

DECLASSIFIED PER EXECUTIVE ORDER 12356, SECTION 3.3, NND PROJECT  
 NUMBER NM 947527 BY RB/VSw, DATE 6/21/94

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Serial No. 334

K:OA

~~CONFIDENTIAL~~

All/P3-1 (430306) (SC)

March 6, 1943

**From:** The Chief of the Bureau of Medicine and Surgery.  
**To :** The Officer-in-Charge, Naval Laboratory Research Unit No. 1,  
 University of California, Berkeley, California.  
**Via :** The District Medical Officer, Twelfth Naval District  
 and Naval Operating Base, San Francisco, California.

**Subject:** Proposed Clinical Evaluation of Influenza Antiserum, and  
 Messages concerning Influenza Virus Specimens.

**Reference:** (a) Your letter 4 January 1943.  
 (b) Your letter of 22 February 1943. *m record*

**Enclosure:** (A) Copy of a preferred form of "release".

1. Following receipt of reference (a), the question of the liability possibly incurred by the Government and/or its agents in carrying out the experimental work proposed in MBS Research Project No. X-102 was referred to the Judge Advocate General's office for expression of opinion.

2. In an informal memorandum, I am advised that the existing release clause is deficient in that it does not state what it releases; that, regardless of form of release executed, all personnel engaged in the tests are subject to action in case negligence can be established; and that such experimentation usually leads to the enactment of special legislation for the relief of any person involved.

3. Further, the evidence available suggests that neither the glycols nor ultraviolet radiation will serve to limit the communication of influenza from individual to individual; and that their ability to sterilize spaces is open to question.

4. In view of the foregoing, the Bureau cannot authorize the experimental exposure of human subjects to influenza virus.

5. It is noted from reference (b) that you inquire whether it would be feasible to send messages to certain investigators abroad from whom you could probably receive suitable specimens for subject experimentation. In view of the action of the Bureau on the subject-request in reference (a) no action will be taken on reference (b).

ROSS T. McINTIRE *sub*

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PREFERRED FORM OF RELEASE

"I, \_\_\_\_\_, of the State Penal Institution, San Quentin, California, being desirous of participating in the experiment to be undertaken by the United States Naval Reserve Laboratory Research Unit No. 1 for the evaluation of influenza antiserum, do hereby certify as follows:

"That I have had explained to me the general purpose and scope of the contemplated experiment the Naval Laboratory Research Unit No. 1 intends to make and for which I am volunteering. I appreciate the fact that there are certain phases of this experiment which for good and sufficient reason cannot be disclosed to me in detail.

"I have had explained to me that there is a certain hazard involved in the procedure and that it is possible that I might become sick and, in a remote case, death might result.

"Having had all of these facts explained to me and being fully cognizant of the fact and circumstances involved and acting freely and voluntarily without any coercion on the part of any person whomsoever, I do hereby consent to the administration of any serum or virus by inhalation or injection into me that the Naval Research Laboratory may desire and the performance upon my body of such experiments as they in their opinion may decide to be of advantage in promoting the research work they are doing.

"I hereby remise, release and forever discharge, the State of California, the individual agencies thereof, the United States of America, its various subdivisions and the individual agencies, officers or other persons conducting the above experiments or in any manner connected therewith, from any and all manner of suits, actions or causes of action, claims or demands whatsoever which I or my heirs, executors, administrators or assigns may at any time have by reason of said experiments or of any results thereof of any kind whatsoever.

"In Witness Whereof I have hereunto subscribed my name this \_\_\_\_\_ day of \_\_\_\_\_ 1943.

In the Presence of

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Signature."