

## ATTACHMENT TO JULY 11 STATUS LETTER

In this attachment we summarize, to the best of our understanding, the outstanding action items related to 1) the May 23 and June 22 Committee letters to Dr. Soper; 2) the Committee's June 8 and June 15 letters to DNA and the Army; 3) Committee staff discussions with the Air Force and Navy, and regarding OSD.

On July 1 DOD transmitted a "Master List of Action Items", which deals with items identified in the Committee's May 23 and June 22 letter to you. We address this first.

### May 23 letter

In our May 23 letter we sought information regarding the development and implementation of the 1953 DOD ("Nuremberg Code") ethics policy; the Cincinnati and Green Run experiments, relevant DOD organizational history, and the nature of the DOD search.

DOD's July 1 transmittal states that certain requests related to the ethics policy (Committee on Medical Research) and the Cincinnati experiments are still outstanding. However, in a number of cases the July 1 transmittal indicates that responses have been provided which, to our understanding, do not appear to have been received. These include the following requests from the May 23 letter:

1. Documents which would show whether experiments conducted following the Secretary of Defense's February, 1953 "Nuremberg Code policy" were in compliance with the policy. The July 1 letter says that such documents were couriered over on June 20. (Item I A 4). However, with the exception of some irradiated food studies, the June 20 materials contain little or no evidence of compliance (in the case of any given experiment) with the Secretary's policy

2. Documentation of a number of items regarding the experiments at Cincinnati and related experiments. The July 1 transmittal indicates that on June 20, we received documentation showing whether these experiments complied with the 1953 Nuremberg Code policy. No such documentation appears to have been received. Indeed, in its June 27 listing of Action Items, DNA states that the search for this data is "currently being implemented." (DNA Item No. 21). Similarly, DNA also indicated that a search is "currently being implemented" for other requests to which, according to the July transmittal, we have received the response. Upon provision of data from DNA responsive to these questions we should compare notes to determine the completeness of the response to the Cincinnati requests.

3. Classified materials related to Green Run and other intentional releases, particularly that contained in an Air Force history (AFOAT-1) and minutes of the Joint Atomic Energy Intelligence Committee (JAEIC). The July 1 transmittal indicates this material was couriered over. We have not received such material. We further understand that DOD will not declassify requested Green Run material, and that, at our last inquiry, it had not located the Joint Committee

material. (It appears that materials related to the JAEIC for roughly the years 1947-60 are in the records of the Assistant to the Secretary of State for Atomic Energy in record #59 at the National Archives in Suitland.)

4. Material related to the development of the 1953 Nuremberg Code Policy. While significant material has been provided, there appear to be important gaps. As we discussed, these include documentation of the basis for the new Administration's decision to resolve the matter as it did.

5. Basic historic organization charts and similar data on the location of groups with responsibility for coordinating, funding, setting policy for, advising on, and/or using radiation research. The May 23 letter, recognizing that the data has not been provided for the Army, DNA, or the Office of Secretary of Defense, indicates that data has been couriered over in the case of the Navy and Air Force. While some such data has been provided, systematic data has not. For example, as we discussed, a 1950 Navy memo located by Committee staff identified many additional seemingly relevant committees/panels, on which the Navy sat.<sup>3</sup>

#### June 22 letter Priority Items

In addition to reiterating the outstanding May 23 requests, the June 22 letter identified priority items (from among prior requests). The July 1 transmittal states that action has been taken on 9 of 19 items. With regard to these nine, we note the following:

*Army.* The July transmittal states that we have been provided with "ethics policy documents." We have been provided with documents on Army policy development, which we appreciate. However, the request<sup>4</sup> focused on documentation of the implementation of the June, 1953 Army policy. By its terms, this documentation should have included proposals for

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<sup>3</sup>The April 20, 1950 Memo from Captain C.P. Behrens noted, among other groups: 1) an Office of Secretary of Defense "Task Group on Medical Aspects of Nuclear Energy"; 2) a Joint AEC/OSD "Panel on Biological and Medical Aspects of Radiological Warfare"; 3) an Armed Forces Special Weapons Project (AFSWP) Panel on Radiological Instruments; and 4) two National Research Council Panels on radiology and atomic casualties on which a Navy representative(s) sat.

<sup>4</sup> Item 3 of the June 15 request stated:

The Army will search for and provide the documentation referred to [in the Secretary's June, 1953 directive] (e.g., Secretarial approval, Army agency proposals, Surgeon General's review and comment, communications with other agencies). The search will include reasonably related documentation (e.g., policy memos or critiques/analyses of experiments and documentation required by successors to the June, 1953 memorandum.

experiments, Surgeon General review and comment, and communications with other services or agencies. We have received little or no documentation evidencing implementation of the June 1953 policy in regard to particular experiments.

The July 1 transmittal also states that we received backup documents for the 1975 Army Inspector General Report which investigated Chemical Corps experiments with drugs. We may have received some of the requested materials, but we have not received all of them.<sup>5</sup>

*DNA.* The transmittal letter indicates we have been provided with one (of four) DNA priority items. As discussed, this item (AFFRI Board of Governors' Minutes) was, relatively speaking, "off the shelf" material.

*OSD.* First, the July 1 transmittal indicates that we received the files of the Joint Panel on Medical Aspects of Atomic Warfare. We did receive some minutes, agendas, and further documentation, which are of great interest. However, there are significant gaps in the materials received. Most notably, we did not receive any "Program Guidance Reports" or "Research Digest" documents, as were periodically prepared by the group (and copies of which had previously been located by our staff, and shared with you). In addition, the response did not include minutes or agenda, or both, for the Joint Panel's 1st, 4th, 5th, 6th, 7th, 9th, 10th, and 11th meetings.

Second, the transmittal letter states that we have been provided with records of the group that assumed responsibility for the work of the Joint Panel and the Committee on Medical Science, when DOD was reorganized in 1953. We did not receive such documents; indeed, DOD has not identified the name(s) of the successor group(s).

*Air Force/Navy.* While we appreciate efforts by the Navy and the Air Force, we note:

The July transmittal states that files on ethics policy for the pre-1974 period have been provided. Once again, while we appreciate the provision of files related to policies and policy development, we have received little documentation showing the application of the 1953 Nuremberg Code Policy, the 1951 Navy policy, and any similar Air Force policy, to the radiation experiments identified by these services.

The July transmittal states that we have received files on R&D coordinating groups. We understand that the Air Force and Navy are searching for files of relevant R&D coordinating groups; however, other than fragmentary documentation provided by the Navy, the documents related to these groups have not been provided.

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<sup>5</sup> In our June 10 meeting with Colonel Suttle and his team, it was agreed to limit our request, at least initially, to the materials identified at footnotes 1-4 and 8 (page 56) of the IG report. We have not received the materials referred to in footnotes 3,4, and 8.

The July transmittal states that we have been provided with agency histories regarding radiation experiments. The Air Force has provided excerpts of certain histories, which we appreciate. (We will seek further portions of these histories). We understand the Navy has located some history(ies) of the NRDL, but we have yet to be provided with this or other histories.

### Further Outstanding Requests of DOD Components

*DNA.* On June 8, following discussion with DNA, we transmitted a list of action items. As shown by DNA's June 27 status report, DNA has taken some action on 5 of 23 items. We must note that the items provided were basically "off the shelf".<sup>6</sup> DNA has yet to provide any documentation indicating significant research into its rich collection of relevant records, including those in Record Group #374. Indeed, while the January 1994 notes of a meeting to discuss data retrieval indicate that DNA recognizes its histories may be quick sources of relevant data, relevant portions of DNA histories have not even been provided. The January meeting, and the AFFRI Board of Governors minutes, however, do confirm that DNA is a rich source of documentation on human experiments, and that much documentation should be readily retrievable.<sup>7</sup>

*OSI.* As discussed, OSD has provided some very helpful information on the (1949-53) Joint Panel on the Medical Aspects of Atomic Warfare and the development of the 1953 ethics code. By the same token, this documentation demonstrates the value and likely success of a continued search to include missing documentation on the Joint Panel; documentation on other relevant groups for the 1947-53 period; and documentation of similar groups for the post-1953 period. As we discussed, beginning in about 1953-54 many such groups were likely housed in, or affiliated with, DDR&E. The immediate continuation of the OSD search through DDR&E, as DOD suggested on July 8, would be of value.

*Army.* The Army has not provided an action list in response to our June 15 transmittal of action items. We appreciate the Army's provision of documents related to ethics policy development, Dugway intentional releases, and certain Headquarters documentation of late 1940's and early 1950's experiments. However, most of the requests in the June 15 memo appear to be

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<sup>6</sup> DNA provided: 1) the computer printout obtained in its response to the January search directive; 2) notes on the January, 1994 Graybeards meeting; 3) a copy of its contract log; 4) copies of the minutes of the AFFRI Board of Governors, which you confirmed are matters of public record; and 5) some reports from the experiments identified by DNA.

<sup>7</sup> For example, the AFFRI minutes indicate that relevant research was coordinated by/through 1) the Weapons Effect Board; 2) the DNA Biomedical Weapons Effects Research Program; 3) the Annual Long Range Planning Meeting for Medical Nuclear Weapons Effects Research. The January meeting memo refers to, among other items, a number of intentional releases, and 500 personnel who volunteered to occupy close to detonation positions during tests, and HVMMRO experiments. We expect that explanatory documentation on these items will be identified and provided by DNA.

outstanding.

*Air Force and Navy.* We have not transmitted formal requests to these services. From our discussions with them we understand they are engaged in archival and records center searches for Headquarters related documents consistent with the above discussion (eg, documents on ethics policy and implementation, on R&D coordination and programs, etc.) We hope to work with these services in the immediate future to discuss the best way to access field office records and further data on selected experiments.