

Part 1: Openness in Government

Overview

Throughout our nation's history, the government has needed to operate with some secrecy to protect our nation's security. At the same time, Americans have recognized that the government's power to act in secret conflicts with core democratic principles. Misuse of secrecy feeds a sense of mistrust in government that can undermine our cohesion as a nation.

During the Cold War, the government funded human radiation experiments, some of which were secret. It is imperative that the public have access to the record of the government's activities. The Administration has opened the record, as discussed below, and has changed rules that kept documents secret for many years after it was necessary. These changes, along with other safeguards in place already, will help to ensure that the government does not repeat the wrongs of the human radiation experiments.

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Actions to Open the Record

When the Advisory Committee on Human Radiation Experiments (ACHRE) began its work, it found that there was no complete and accurate history of the government's actions. Moreover, the records of what had happened were dispersed, difficult to access, and some were classified. The Administration mobilized all key Departments to examine, declassify where necessary, and bring together the documents that ACHRE needed. Only after these documents became available could ACHRE fully examine and evaluate the government's conduct and make recommendations for the future. ACHRE collected and transferred to the National Archives over 1 million pages of documents. Supplementing that material are over 5 million pages of documents from the Department of Energy (DOE), the Department of Defense (DOD), the Central Intelligence Agency (CIA), the Department of Veterans Affairs (VA), the Department of Health and Human Services (HHS), and the National Aeronautics and Space Administration (NASA).

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A large and growing body of documents collected by the Federal agencies is available for online searching through the Internet at the Human Radiation Experiments Interagency Web Site (hrex.dis.anl.gov). This site currently allows citizens to examine nearly 300,000 pages of material and will contain approximately

half a million pages when completed later this year. The database provides both document images and sophisticated full-text searching capabilities. Many of these documents were originally unclassified, but approximately 7,000 were specifically declassified for this project.

The general availability of information about human radiation experiments has caused citizens to wonder about their own role in this history. As a result, thousands have sought information about their possible participation in human radiation experiments. To protect individual privacy, personal information is not publicly available. However, individuals can request information related to their possible personal involvement through the Helpline at (202) 586-8439.

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ACHRE Findings and Recommendations on Openness

The Advisory Committee found “that the government did not routinely undertake to create records needed to ensure that secret programs could be understood and accounted for in later years, and that it did not adequately maintain such records where they were created.” Further, “many important record collections (including records that were not initially classified) have been maintained in a manner that renders them practically inaccessible to those who need them, thereby limiting the utility of the records to the government itself, as well as the public’s rights under the Freedom of Information Act.” (Finding 19)

The Advisory Committee recommended that the government take the following steps to organize the historical records of human radiation experiments and to give access to the public, and to the government itself.

- The most important historical collections should be entrusted to the National Archives.
- Agencies should make readily available all existing inventories, indexes, folder listings, and other finding aids to record collections now under agency control.
- Classified finding aids should undergo declassification review, and declassified versions of these finding aids should also be made available.
- The government should ensure the development of policies to improve public access to records held by agencies or deposited in Federal records centers.
- Agencies should maintain complete records, available to the public, of document destruction.
- The government should review and develop policies concerning public access to records generated or being held by private contractors and institutions receiving Federal funding.

The Advisory Committee also recommended that the CIA's recordkeeping system be reviewed to ensure that records are accessible upon legitimate request from the public or governmental sources. The Advisory Committee further recommended that all records of the CIA bearing on programs of secret human research from the late 1940s through the early 1970s be reviewed for declassification. ACHRE expressed the expectation that most, if not all, of these CIA documents would be declassified and made public. (Recommendations 17 and 18)

Response to Recommendations on Openness

ACHRE's recommendations are intended to ensure that the records of human radiation experiments are organized and accessible, and to promote better access to government records. This section responds to those specific recommendations. The next section describes in more detail the actions that individual agencies have taken to make records available for public scrutiny.

ACHRE identified the National Archives as the appropriate repository for many of the documents related to human radiation experiments. The Administration agrees. All of the Advisory Committee's records have been transferred to the Archives. The principal Departments and agencies are transferring large volumes of records there as well.

ACHRE recommended that the Departments make finding aids more readily accessible. The government supports this recommendation and has taken steps to implement it. The Departments involved in radiation experiments have a tremendous volume of records. This volume makes providing tools to find information as critical as allowing access to files. The vast majority of relevant documents are DOE or DOD records. DOE is putting finding aids to historical records still in agency custody in public reading rooms and on the Internet, and has published a guide to its human radiation records. DOD has also taken steps to simplify the research process and to provide staff support for individuals who wish to search for relevant documents, and has also published a guide to its human radiation collection.

ACHRE recommended that the government take steps to improve public access to records that remain in the Departments' custody. Part of ACHRE's concern focuses on those records that needlessly remain classified and that would be of significant interest to the public. President Clinton's Executive Order 12958 of April 17, 1995, addresses this concern. The Order requires that most older records that are determined to be of permanent historical value be automatically declassified 5 years from the date of the Order. The Order

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applies to all records, not just those relating to human radiation experiments. Agencies are actively reviewing their records and releasing those that are not exempt to comply with the Order. Although the Executive Order does not include Restricted Data (atomic energy information), DOE is actively reviewing this material as well. DOE is also reviewing and updating its classification authorities and guidelines.

ACHRE found references to records that they could neither find nor confirm were destroyed. As a result, the Committee recommended that the Federal government permanently maintain copies of all records destruction notices. The Federal government generates an enormous number of records, many of which are of no long-term interest. These records are routinely destroyed. It would be impractical to retain records destruction notices of all of these records, therefore the Administration does not fully accept this recommendation. However, to meet the Committee's concerns, the President is directing agencies to permanently retain records relating to classified human subject experiments.

ACHRE recommended that a citizen's right to know about the activities undertaken by the government should not depend on whether the work was carried out by government employees or contractors. Thus, ACHRE recommended reviewing policies governing access to records of grantees and contractors. Federal records regulations (36 CFR 1222.48) already specify that data created for Federal government use by contractors are Federal records if they are delivered to, or fall under the legal control of, the government. All Federal records must be managed according to rules that provide for appropriate access. Administration policy requires each agency to use contract provisions or other mechanisms to assert ownership of, or appropriate access to, contractor records.

ACHRE recommended review and declassification of CIA historical records and a review of CIA's recordkeeping system. The CIA recognizes the special scrutiny that is given information about CIA-sponsored human subjects research. The National Archives and Records Administration (NARA) has undertaken an independent review of the CIA's records management program that will be completed in the spring of 1997. In addition, the CIA is reviewing for declassification a few documents relevant to the MKULTRA program that have not been previously declassified and released. The CIA has already transferred approximately 1,000 pages of declassified documents and a CIA Inspector General report on human subjects research, to the National Archives. This material is also available on the Internet (hrex.dis.anl.gov).

Actions to Date

Below is a more detailed description of some of the steps agencies have taken to achieve the goal of opening the historical record. In addition, Appendix B summarizes information resources related to human radiation experiments, including a list of record sources, Internet sites, and publications.

The Department of Energy

Making records available: DOE has posted over 250,000 pages of historical documents on the Internet—making the documents available in libraries, community centers, and schools in this country and around the world. These documents are now available through the Interagency Database (hrex.dis.anl.gov) which will eventually contain more than 500,000 pages of documents from all the agencies involved in this effort. Paper copies of all DOE and DOD documents are at the Coordination and Information Center (CIC) in Nevada. Additional related series of records of historical interest have been transferred to the National Archives.

Making records accessible: DOE has summarized how to find its records in its publication, *Human Radiation Experiments: The Department of Energy Roadmap to the Story and the Records*, published in February 1995. The list of experiments in that volume is updated and expanded in, *Human Radiation Experiments Associated with the U.S. Department of Energy and its Predecessors*. The text of these documents is also available via the Office of Human Radiation Experiments (OHRE) Home Page (www.ohre.doe.gov). DOE also has developed a 1-day course on how and where to locate information about human radiation experiments and related historical records.

Understanding the record: DOE staff interviewed researchers and others possessing first-hand knowledge of the human radiation experimentation and therapy that occurred during World War II and the Cold War. The result is, *Human Radiation Studies: Remembering the Early Years*. This 29-part series comprises some 1,350 pages of transcripts. This series offers scholars and interested lay persons a vivid glimpse inside one of the most controversial chapters in our nation's postwar history.

The Department is currently developing a plan to fund an oral history project, conducted by a non-Federal institution, which will allow the subjects and their families to tell the story from a different perspective. This project will provide a reminder of the importance of protecting individual rights, even in times of national security crisis.

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The Department of Defense

Identifying subjects: The Department of Defense (DOD) is searching records for members of the armed services who may have been experimental subjects. In particular, DOD is seeking rosters of those who were treated experimentally or therapeutically with nasopharyngeal radiation. This effort is similar to an effort several years ago to identify those service members who were present at above-ground nuclear tests. (The full story of that effort was chronicled by the Defense Special Weapons Agency in DNA 6041F, *For the Record—A History of the Nuclear Test Personnel Review Program, 1978–1993*, March 1996.)

Making records accessible: DOD has prepared a guide, similar to the DOE *Roadmap*, that describes the search process for the records of human radiation experiments, and provides the result of the search. This guide is entitled, *The Department of Defense Report on the Search for Human Radiation Experiments Records, 1944–1994*.

The National Aeronautics and Space Administration

NASA has established a permanent collection of human radiation experiment records and a database at Johnson Space Center.

National database: The National Aeronautics and Space Administration (NASA) has established a permanent collection of human radiation experiment records and a database at Johnson Space Center. For the first time, these records will be organized, accessible, and available by request from the collection and on the Internet (hrex.dis.anl.gov).