

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA

MRS. DAVID ORLIKOW, et al., )  
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 ) plaintiffs, )  
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 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 ) defendant. )  
 )  
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Civil Action No. 80-3163 (JGP)

PLAINTIFFS' PRELIMINARY PRETRIAL STATEMENT

Introduction

Pursuant to this Court's Order for a Pretrial Conference, plaintiffs have prepared their preliminary pretrial statement. Because the parties have not yet completed discovery, this statement will be updated and finalized as soon as possible after completion of discovery.<sup>1/</sup>

I. JURISDICTION

The Court has jurisdiction and venue over this Federal Tort Claims Act action under 28 U.S.C. §§ 1346(b), 1402(b) and 2671, et seq.

II. FACTS OF THE CASE

As detailed in Plaintiffs' Opposition to Defendant's Motion for Summary Judgment, their claims are based upon the negligent and reckless acts and omissions of employees of the

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<sup>1/</sup> Although defendant's depositions of plaintiffs' experts have largely been completed, with only brief continuations of the depositions of Doctors Salzman and Lifton remaining, the depositions of defendant's experts who examined plaintiffs, Doctors Mann and Rappeport, have not yet been completed.

United States in financing brainwashing and behavior control research at the Allan Memorial Institute as MKULTRA Sub-project 68. While the basic facts concerning the initiation and operation of the MKULTRA program are not disputed by defendant, key factual contentions and the inferences to be drawn from them concerning the negligent and reckless conduct by employees of the United States are disputed by the government (see Plaintiffs' Statement of Genuine Issues).

A. Initiation of the CIA's MKULTRA Program

In April of 1953 CIA Director Allen Dulles approved the MKULTRA Program as recommended by Richard Helms, to conduct brainwashing research with drugs and other techniques, thereby countering suspected Soviet and Chinese efforts in that area (Exh 1, 2). Although MKULTRA was to operate outside the normal CIA administrative channels "without the usual contractual arrangements" (id.), and to be highly "compartmented", Dulles ordered that "[e]xacting control will be maintained over the project by TSS," the CIA component responsible for MKULTRA (Exh 2).

B. CIA Negligence in the Death of Dr. Frank Olson

In November of 1953, CIA officers in charge of MKULTRA were responsible for a negligent experiment with LSD that resulted in the death of Dr. Frank Olson. As related by his widow, those in charge of MKULTRA performed an unethical LSD experiment upon her unwitting husband:



In 1953 my husband was a distinguished biochemist working as a civilian employee of the United States Army at Camp Detrick, Maryland. My husband and three of his colleagues were given LSD, without warning, by CIA officials Sidney Gottlieb, Chief of CIA's TSS Chemical Division and his Deputy, Robert Lashbrook, as part of the CIA experimental brainwashing program designated as MKULTRA and operating under the direction of Richard Helms, Chief of Staff of CIA's Clandestine Services. Gottlieb and Lashbrook fed the LSD to my husband and the others in their after-dinner liqueur without telling them that there was LSD in the cointreau glass, nor that they were the subject of CIA experiments (Olson Aff p. 1).

After the injurious effects of that LSD experiment became apparent, Gottlieb and Lashbrook negligently failed to obtain appropriate medical care for Olson, instead taking him to visit an allergist, Dr. Harold Abramson, in New York City (id.). As Mrs. Olson further explains:

That night he jumped from a window of a tenth story hotel room in New York in which he was staying with Lashbrook. There is evidence from the hotel telephone operator that Frank's death may not have been a suicide, but I do not have sufficient proof to make that charge against the CIA in addition to their negligence and recklessness. When I spoke to Abramson years later, he could remember nothing whatever about my husband except that Frank "was a very sick man who needed help" and that he, Abramson, had destroyed all his records on the case. I still find it strange that Abramson destroyed records of a case of such significance (p. 2).

Finally, Mrs. Olson explains the direct link between the LSD and her husband's death:

My husband was a remarkably stable man. He had never had any psychiatric problems before he was fed the LSD in 1953. As President Ford put it when he signed legislation in

1975 providing \$750,000 recompense to our family, the CIA's drug experiments were "the proximate cause of his death." There is no doubt that CIA-administered LSD is what caused Frank's death (pp. 2-3).

Although the CIA concealed the facts concerning the Olson killing, Director Dulles ordered investigations by his General Counsel and his Inspector General (Lashbrook dep. 48, 50; Exh 3, 4). CIA General Counsel Lawrence Houston concluded that there had been "culpable negligence" by the CIA officials in charge of MKULTRA and that "a death occurred which might have been prevented" (Exh. 3). CIA Inspector General Lyman Kirkpatrick, similarly concerned, concluded that there "should immediately be established a high-level intra-Agency board which should review all TSS experiments and give approval in advance to any in which human beings are involved." He further recommended that the CIA employees involved in the Olson death be reprimanded (Exh 4).

Dulles accordingly ordered that a Review Board be created to oversee and control TSS research and experiments (Exh 5). But the Dulles order was not carried out and no other steps were taken to ensure that there would be no repetition of the reckless and negligent conduct in the Olson killing. Despite the fact that they had not the slightest remorse (Exh 3), Gottlieb and Lashbrook were left in charge of MKULTRA without even a reprimand. Gottlieb received only a letter from Dulles saying he had used "poor judgment" (Exh 6) which Helms hand carried to him, telling Gottlieb the letter was "not a reprimand and no personnel

file notation was being made" (Exh 7). Gottlieb and Lashbrook later approved the funds for brainwashing experiments performed by Dr. Cameron without the review and oversight of the special Review Board ordered by Director Dulles (Admissions 40, 41, 42), and with the same recklessness they had exhibited in the Olson killing.

C. CIA Negligence in the Funding of Dr. Cameron

The Inspector General found after investigation in 1957 that "some of the [MKULTRA] activities are considered to be professionally unethical and in some instances border on the illegal" and that "some of the activities of the Chemical Division are not only unorthodox but unethical and sometimes illegal" (Exh 8, 24). Gottlieb and Lashbrook, nonetheless continued their activities unreprimanded and unsupervised. One of their assistants, John Gittinger, learned of the work of Dr. Cameron in the brainwashing field by reading an article appearing in the American Journal of Psychiatry in January of 1956 (Exh 9). As Dr. Robert Jay Lifton, an internationally recognized expert on brainwashing attests in his affidavit (p. 3), that article "described non-therapeutic and potentially dangerous techniques of repetition and isolation which were extensions of the totalistic methods of 'thought reform' or 'brainwashing' used in China and elsewhere." Indeed, Cameron himself had admitted in earlier papers that he conducted experiments with "sleeplessness, disinhibiting agents and hypnosis" trying to exploit the methods used to achieve "the extraordinary political conversions which we

have seen, particularly in the iron curtain countries" (Exh 66), and the psychic driving research was expressly referred to a "experimentation" at the Allan Memorial Institute (Exh 10, 11).

Gittinger instructed Col. James Monroe, Executive Director of a CIA front, the Society for the Investigation of Human Ecology (hereafter "Society"), to go see Dr. Cameron and solicit an application for a grant from the Society (Gittinger dep. 16-17, 47-48, 50-51, 67-68, 72, 85, 95). Pursuant to this request, Dr. Cameron applied for a grant (Exh 12) to extend brainwashing experimentation which he described as follows:

- i. The breaking down of ongoing patterns of the patient's behavior by means of particularly intensive electroshocks (depatterning).
- ii. The intensive repetition (16 hours a day for 6 or 7 days) of the prearranged verbal signal.
- iii. During this period of intensive repetition the patient is kept in partial sensory isolation.
- iv. Repression of the driving period is carried out by putting the patient, after the conclusion of the period, into continuous sleep for 7-10 days.

The Cameron application further proposed to find chemical agents which will break down the ongoing patterns of behavior such as "LSD 25 and other similar agents," to improve methods of signal production, and to develop better methods of inactivating the patient during the repetition of verbal signals with chemical agents including curare (id. at 4-5).

The Cameron application, as the affidavits and deposition testimony of plaintiffs' experts Dr. Robert Jay Lifton and Dr. Leon Salzman make clear, shows on its face that CIA funds would be used to conduct extremely dangerous brainwashing experiments. As Dr. Lifton concluded, "it is clear from the Cameron application, itself, that these procedures were experimental and deviated from standard and customary psychiatric therapies in use during the 1950s" (Aff p. 4); the procedures in the Cameron application "closely parallel the techniques of 'thought reform' or 'brainwashing' used in Chinese prisons and elsewhere, and represent a mechanized extension of those 'brainwashing' methods" (*id.*); in short, "the Cameron application was a transparent proposal to conduct experiments with 'thought reform' or 'brainwashing' procedures extrapolated from methods documented in the academic literature" (p. 6). Indeed, Leonard Rubenstein, Cameron's technician in the experiments admitted publicly in an August 2, 1977 New York Times interview (Exh 13) that the work Cameron did with CIA funds "was directly related to brainwashing...[t]hey had investigated brainwashing among soldiers who had been in Korea. We in Montreal started to use some [of these] techniques, brainwashing patients instead of using drugs." Dr. Salzman's conclusions are similar (Aff p. 4):

The Cameron application proposed a mind control research project with no safeguards, no discussion of risks, dangers and potential destructiveness ... This is clearly outrageous; callous insensitive, inhuman pursuit of an idea with no concern for possible destructive effects. It would be beyond any reasonable doubt that a foundation

which supported such a project could not have had therapeutic expectations from the grant application.

Yet, without investigation of any kind and without providing any safeguards to protect the subjects of mind control experiments, Gottlieb, Lashbrook, Gittinger and their CIA colleagues approved MKULTRA Sub-project 68 which provided some \$60,000 over four years for the experiments described in the Cameron application (Exh 12). Gittinger became the CIA's Project Monitor for MKULTRA Sub-project 68 (Dep. 46, 17, 204).

D. CIA Negligence in Failing to Investigate Cameron or the Procedures Proposed in the Application

The CIA made no investigation of Cameron or the procedures proposed in the application before making the grant, despite the obvious dangers to the human beings who were to be experimented upon with CIA funds, and despite the ease with which such an investigation could have been made. For example, the CIA was in close touch with Dr. Omond M. Solandt, Chairman of the Canadian Defence Research Board from 1947 through 1956; yet the CIA never sought his opinion "about Cameron's competence, the depatterning and other experimental procedures used by Cameron, or whether it was appropriate to fund the experimental procedures used by Cameron" (Aff pp. 4-5). As Dr. Solandt testified at deposition and in his affidavit, there was a close relationship between himself and the CIA (id.). In addition, Dr. Solandt disapproved of Cameron's destructive experiments and made his views known(id. at 3-4).

Dr. Solandt was not the only knowledgeable expert readily available to the CIA in 1956 and early 1957 when Cameron's application was being solicited and approved. Dr. Donald O. Hebb, Chairman of the Psychology Department of McGill University who worked closely with Canadian and U.S. intelligence and actually received a special CIA security clearance in the early 1960s (Exh 14), had equally discrediting views of his McGill colleague's brainwashing experiments. As Solandt attests, Dr. Hebb had voiced "a very low opinion" of Cameron and his "prudence" in dealing with experimental subjects (Aff p. 4). Yet despite its close ties with Dr. Hebb, the CIA never bothered to ask him about Cameron (Admission 49).

Finally, despite the CIA General Counsel's explicit criticism after the Olson killing of the exclusion of the CIA medical staff from the MKULTRA program (Exh 3), Gottlieb, Lashbrook, and Gittinger failed even to present the Cameron application to the CIA Medical Staff. As the former Chief of the CIA's Medical Staff, Dr. Edward Gunn, testified at 1975 Senate Hearings, the CIA's own Medical Staff was wholly excluded from the MKULTRA program (Admission 25, Exh 15).

Even casual inquiries of those in Montreal who knew of the controversial experiments being performed by Cameron would have revealed to the CIA the risks of injury and averted the tragic events funded by that agency. As Dr. Paul E. Termansen testified, there was considerable controversy about Cameron's experimental activities which were promptly terminated by his



successor Robert A. Cleghorn (Aff p. 1). Dr. Solandt also attested that "[d]uring the 1950s, there was considerable controversy in the Montreal and Canadian psychiatric and academic communities about the depatterning and other experimental procedures used by Cameron at the Allan Memorial Institute" (Aff p. 4).

Similarly, defendant's own witnesses have conceded that Cameron's experiments were "too rough" and that "I just could not go along with getting a patient to that stage" (Hisey Aff p. 2); that they "disagreed then with the intrusiveness and lack of scientific rigor of his [Cameron's] work" (Grunberg dep., Exh 70, p. 11); that Cameron's experimental procedures "were misguided and ineffective" and that it is "also quite possible that they resulted in emotional and, perhaps, organic damage ..." (Lowy dep., Exh 70). As these statements make amply clear, there was tremendous controversy surrounding Cameron and the experiments he performed, which would have alerted defendant to the dangers of ~~human~~ funding human experimentation at Allan Memorial.

E. CIA Negligence in Failing to Insure Safety and Consent of Subjects

Cameron's application for funds was dated January 21, 1957 (Exh 12). On February 26, 1957 Gottlieb and other CIA officials approved the application in a Memorandum establishing MKULTRA Sub-project 68 (id.). On June 26, 1957, Lashbrook requested that a check to the Society be forwarded to Gottlieb and certified that "performance is satisfactory" (id.). No



provision was made at the time of the approval of the grant or later to ensure that the experimentation was safe or that only consenting volunteers were used as experimental subjects.

Gittinger was the CIA Project Monitor for MKULTRA Sub-project 68 (Dep. 46-47, 204); Gottlieb (Id. at 91) was the Director for the MKULTRA Program and Gittinger's supervisor (Id. at 67, 76); Lashbrook was Gottlieb's deputy (Dep. 16-17, 23). All three have testified that the CIA took no steps whatsoever to ensure that experimental subjects would not be injured or that the CIA-funded experiments would be conducted in an ethical fashion (Gittinger dep. 27, 115, 134-35; Gottlieb dep. 340; Lashbrook dep. 88, 89).

Gottlieb, Lashbrook and Gittinger have each also testified that no effort was made to ensure that Cameron's patients would be told that they were undergoing experimental procedures. Gottlieb failed to determine whether Cameron was going to tell patients and their families that the experiments were new and untested and that other accepted therapeutic procedures were available for mental illness (Dep. 341-44); and he had no recollection of instructing Gittinger concerning the CIA-funded experiments (Dep. 353-54). Gittinger admitted that patients in a psychiatric hospital often exercise impaired judgment (Dep. 116) and that it was particularly important that they be told that they were participating in experiments (Dep. 117). Yet he felt no obligation to protect the psychiatric patients who would be used in MKULTRA Sub-project 68, and,

indeed, failed to instruct Monroe to obtain reports on the condition of those patients after the experimental procedures (Dep. 118). Lashbrook, too, admitted he had not heard "one single thing" about Cameron's operation after he, Lashbrook "directed the sending of the money to them" (Dep. 92).

After CIA funds were paid to Cameron, the CIA officers responsible for MKULTRA Sub-project 68 failed to supervise Cameron's experimentation in any way. Gittinger has testified that he never saw a report from Cameron (Dep. 91); that he never visited Cameron in Montreal (Dep. 120); and that he never asked Monroe to report to him on what Cameron was doing (Dep. 210-11). Despite his ignorance concerning Cameron's CIA funded experiments, Gittinger nonetheless certified as Project Monitor that Cameron's progress was "satisfactory" on the basis that "we just were given word that they were having no problems" (Dep. 202). Gottlieb "did not know anything about" the experiments Cameron performed with CIA funds (Dep. 150), or what experimental subjects were told about the CIA-funded research at McGill. He had no recollection of anyone at the CIA telling him the details about Cameron's experiments with intensive electroshock, LSD, sensory deprivation, depatterning, psychic driving, or prolonged drug induced sleep (Dep. 333-39).

F. Cameron Proceeds to Use CIA Funds for Brainwashing Experiments on Unwitting Patients

Plaintiffs came to the Allan Memorial Institute for psychiatric treatment and became, without their knowledge and consent, subjects of injurious brainwashing experiments which

Cameron performed with CIA funds. Plaintiffs never consented to the experiments to which they were subjected. Mrs. Velma Orlikow's husband sent a telegram to the Allan Memorial authorizing admission "for treatment" (Exh 16). Mrs. Janine Huard (Exh 19) and Mrs. Rita Zimmerman (Exh 22) signed standard hospital admission forms entitled "consents for examination and treatment." None of the plaintiffs were told they were the subjects of experiments for research or any other purpose and none of them consented to such experiments or research. As plaintiffs' expert, Dr. David J. Rothman, sums it up in his affidavit (p. 26) "by the 1950s it was clearly irresponsible for a physician to conduct experiments upon patients without obtaining their voluntary consent to be research subjects."

The experiments to which Cameron subjected plaintiffs all fell within the depatterning with intensive electroshock or LSD, psychic driving, partial sensory isolation and continuous sleep experiments detailed in Cameron's application for funds (Exh 12). Each plaintiff was subjected to one or more of these brainwashing techniques as conceded in their medical records at Allan Memorial as follows:

<u>Velma Orlikow</u> (Exh 16):	Depatterning Psychic Driving
<u>Jean-Charles Pagé</u> (Exh 17):	Depatterning Continuous sleep
<u>Robert Logie</u> (Exh 18):	Depatterning Continuous sleep
<u>Janine Huard</u> (Exh 19):	Depatterning Psychic Driving

<u>Livya Stadler</u> (Exh 20):	Depatterning Psychic Driving Continuous sleep
<u>Rita Zimmerman</u> (Exh 21):	Depatterning Psychic Driving Continuous sleep
<u>Florence Langleben</u> (Exh 22):	Depatterning Psychic Driving Continuous sleep
<u>Louis Weinstein</u> (Exh 23):	Depatterning Psychic Driving Sensory Isolation Continuous sleep

Details of the CIA-funded brainwashing procedures are set forth in plaintiffs' sworn answers to interrogatories, in their depositions by the CIA, and in the Allan Memorial Institute medical records of plaintiffs (Exh 16-23). The testimony of clinical psychiatrists Paul E. Termansen, David I. Joseph, Brian B. Doyle, Robert Frechette, Leon Salzman and Harvey Weinstein, along with the detailed evaluations of plaintiffs' medical records from the Allan Memorial Institute set forth in their respective affidavits, demonstrates that the procedures used upon plaintiffs were not proper treatment -- or treatment at all -- but were rather injurious brainwashing experiments upon unwitting persons.

Thus, Dr. Paul E. Termansen concluded (Aff pp. 2-4) that "instead of standard treatment, Mr. Logie underwent a series of experimental, highly controversial, procedures...." as Dr. Termansen explained, after the experiments Mr. Logie's "existence could best be termed marginal ... [H]e managed to

function, work, and exist, but barely." And the injurious effects continue to this day; "It may be there is some basic disturbance of his sleep mechanism, or it appears more likely that, after the very traumatic treatments he experienced while asleep, he has an unconscious resistance to sleep" (id. at 5-6).

Dr. David I. Joseph similarly concludes (Aff pp. 4-5) that "the 'depatterning' with intensive electroshock, 'psychic driving', prolonged drug induced sleep, and the administration of nitrous oxide that Mrs. Stadler underwent were not accepted forms of treatment, then or now, but were clearly experimental" and that those procedures "would have resulted in significant disorganization, confusion and psychological impairment ...." Dr. Joseph also concludes that plaintiff Janine Huard, was exposed to non-standard experimental procedures and that "the combination of experimental procedures that Mrs. Huard was exposed to at the Allan Memorial Institute would have resulted in significant disorganization, confusion and psychological impairment ..." (id. at 6). Finally, Dr. Joseph concludes as to both plaintiffs Huard and Stadler that "[i]t was clearly irresponsible and unethical, both then and now, to use procedures ... without obtaining a separate voluntary consent to undergo experimental procedures" (id. at 5, 7).

Dr. Brian B. Doyle, after setting forth the procedures used on plaintiff Jean-Charles Pagé, concludes that "[n]othing in Mr. Pagé's medical records indicates that he was a candidate for any of these procedures" which were "not accepted

forms of treatment but were clearly experimental procedures...." Dr. Doyle continues, "the harsh physical procedures, high doses of drugs and the experimental techniques used on Mr. Pagé would inevitably cause injury to his mental and physical health" (Aff p. 4).

Plaintiff Rita Zimmerman was "depatterned" through a total of 30 electroshocks of which 12 were intensive electroshocks; she was incontinent as to bladder and bowel after the 'depatterning', underwent 56 days of prolonged drug-induced sleep, received 14 days of negative 'psychic driving', and 18 days of positive 'psychic driving' (Exh 21). Dr. Doyle concluded (Aff pp. 5-6) that:

Mrs. Zimmerman was not a candidate for electroshock therapy, much less the intensive 'depatterning' procedures that were so disruptive as to leave her incontinent as to bladder and bowel ... the intensive electroshocks that were used to 'depattern' Mrs. Zimmerman were clearly experimental, as was the entire 'depatterning' procedure that was carried to an extreme in her case. The nearly two months of drug-induced sleep and over one month of 'psychic driving' Mrs. Zimmerman underwent were equally extreme applications of clearly experimental procedures ... the experimental 'depatterning,' prolonged drug induced sleep and 'psychic driving' procedures used on Mrs. Zimmerman would inevitably cause injury to her mental and physical health.

Plaintiff Florence Langleben was given various barbiturates and LSD, was depatterned through 15 intensive electroshocks, underwent 43 days of prolonged drug-induced sleep, and received 32 days of negative psychic driving, 32 days of galvanic stimulation, and 11 days of positive psychic driving

(Exh 22). Dr. Doyle likewise concluded that these experimental procedures were inappropriate and injurious in her case (Aff p. 17). Finally, as to plaintiffs Pagé, Langleben and Zimmerman, Dr. Doyle concluded that "[i]t was clearly irresponsible and unethical, both then and now, to use experimental procedures ... without obtaining a separate voluntary consent to undergo experimental procedures" (id. at 4, 6, 7).

Mrs. Velma Orlikow was diagnosed upon admission as suffering from depression (Exh 16). Given this admitting diagnosis, standard treatment alternatives at that time would have included verbal psychotherapy, and the possible use of low doses of tranquilizing drugs (Salzman Aff). Mrs. Orlikow received LSD on 14 separate occasions and was exposed to "psychic driving" procedures while under the influence of LSD and other drugs. After discharge, Mrs. Orlikow continued to receive regular "psychic driving" as an outpatient. The use of LSD and the "psychic driving" that Mrs. Orlikow underwent were not accepted forms of treatment, then or now, but were clearly experimental. In Dr. Leon Salzman's medical opinion, the combination of experimental procedures that Mrs. Orlikow was exposed to at the Allan Memorial Institute would cause her to suffer significant and continuing psychological impairment (id. at 9).

Plaintiff Louis Weinstein similarly underwent a wide range of experimental procedures at the Allan Memorial Institute including intensive electroshock, LSD, sensory isolation,



prolonged sleep and psychic driving (Exh 23). Dr. Harvey M. Weinstein, Dr. Brian Doyle and Dr. David Joseph all conclude that Mr. Weinstein's minor psychiatric ailments were magnified into massive psychiatric problems by Cameron's unwitting experiments, thereby wrecking a life of success, happiness and family warmth.

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Towards the end of the CIA funding, on April 12, 1960, Dr. Cameron wrote a letter to the CIA front, The Society for the Investigation of Human Ecology, acknowledging his "great indebtedness" to the Society, describing the assistance rendered by the Society as "invaluable", and expressing a "considerable sense of indebtedness" for the funding he had received (Exh 12). Four years later Dr. Cameron left the Allan Memorial Institute and his successor, Dr. Robert A. Cleghorn, immediately terminated the experimentation Cameron had been conducting. At the request of Dr. Cleghorn, Dr. Termansen and a colleague conducted a scientific study of the results of Cameron's depatterning experiments (Exh 26). As Dr. Termansen states in his affidavit:

After interviewing and testing patients selected from a sample of 79 persons who had undergone the 'depatterning' procedure, we concluded that the incidence of memory loss attributable to the intensive electroshock was higher than that encountered with standard therapeutic electroshock, and that the 'depatterning' procedure, therefore, was not an acceptable form of therapy. We found that frequent electroshock as used in 'depatterning' was associated with poor clinical outcome, and that the shorter the interval between electroshocks, the greater



was the current memory impairment as seen on the Wechsler Memory Scale. 'Depatterning' is no longer used because of its damaging effects on cognitive functioning and because it would appear to have little to offer in terms of improvement over conventional therapeutic electroshock.

G. Helms and Gottlieb Attempt to Conceal Their Wrongdoing by Destroying Records

In 1973 when Helms and Gottlieb were both planning to leave the CIA, they joined in ordering the destruction of all MKULTRA files. Gottlieb discussed the proposed destruction of MKULTRA files with his deputy (Dep. 543-44), who stated in a January 17, 1975 memorandum for the record: "Over my stated objections, the MKULTRA files were destroyed by the order of the DCI (Mr. Helms) shortly before his departure from office" (Exh 27). The Chief of the CIA Records Center also objected to the destruction of MKULTRA files (Admission 17). The Department of Justice conducted an investigation to determine whether Gottlieb should be subject to criminal prosecution for his role in the destruction of MKULTRA files, but Gottlieb invoked the Fifth Amendment and only testified after he had been granted immunity from such a prosecution (Admission 19, Gottlieb dep. 553-64). Others completed the destruction of documents. The files which Dr. Cameron took with him upon termination of his position at Allan Memorial were destroyed by his son, attorney Duncan Cameron, even though there were lawsuits pending against Cameron's estate at that time (Dep. 26-31).

#### H. CIA Concealment of Its Involvement with Cameron

To conceal its role in brainwashing experimentation, the CIA established the Society for the Investigation of Human Ecology and operated it as a CIA front to serve "as a 'conduit for brainwashing research,'" (Gittinger Dep. 79). There was concealment even inside the CIA.<sup>2/</sup>

Another extreme example of CIA concealment is its breach of Canadian sovereignty by acting there without the knowledge of the Canadian Government in violation of the agreement between the two countries (Solandt Aff). Three Secretaries of State for External Affairs in Canada have publicly stated that their Government first learned of the CIA actions there when the media carried the story in August 1977 (Hadwen dep.; Exh 25). And both Gottlieb (Dep. 368, 370-71) and Gittinger (Dep. 150-51) corroborated that the CIA funding of Cameron had been concealed from the Canadian Government.

CIA agent James Monroe told the New York Times that the Society for the Investigation of Human Ecology, which he ran, received "only 25 to 30 percent" of its budget from the CIA with the bulk coming from other foundations and private donors, whereas the truth is that the Society was funded over 95% by the CIA (Admission 30, 31; Gittinger Dep. 80; Pasternak Dep. 16).

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<sup>2/</sup> Concealment was so total even inside the CIA that Gittinger did not know of the Olson killing (Gittinger 37, 61) and thus was not in a position to warn Cameron, through Monroe or directly, of the dangers inherent in LSD.

The MKULTRA Program was not disclosed to the Katzenbach Commission charged by President Johnson with investigating CIA's relations with universities and other public institutions (Helms Dep. 140-49) and seven boxes of CIA MKULTRA files were withheld from both the Rockefeller Commission and Church Committee investigations in the 1970s. The U.S. Embassy in Ottawa was similarly deceived by the CIA, which stated in a February 1979 cable that there was "no evidence the SIHE [the Society] or Agency officers gave any hint to McGill or Cameron that a request for funds would be met with a favorable response" (Exh 28). And possibly the most extreme attempt at concealment was the Helms-Gottlieb order to destroy the records.<sup>3/</sup>

At the August 3, 1977 Senate hearing (Exh 29, p. 36), Senate Intelligence Committee Chairman Inouye asked CIA Director Turner, to "report back to this committee in 3 months on what the Agency has done to notify these individuals and institutions, and furthermore, ~~to notify us as to what steps have been taken to~~ identify victims, ~~and if identified, what you have done to help~~ them, monetarily or otherwise," Turner responded, "All right, sir, I will be happy to." At that same August 3, 1977 hearing,

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<sup>3/</sup>In August of 1973, only a few months after Helms and Gottlieb left the CIA, an agency directive was issued "which expressly prohibits any experiment or use of drugs or other techniques for influencing human behavior to be conducted on unwitting American citizens" (Exh 30). This prohibition was strengthened in Executive Orders issued by Presidents Ford, Carter and Reagan after the MKULTRA abuses came to light (Executive Orders 11905, 12036, 12333; id.).

Senator Kennedy asked CIA Director Turner, "It is your intention to notify the individuals who have been the subject of the research, is that right, Admiral Turner? Do you intend to notify those individuals?" To which, Admiral Turner replied, "Yes."

A July 17, 1978 Memorandum prepared by the Office of Legal Counsel at the Justice Department concluded that the CIA had a duty to find and notify persons used as unwitting experimental subjects in MKULTRA (Exh. 31). Yet, despite Turner's promise and this legal opinion, the CIA failed to notify any of the plaintiffs in this action of their unwitting participation in the CIA-funded experiments at Allan Memorial (Admissions 1, 3).

In the late 1970s, author John Marks pieced the story together from individual interviews, Congressional investigations and documents obtained under FOIA which had been missed in the Helms-Gottlieb destruction.<sup>4/</sup> This story gradually became known and, after a year of fruitless attempts to negotiate with the CIA which were rebuffed with the falsehood that Cameron's application was "unsolicited", this suit was brought on December 11, 1980.

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<sup>4/</sup> These documents were largely financial and were "deliberately written so it would reveal a minimum" (Lashbrook, 111). Only 56 pages of even these sanitized financial records concerning MKULTRA Sub-project 68 were produced.

### I. Defendant's Admissions of Culpability

The CIA General Counsel and Inspector General both condemned the Gottlieb-Lashbrook killing of Frank Olson, calling it "culpable negligence"; "a death ... which might have been prevented"; and a result of actions that were "unethical and sometimes illegal." When the Olson story finally became known despite the CIA's efforts at concealment, the President met with Mrs. Olson and her children and "expressed the sympathy of the American people and apologized on behalf of the U.S. Government for the circumstances of Dr. Frank Olson's death in November 1953" (Exh 32). Similarly, in a July 24, 1975 letter to Mrs. Olson, then CIA Director William E. Colby apologized for the CIA (Exh 33). And on October 12, 1976 President Ford signed legislation providing \$750,000 recompense to the survivors of Dr. Olson, after stating that the LSD "would appear to have been the proximate cause of his death" (Exh. 34).

On December 13, 1983, former CIA Director Stansfield Turner testified on deposition that the MKULTRA program of unwitting drug testing and behavior control research was the product of excessive "compartmentation" -- a process "of taking a corpus of information and limiting the access to it to people who are given clearance for that 'compartment'" (Dep. 57). In the MKULTRA program, CIA employees "used compartmentation to so narrow who knows a thing," that there was "virtually no check or very little check on their activities" (*id.*). Admiral Turner recounted his "dismay at discovering" the MKULTRA activity which

"seems entirely bizarre" and summed it up this way in the original manuscript for his book, Secrecy and Democracy, (Exh 35):

How could this have happened? I believe compartmentation was responsible. Because of compartmentation there was inadequate supervision of those who, with good intent, concocted this absurd scheme. The unit conducting the experiment simply had such autonomy that not many outsiders could look in and ask what was going on. In all walks of life people get too close to their work and need someone with a somewhat detached viewpoint to take an occasional look at where they are going. In this case the system just could not provide that kind of detached critical review and a few well-intentioned, but terribly misguided, individuals badly abused the CIA's privilege of keeping secret so much of what it does.

A 1976 Senate Report similarly concluded that compartmentation was used in the MKULTRA Program to conceal the CIA's "unethical and illicit activities" (Exh 8 pp. 385-86).

On November 7, 1975 CIA Deputy Director for Science and Technology Carl E. Duckett testified at U.S. Senate hearings (Exh 36) concerning CIA unwitting drug tests, that "it is wrong" (p. 276) and that now "by no means would we participate in those kinds of activities" (p. 282).

Since CIA funding of Cameron was first revealed, the following additional admissions have been made. On September 26, 1977 John G. Hadwen, Director General of the Canadian Bureau of Security and Intelligence Liaison, received an apology for the CIA's actions. As Mr. Hadwen testified (Dep. 70), the CIA official "expressed regret that this should have happened without

the knowledge of the Canadian government" and "he expressed regret at the nature of the program." Additional apologies are attested to by the affidavit of then Secretary of State for External Affairs MacEachen to and his attached letter to the Toronto Globe and Mail published on May 5, 1984 (Exh 25).<sup>5/</sup>

On October 31, 1978 CIA counsel Allard wrote a memorandum containing the following admissions (Exh 37):

... the substantial funds flowing from this Agency to McGill in support of the project subsequent to 1956 would appear to preclude the determination that this Agency was minimally involved within the meaning of the Department of Justice guidance on this point. The use of the drugs identified and 'particularly intensive electroshocks' as part of the methodology suggests that long-term after-effects may have been involved. Also, because the patients selected 'were almost entirely those suffering from extremely long-term and intractable psychoneurotic conditions' it is doubtful that any meaningful form of consent is involved in this case.

On October 11, 1979 General Counsel Daniel B. Silver wrote counsel for plaintiffs that "the policy of CIA is not to shirk responsibility for the unfortunate acts that occurred in the course of the MKULTRA program," and that he found the experimental research conducted by Dr. Cameron "repugnant". His primary reason for refusing to discuss settlement was that Cameron's application for funds was "unsolicited", a defense

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<sup>5/</sup> Defendant has not controverted this sworn testimony concerning defendant's apologies for its wrongdoing with any competent evidence, but has instead sought to avoid its own admission by claiming national security was somehow implicated in those apologies. See e.g. Admissions 9, 10.



exploded by John Gittinger (Dep. 17, 47, 51). On January 19, 1983 John Gittinger testified concerning the CIA involvement with Cameron as follows (Dep. 53): "Now that was a foolish mistake. We shouldn't have done it ... as I said, I'm sorry we did it. Because it turned out to be a terrible mistake." Gittinger concluded (Dep. 131) that if he had it to do over, "I would refuse to support him or be interested in him." On December 13, 1983 former CIA Director Stansfield Turner testified that the MKULTRA program was "one of the kinds of errors that we must be sure to find a way to prevent recurring" and that the MKULTRA experiments on unwitting individuals were unethical and left him "aghast" when he learned of those activities (Dep. 15-16).

### III. PLAINTIFFS' CLAIMS

As the foregoing factual recitation demonstrates, CIA employees engaged in a pattern of negligent and reckless conduct which led to that agency's funding of injurious experiments upon plaintiffs, who were patients at the Allan Memorial Institute. Plaintiffs' specific claims of negligence follow.

Defendant negligently failed to supervise and control Sidney Gottlieb, Robert Lashbrook, John Gittinger and other CIA employees and agents responsible for MKULTRA.

Defendant negligently failed to assure that Dr. Cameron would obtain plaintiffs' voluntary consent to the use of experimental and research procedures.



Defendant negligently failed to assure that the procedures which it funded did not depart radically from accepted methods of treatment.

Defendant negligently failed to assure that the procedures which it funded were not untested and would not be injurious to plaintiffs.

Defendant negligently failed to notify plaintiffs that they were subjects in CIA-funded experiments and to assure that they received proper follow-up treatment.

Defendant's negligence was a substantial factor in causing plaintiffs' injuries.

Defendant negligently failed to adhere to medical, scientific and professional standards in funding the experiments at the Allan Memorial Institute.

Defendant negligently failed to exercise due care in selecting Dr. Cameron.

Defendant negligently failed to investigate the reputation of Dr. Cameron and to determine whether he had the particular competence and skill required for human subject experimentation or research.

Defendant negligently failed to issue proper instructions to Dr. Cameron.

Defendant negligently failed to warn Dr. Cameron of known dangers associated with the experimental procedures it funded.

Defendant negligently failed to specify appropriate precautions when it funded Dr. Cameron.

Defendant negligently failed to ensure that Dr. Cameron, who was engaged in peculiarly dangerous activities, take steps to prevent harm to plaintiffs.

#### IV. DAMAGES

Plaintiffs' specific damage claims were set out, in part, in response to defendant's most recent interrogatories. More detailed information is being compiled and will be provided to defendant and the Court in supplemental interrogatory answers as soon as possible. The delays in producing monetary damage figures have been occasioned by the lengthy process of obtaining decades old financial information in Canada and the unanticipated withdrawal of plaintiffs' damages consultant due to other commitments in mid-August. Plaintiffs' promptly retained a new consultant, who has advised counsel that damage figures should be completed during the week of September 12.

#### V. LEGAL ISSUES

Plaintiffs do not re-state the law relating to the grounds asserted by defendant in seeking summary judgment, which were resolved in this Court's Order denying that motion. Other relevant law supporting plaintiffs' negligence claims follows.

Defendant had a duty to assure that, insofar as Dr. Cameron was using psychiatric patients as subjects for the funded research and experimentation, he obtain those patients' voluntary consent for the use of experimental and research procedures.

Schloendorff v. Society of New York Hospitals, 211 N.Y. 123. 105 N.E. 562 (1914); Fortner v. Koch, 261 N.W.762, 765 (Mich. 1935); Canterbury v. Spence, 464 F.2d 772 (D.C. Cir. 1972).

Defendant had a duty to assure that, insofar as it provided funds that allowed Dr. Cameron to use experimental treatment on his patients, those procedures did not depart radically from accepted methods of treatment. Fortner v. Koch, 261 N.W. 762, 765 (Michigan 1935); Owens v. McCleary, 313 Mo. 213, 281 S.W. 682, 685 (1926); Carpenter v. Blake, 60 Bar. N.Y. 488, 523 (1871), rev'd on other grounds 50 N.Y. 696.

Defendant had a duty to assure that, to the extent Dr. Cameron was using new treatment on his patients, these procedures were not untested and would not be injurious to his patients. Carpenter v. Blake, 60 Bar. N.Y. 488, 523 (1871); Board of Medical Registration and Examination v. Kaadt, 76 N.E. 2d 669, 672 (Ind. 1948).

Defendant had a duty to assure that plaintiffs were notified that they were subject to CIA-funded experiments and that they receive proper follow-up treatment in view of the work it funded. Thomas v. United States, 660 F.2d 215 (D.C. Cir. 1987); Thornwell v. United States, 471 F.Supp. 344, 351 (D.D.C. 1979).

Defendant, whose negligence was a substantial contributing factor to plaintiffs' injuries, is liable and cannot claim as a defense the presence of other contributing factors or

the existence of a pre-existing condition. Lacy v. District of Columbia, 424 A.2d 317 (D.C. 1980).

The negligent aggravation of a patient's condition creates liability just as negligence creating a new condition would. Canterbury v. Spence, 464 F.2d 772, 795 (D.C. Cir. 1972); Lacy v. District of Columbia, 424 A.2d 317 (D.C. 1980); Stoner v. District of Columbia Police and Fireman's Retirement and Relief Board, 368 A.2d 524 (D.C. 1977).

Even if defendant did not, in fact, foresee injury to plaintiffs as a result of its negligence, it is liable if the actions were a substantial factor in bringing about the harm to plaintiff. Restatement of Torts (2d) § 435(a); Morgan v. District of Columbia, 449 A.2d 1102 (D.C. 1982); Lacy v. District of Columbia, 424 A.2d 317 (D.C. 1980).

To the extent that defendant seeks to establish that the condition of plaintiffs would have occurred regardless of the negligence of the defendant, the burden of proof rests with defendant. Steinhauser v. Hertz Corp., 421 F.2d 1169 (2d Cir. 1970).

The fact that Dr. Cameron may also have been negligent in treatment of plaintiffs does not excuse defendant from liability so long as defendant's negligence was a substantial contributing factor to plaintiffs' injuries. Hill v. MacDonald, 442 A.2d 133 (D.C. 1982).

Defendant had a duty to supervise and control its employees and agents in a non-negligent fashion. Liuzzo v.

United States, 508 F.Supp. 923 (E.D. Mich. 1981); Int'l Distributing Corp. v. Am. Dist. Telegraph Co., 469 F.2d 136 (D.C. Cir. 1977); Melton v. United States, 488 F. Supp. 1066 (D.D.C. 1980).

Defendant had a duty to adhere to medical, scientific and professional standards in its activities. Hendry v. United States, 418 F.2d 744 (2d Cir. 1969); Blessing v. United States, 447 F.Supp. 1160 (E.D.Pa. 1978); Griffin v. United States, 500 F.2d 1059 (1974).

Defendant had a duty to exercise due care in selecting Dr. Cameron. Melton v. United States, 488 F. Supp. 1066 (D.D.C. 1980); Restatement of Torts (2d) § 411.

Defendant had a heightened duty to investigate the reputation of Dr. Cameron because human subject experimentation or research requires particular competence and skill. Restatement of Torts (2d) § 411, comment (c).

Defendant had a duty to issue proper instructions to Dr. Cameron. Restatement of Torts (2d) § 410.

Defendant had a duty to warn Dr. Cameron of known dangers associated with the experimental procedures it funded. Aretz v. United States, 604 F. 2d 417 (5th Cir. 1979).

Defendant had a duty to specify appropriate precautions when it funded Dr. Cameron. Prosser and Keeton on Torts, 510; Wilson v. Good Humor Corp., 757 F.2d 1293 (D.C. Cir. 1985).

Defendant had a duty to ensure that Dr. Cameron, who was engaged in peculiarly dangerous activities, take steps to

prevent harm to plaintiffs. Wilson v. Good Humor Corp., 757 F.2d 1293 (D.C. Cir. 1985); Gardner v. United States, 780 F.2d 835 (9th Cir. 1986); Restatement of Torts (2d) § 413.

Evidentiary issues -- The former testimony of Dr. Gordon Lamberd, now deceased, is admissible under Rule 804(b)(1), see Dykes v. Raymark Industries, 801 F.2d 810 (8th Cir. 1986); Lloyd v. American Export Lines, 580 F.2d 1179 3rd Cir. 1978).<sup>6/</sup> Because many records relating to damages have been destroyed or are unavailable to plaintiffs, other sources of evidence will be used pursuant to Rule 1004, Fed. R. Evid.

#### VI. MOTIONS

Plaintiffs have no motions pending before the Court, but may seek issuance of letters rogatory to secure certain otherwise unavailable financial information in Canada. Plaintiffs' do not anticipate filing a motion to amend to complaint to conform to the evidence.

#### VII. DISCOVERY

Plaintiffs may seek an order for letters rogatory with respect to certain financial information from Canada which it has thus far been unable to procure. Plaintiffs will seek such an order, if necessary, during the week of September 12.

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<sup>6/</sup> While plaintiffs are confident the testimony is admissible under Rule 804(b)(1), plaintiffs hereby give notice to defendant of the admissibility of the testimony under Rule 804(b)(5), Federal Rules of Civil Procedure.

Outstanding Discovery -- There remain a number of depositions to be completed, which have been postponed by experts' schedules over the summer and delays in completing the psychiatric examinations of the plaintiffs by defendant's experts. Defendant has not yet served responses to plaintiffs' second request for admissions. Plaintiffs are still assembling information in response to defendant's discovery requests relating to damages. Defendant is seeking medical records for plaintiff Velma Orlikow through the Canadian courts. Defendant has not yet completed psychiatric examinations of plaintiffs Orlikow and Logie. They are scheduled to be completed within a week.

#### VIII. WITNESSES

Plaintiffs' will call the following expert witnesses at the trial of this case:

Brian Doyle, M.D.  
1325 18th Street, N.W.  
Washington, D.C. 20036

Robert Frechette, M.D.  
RR 2  
Hawkbury, Ontario  
Canada K6A 2R2

David I. Joseph, M.D.  
1904 R Street, N.W.  
Washington, D.C. 20009

Robert Jay Lifton, M.D.  
300 Central Park West, Apt. 7G  
New York, New York 10024

David Rothman, Ph.D.  
College of Physicians and Surgeons  
560 Riverside Drive  
New York, New York 10027

Leon Salzman, M.D.  
1800 R Street, N.W.  
Washington, D.C. 20009

Paul Termansen, M.D.  
1415 Bellevue Ave., Suite 201  
West Vancouver, B.C.  
CANADA V7T 1C1

Harvey Weinstein, M.D.  
855 Chimalus Drive  
Palo Alto, California 94306

Plaintiffs' will call the following fact witnesses at  
the trial of this case:

Plaintiff Velma Orlikow  
71 West Gate  
Winnipeg, Manitoba

Plaintiff Jean Charles Pagé  
B.P. 368  
20 Terrasse Robillard  
St. Andre Est  
P. Quebec, Canada J0V 1X0

Plaintiff Robert K. Logie  
806-1933 Robson Street  
Vancouver, B.C.  
Canada V6G 1E7

Plaintiff Jeanine Huard  
405 Blvd de Guire  
Apt 612  
Montreal, Canada H4N 1P9

Plaintiff Lyvia Stadler  
Westmount Manor  
4646 Sherbrook Street West  
Montreal, Canada

Plaintiff Rita Zimmerman  
6595 Cote St Luc  
Apt 303  
Montreal, Canada H4V 1G7

Plaintiff Moe Langleben  
2049 South Ocean Drive  
Hallendale, Florida 33009



Plaintiff Louis Weinstein  
7461 Kingsley Road #906  
Montreal, Canada H4W 1P4

Omond Solandt, M.D.  
The Wolfe Den  
Bolton, Ontario  
Canada L7E 5R7

Mrs. Alice W. Olson  
Braddock Heights  
Frederick, Maryland

Richard M. Helms  
4649 Garfield Street, N.W.  
Washington, D.C.

Sidney Gottlieb  
Rural Box 301A  
Boston, Virginia 22713

Admiral Stansfield Turner  
1320 Skipwith Road  
McLean, Virginia

Duncan Cameron  
3616 Davenport Street  
Washington, D.C.

David Orlikow, M.P.  
71 West Gate  
Winnipeg, Manitoba

Jeanine DesJardines  
3435 Gouin Blvd. East, Apt. 1606  
Montreal, Canada H1H 1B1

Wayne Langleben  
25 Snowshoe Millway  
Willowdale, Ontario M2L 1T4

Terri Sternklar  
3455 Drummond  
Apt 304  
Montreal, Canada H3G 2R6

Leslie Orlikow  
317 Kingsway Avenue  
Winnipeg, Manitoba

Catherine Zimmerman  
150 Clement  
La Salle, Quebec  
Canada, H8R 3W1

Harvey Weinstein  
855 Chimalus Drive  
Palo Alto, California 94306

Plaintiffs will stipulate to the qualifications of defendant's experts as to certain matters within the field of their expertise, but not to their expertise in other fields which defendant may seek to offer their testimony.<sup>1/</sup> Plaintiffs set forth the scope of their stipulation as follows.

Tom Beauchamp -- Plaintiffs stipulate that Professor Beauchamp is an expert in the field of the ethics of medical research and experimentation generally, and informed consent in particular. Plaintiffs do not stipulate to his expertise in the field of the history of the ethics of psychiatry.

Frederic Grunberg, M.D. -- Plaintiffs stipulate that Dr. Grunberg is an expert in general psychiatry, with an emphasis on behavior problems in epileptic children, geriatric patients and the delivery of mental health services. Plaintiffs do not stipulate to his expertise in the following subjects: the history of ethics in human experimentation or medical research; the use or effects of intensive or regressive ECT, LSD, sleep therapy,

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<sup>1/</sup> Defendant has listed three physicians as non-expert witnesses: Carlos Bos, M.D. Robert Cleghorn, M.D. and Lloyd Hisey, M.D. Plaintiffs accordingly understand that these witnesses will offer no expert opinions in the case and will, rather, testify only as to issues of fact.

sensory deprivation, brainwashing or repetition of verbal signals in psychiatric therapy.

Frederick Lowy, M.D. -- Plaintiffs stipulate that Dr. Lowy is an expert in general psychiatry, and the practices and therapies used in Canada in the 1950s in the field of psychiatry. Plaintiffs do not stipulate to his expertise in the following subjects: the history of ethics in human experimentation or medical research; the use or effects of intensive or regressive ECT, LSD, sleep therapy, sensory deprivation, brainwashing or repetition of verbal signals in psychiatric therapy.<sup>8/</sup>

Allan Mann, M.D. -- Plaintiffs stipulate that Dr. Mann is an expert in general psychiatry. Plaintiffs do not stipulate to his expertise in the following subjects: the history of ethics in human experimentation or medical research; the use or effects of intensive or regressive ECT, LSD, sleep therapy, sensory deprivation, brainwashing or repetition of verbal signals in psychiatric therapy.

Jonas Rappeport, M.D. -- Plaintiffs stipulate that Dr. Rappeport is an expert in general psychiatry. Plaintiffs do not stipulate to his expertise in the following subjects: the history

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<sup>8/</sup> Defendant's Supplemental Response to Plaintiff's Fourth Set of Interrogatories states that Dr. Lowy will testify to the "appropriateness of the treatments plaintiffs received given the time period involved and will testify that the procedures used were treatment rather than experiments and thought to be in the best interests of the patients." Since filing this statement, defendant has represented to plaintiffs and the court that Dr. Lowy will not be testifying about any treatments given to specific plaintiffs (Lowy dep. p. 14).

of ethics in human experimentation or medical research; the use or effects of intensive or regressive ECT, LSD, sleep therapy, sensory deprivation, brainwashing or repetition of verbal signals in psychiatric therapy.

Elliot Valenstein -- Plaintiffs stipulate that Professor Valenstein is an expert on the history of psychosurgery and on experimental psychiatric treatments in the 1920s and 1930s. Plaintiffs do not stipulate to his expertise in the following subjects: the history of ethics in human experimentation or medical research; the use or effects of intensive or regressive ECT, LSD, sleep therapy, sensory deprivation, brainwashing or repetition of verbal signals in psychiatric therapy.

Plaintiffs intend to use the former testimony of the following witnesses who are unavailable to plaintiffs.<sup>9/</sup>

Frederick Lowy, M.D. -- deposition testimony (as to issues of fact only) page 33, line 7 through page 36, line 8; page 47, line 11 through page 65, line 11; page 68, line 3 through page 74 line 15; page 78, line 13 through page 87, line 14; page 109, line 20 through page 126 line 21; page 127 line 8 through page 133 line 20; page 155 line 14 through page 162 line 13. Plaintiffs also include statements made by Dr. Lowy as recited in the affidavit of Jay Peterzell paragraphs 7 and 8.

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<sup>9/</sup> Plaintiff have not yet received deposition transcripts of certain otherwise unavailable witnesses, including Dr. Carlo Bos, whose testimony may be offered in that form.

Lloyd Hisey, M.D. -- deposition testimony (as to issues of fact only) page 12, line 27 through page 15 line 5; page 35 line 11 through page 40 line 12; page 52 line 29 through page 56 line 7; page 67 line 1 through page 69 line 30; page 70 line 30 through page 74 line 7; page 77 line 24 through page 79 line 31; page 83 line 26 through page 90 line 30; page 100 line 20 through page 104 line 25; page 118 line 8 through page 119 line 3; page 131 line 7 through page 132 line 12; page 142 line 29 through page 143 line 3;

William Gordon Lamberd, M.D., deceased -- testimony offered in the Superior Court of the Province of Quebec, Orlikow v. Royal Victoria Hospital, Case No. 500-05-006872-798, May 4, 1981 (entire).

Frederic Grunberg, M.D. -- deposition, page 4 line 20 through page 71 line 19; page 73 line 17 through page 77 line 5; page 83 line 5 through page 89 line 15; page 91 line 19 through page 92 line 18; page 95 line 19 through page 96 line 22.

John Hadwen -- deposition (entire).

John Gittinger -- deposition (entire).

Robert Lashbrook -- deposition (entire).

#### IX. EXHIBITS

Plaintiffs' expect to introduce the following exhibits at the trial of this case.

1. 1952 Helms Memorandum recommending the initiation of MKULTRA
2. DCI Dulles 1953 Memorandum establishing MKULTRA
3. CIA General Counsel Houston Report on Olson death

4. CIA Inspector General Kirkpatrick Report on Olson death
5. Dulles Memorandum on Olson Death
6. Dulles Letter to Gottlieb
7. Dulles Note to Helms
8. U.S. Senate Intelligence Committee, Final Report, Book I, pp. 294, 410 et seq.
9. Psychic Driving, D. Ewen Cameron, Jan. 1956, APA Journal
10. Report of Committee on Therapy, Allan Memorial Institute (1957)
11. Report of Committee on Therapy, Allan Memorial Institute (1958)
12. CIA MKULTRA Sub-project 68 documents
13. August 2, 1977 New York Times interview with Leonard Rubenstein
14. Donald Hebb CIA Security Clearance
15. U.S. Senate Testimony of Dr. Edward Gunn, 1977
16. Plaintiff Orlikow Allan Memorial Institute Records
17. Plaintiff Pagé Allan Memorial Institute Records
18. Plaintiff Logie Allan Memorial Institute Records
19. Plaintiff Huard Allan Memorial Institute Records
20. Plaintiff Stadler Allan Memorial Institute Records
21. Plaintiff Zimmerman Allan Memorial Institute Records
22. Plaintiff Langleben Allan Memorial Institute Records
23. Plaintiff Weinstein Allan Memorial Institute Records
24. 1957 CIA Inspector General Survey of TSD
25. Affidavit of Canadian Secretary of State for External Affairs Allan MacEachen and May 5, 1984 letter

26. Intensive Electro Convulsive Therapy: A Follow-up Study, A.E. Schwartzman & P.E. Termansen, 12 Canadian Psychiatric Ass'n Jr. 217 (1967)
27. January 17, 1975 Memorandum for the Record, Deputy Director TSD
28. February 1979 CIA cable to U.S. Embassy in Ottawa
29. August 3, 1977 Senate Hearing Transcript
30. August 1973 CIA Directive; Executive Orders 11905, 12036 and 12333
31. July 17, 1978 Memorandum, Office of Legal Counsel, U.S. Justice Department
32. White House Press Release, July 21, 1975
33. CIA Director Colby July 24, 1975 letter to Mrs. Alice Olson
34. President Ford October 12, 1976 Statement
35. Excerpt from original manuscript of Secrecy and Democracy, Stansfield Turner
36. CIA Deputy Director for Science and Technology Carl E. Duckett testimony, November 7, 1975
37. CIA Assistant General Counsel William Allard October 31, 1978 memorandum
38. Curriculum Vita, Brian Doyle, M.D.
39. Curriculum Vita, Robert Frechette, M.D.
40. Curriculum Vita, David I. Joseph, M.D.
41. Curriculum Vita, Robert Jay Lifton, M.D.
42. Curriculum Vita, David Rothman, Ph.D.
43. Curriculum Vita, Leon Salzman, M.D.
44. Curriculum Vita, Paul Termansen, M.D.
45. Curriculum Vita, Harvey Weinstein, M.D.
46. The Nuremburg Code



47. Secretary of Defense February 26, 1953 Memorandum
48. Final Report of the Advisory Panel on the Tuskegee Syphilis Project
49. New York Board of Regents decision re: Chester Southam and the Jewish Chronic Disease Hospital
50. Excerpts of testimony by Andrew Ivy, M.D., at the Nuremburg War Crime Trials
51. Excerpts from Introduction to the Study of Experimental Medicine, Claude Barnard (1865)
52. Ethical Principles Concerning Human Experimentation, Judicial Council, AMA, 132 JAMA 1090 (1946) -----
53. Principles of Medical Ethics, Judicial Council, AMA, March 30, 1957 JAMA
54. Ethical Guidelines for Clinical Research upon Human Subjects, NIH Clinical Center
55. Use of Volunteers in Research, Chief of Staff Memorandum 385
56. Covenant on Civil and Political Rights, Third Committee of the General Assembly of the United Nations
57. Basic Ethical Principles for the Conduct of Human Experimentation, Alumni Bulletin, Western Reserve University School of Medicine 60-65 (1950)
58. Medical Malpractice: What about Experimentation?, 6 Forensic Medicine 164-70 (1952)
59. Harzardous Fields of Medicine in Relation to Professional Liability, 163 JAMA 953 (1957)
60. Consent to Operations and Other Procedures, AMA Law Department, 165 JAMA 65 (1957)
61. Ethical and Legal Aspeccts of Medical Research on Human Subjects, 3 J. Pub. Law 467 (1954)
62. Principles, Policies and Rules of the Office of the Surgeon General Governing Use of Human Volunteers in Medical Research, U.S. Surgeon General (March 1954)

63. Ethical and Religious Directive for Catholic Hospitals, Catholic Hospital Ass'n of the United States and Canada
64. Group for the Advancement of Psychiatry, Report No. 15 (ECT)
65. An Evaluation of Shock Therapy, Leon Salzman, M.D., 103 Am. Jr. of Psychiatry 669 (March 1947)
66. D. Ewen Cameron Notes from the Archives of the American Psychiatric Association
67. Published papers of D. Ewen Cameron on psychic driving, intensive ECT, and related topics
68. Dun & Bradstreet Report re: Theresa Frocks
69. Excerpts from Thought Reform and the Psychology of Totalism: A Study of "Brainwashing" in China, Robert Jay Lifton, M.D. (1961)
70. Excerpts from Opinion of George Cooper, O.C., Regarding Canadian Government Funding of the Allan Memorial Institute in the 1950's and 1960's (1986)
71. Minutes of June 1, 1951 Meeting at Ritz-Carlton Hotel in Montreal

#### X. STIPULATIONS

The parties have not, as yet, agreed to any stipulations of factual or evidentiary matters. Plaintiffs hope to enter into stipulations with defendant concerning the methodology for damage calculations, the admissibility of medical records of plaintiffs, and the admissibility of other exhibits.

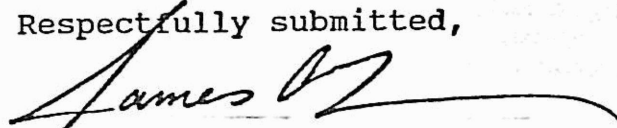
#### XI. UNUSUAL ISSUES OR PROBLEMS

Plaintiffs may experience some scheduling problems with expert witnesses, although none are known at this time.

XII. TIME FOR TRIAL

Plaintiffs expect their case-in-chief to require approximately two weeks.

Respectfully submitted,



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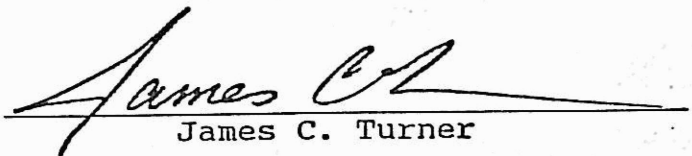
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Plaintiffs' Preliminary Pretrial Statement was served by first class mail this 12th day of September, 1988, upon:

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Assistant United States Attorney  
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Washington, D.C. 20001

Counsel for Defendant

  
James C. Turner