

Presidential Documents

Title 3—

Executive Order 12891 of January 15, 1994

The President

Advisory Committee on Human Radiation Experiments

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Establishment. (a) There shall be established an Advisory Committee on Human Radiation Experiments (the “Advisory Committee” or “Committee”). The Advisory Committee shall be composed of not more than 15 members to be appointed or designated by the President. The Advisory Committee shall comply with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2.

(b) The President shall designate a Chairperson from among the members of the Advisory Committee.

Sec. 2. Functions. (a) There has been established a Human Radiation Interagency Working Group, the members of which include the Secretary of Energy, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Attorney General, the Administrator of the National Aeronautics and Space Administration, the Director of Central Intelligence, and the Director of the Office of Management and Budget. As set forth in paragraph (b) of this section, the Advisory Committee shall provide to the Human Radiation Interagency Working Group advice and recommendations on the ethical and scientific standards applicable to human radiation experiments carried out or sponsored by the United States Government. As used herein, “human radiation experiments” means:

(1) experiments on individuals involving intentional exposure to ionizing radiation. This category does not include common and routine clinical practices, such as established diagnosis and treatment methods, involving incidental exposures to ionizing radiation;

(2) experiments involving intentional environmental releases of radiation that (A) were designed to test human health effects of ionizing radiation; or (B) were designed to test the extent of human exposure to ionizing radiation.

Consistent with the provisions set forth in paragraph (b) of this section, the Advisory Committee shall also provide advice, information, and recommendations on the following experiments:

(1) the experiment into the atmospheric diffusion of radioactive gases and test of detectability, commonly referred to as “the Green Run test,” by the former Atomic Energy Commission (AEC) and the Air Force in December 1949 at the Hanford Reservation in Richland, Washington;

(2) two radiation warfare field experiments conducted at the AEC’s Oak Ridge office in 1948 involving gamma radiation released from non-bomb point sources at or near ground level;

(3) six tests conducted during 1949–1952 of radiation warfare ballistic dispersal devices containing radioactive agents at the U.S. Army’s Dugway, Utah, site;

(4) four atmospheric radiation-tracking tests in 1950 at Los Alamos, New Mexico; and

(5) any other similar experiment that may later be identified by the Human Radiation Interagency Working Group.

The Advisory Committee shall review experiments conducted from 1944 to May 30, 1974. Human radiation experiments undertaken after May 30,

1974, the date of issuance of the Department of Health, Education, and Welfare ("DHEW") Regulations for the Protection of Human Subjects (45 C.F.R. 46), may be sampled to determine whether further inquiry into experiments is warranted. Further inquiry into experiments conducted after May 30, 1974, may be pursued if the Advisory Committee determines, with the concurrence of the Human Radiation Interagency Working Group, that such inquiry is warranted.

(b)(1) The Advisory Committee shall determine the ethical and scientific standards and criteria by which it shall evaluate human radiation experiments, as set forth in paragraph (a) of this section. The Advisory Committee shall consider whether (A) there was a clear medical or scientific purpose for the experiments; (B) appropriate medical follow-up was conducted; and (C) the experiments' design and administration adequately met the ethical and scientific standards, including standards of informed consent, that prevailed at the time of the experiments and that exist today.

(2) The Advisory Committee shall evaluate the extent to which human radiation experiments were consistent with applicable ethical and scientific standards as determined by the Committee pursuant to paragraph (b)(1) of this section. If deemed necessary for such an assessment, the Committee may carry out a detailed review of experiments and associated records to the extent permitted by law.

(3) If required to protect the health of individuals who were subjects of a human radiation experiment, or their descendants, the Advisory Committee may recommend to the Human Radiation Interagency Working Group that an agency notify particular subjects of an experiment, or their descendants, of any potential health risk or the need for medical follow-up.

(4) The Advisory Committee may recommend further policies, as needed, to ensure compliance with recommended ethical and scientific standards for human radiation experiments.

(5) The Advisory Committee may carry out such additional functions as the Human Radiation Interagency Working Group may from time to time request.

Sec. 3. Administration. (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Advisory Committee with such information as it may require for purposes of carrying out its functions.

(b) Members of the Advisory Committee shall be compensated in accordance with Federal law. Committee members may be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the government service (5 U.S.C. 5701-5707).

(c) To the extent permitted by law, and subject to the availability of appropriations, the Department of Energy shall provide the Advisory Committee with such funds as may be necessary for the performance of its functions.

Sec. 4. General Provisions. (a) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the Advisory Committee, except that of reporting annually to the Congress, shall be performed by the Human Radiation Interagency Working Group, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Advisory Committee shall terminate 30 days after submitting its final report to the Human Radiation Interagency Working Group.

(c) This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit, trust, or responsibility, substantive or procedural, enforceable at law or

equity by a party against the United States, its agencies, its officers, or any person.

William Clinton

THE WHITE HOUSE,
January 15, 1994.