to settle the case and wishes to take a tough stance. I remain somewhat reluctant at having the Attorney General refuse the Olsons' claim on what will be proved to be a technicality and what may eventually seem to be an attempt to "cover up." Accordingly, I believe that sometime in the next week or two we should attempt to contact the attorneys with the help of the Attorney General or perhaps through an intermediary (Mitch Rogovin, Special Counsel to the CIA has a partner at Arnold and Porter who is quite close to the Olson children) to see if a settlement might not be arranged.

Copies of their letters are attached.

cc: Donald Rumsfeld
Philip Buchen

Memo, Hills to Cheney, 8/4/75, folder "Frank Olson Gen CIA," Box 20, Edward C. Schmults Files.

7 August 1975

MEMORANDUM FOR: The Director

SUBJECT: Conversation with Mr. David Kairys

1. David Kairys, the attorney for the Olson family, called this afternoon somewhat distressed. The family had reviewed the materials we had made available and appears to believe that Frank Olson was killed by the CIA. Their theory is bottomed on the assumption that Frank Olson was a security risk. Kairys says that the file seems to be more concerned about security than how Olson actually died. Some of his observations in the support of this are as follows:

a. Olson told his wife (with CIA representatives present) that the Agency felt he needed help and that they were going to take him to a psychiatrist in New York.

b. Abramson, in a conversation with Eric Olson, said that he was not treating Frank Olson (this may simply be a question of professional terminology).

c. Abramson is not a psychiatrist.

d. The file indicates that Olson had suicidal tendencies and yet Lashbrook checked him into a room on the tenth floor of a New York City hotel.

e. Abramson recommended institutionalization at an earlier date but no action had been taken.

f. His good friend Col. Ruwet did not accompany him to New York.

2. Kairys then has a series of questions regarding the quality of the investigation and raises such points as:

a. There was no pinning down as to whether Olson was witting or unwitting when he took the drug.

Memo, Rogovin to Colby, 8/7/75, folder "Frank Olson Gen. (1)" Box 20 Schmults Files.

[ROGOVIN, 08/7/75]

b. There is no indication of the results of the LSD experiment.

c. There is an indication that Abramson was involved in the LSD program.

d. There is no indication of an independent psychiatric report.

e. There is no evidence to support Houston's charge that culpable negligence was involved.

3. Kairys insists that the family wants to know what happened to Frank Olson. To facilitate this lack of information from the files, Kairys wants to take sworn depositions of CIA people as well as Lashbrook, Abramson and Gottlieb.

4. I explained to Kairys that we had no control over the individuals that he named and, the best the CIA people could do would be merely explain how the files were found in 1974. No one currently employed by the Agency was involved in the 1952 experiments leading to the death of Frank R. Olson.

5. In a letter to Kairys the day that the materials were turned over I asked him to acknowledge in writing our understanding that "the documents turned over to you are for the sole purpose of prosecuting any claim against the United States Government with respect to the death of Frank R. Olson." To my dismay, Kairys indicates that neither he nor the family have any recollection of making the agreement. He says further that they were prepared not to accept the documents if that condition was placed on them. Kairys said that he would be able to obtain the documents under the Freedom of Information Act and consequently would not have agreed to such a limitation on their use. I am afraid he is right about the Freedom of Information Act and I don't plan to make a fuss over this point if you agree. It is somewhat of an irritation, however, since I clearly obtained his agreement.

Mitch Rogovin

Mitchell Rogovin
Special Counsel to the Director

cc: Rex Lee (DOJ)
Roderick Hills (White House)

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

6 OCT 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request for this Agency's views and recommendations on Enrolled Bill S. 3035, "For the relief of Alice W. Olson, Lisa Olson Hayward, Eric Olson, and Nils Olson."

The Central Intelligence Agency fully supports this Enrolled Bill and recommends its approval by the President.

Sincerely,

George Bush
Director