

CHAPTER TEN

Sins of the CIA

IN THE MID-1970s, the political landscape began a steady conservative shift that has lasted three decades. It may be drawing to an end as I write in 2007 with President George W. Bush wearing out his welcome, but one consequence was the deterioration of progressive activism and organizations. Many never stopped working and struggling for progressive change, but we lost the moral and political edge that was so effective in the 1960s and early 1970s. I continued to litigate interesting and important issues, but the practice felt less grounded, more like, as with these concluding chapters, a string of unconnected cases.

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The stereo on the first floor of my house in Powelton was blaring Joe Cocker as several of us hung out on a hot, Philadelphia-summer Friday night in 1975. I was enjoying sharp cheddar cheese somebody brought over, with potato chips and my usual Coca-Cola. I could smell pot smoke wafting out of the kitchen, and I remember feeling particularly relaxed and content that evening.

“David, phone for you,” one of the guys shouted from the kitchen. “Sounds very official.” He and others laughed that marijuana laugh that finds anything funny.

I picked up the phone in the hallway. “Hello.”

“Hello, is this Mr. Kairys?”

“Yes.”

“I’m Rod Hills, counsel to—”

“Sorry, I can’t hear you with the music going. Can you hold while I go upstairs?”

“Sure.”

I went to my second-floor area, where I had a bedroom, bathroom, and living room. “Hello, I’m sorry I didn’t catch your name?”

“I’m Rod Hills, counsel to the president. You are the attorney for Alice Olson?”

“Yeah. Did you say counsel to the president?” I almost added “of the United States.”

“Yes. President Ford asked me to call you to extend an invitation to Mrs. Olson.”

I tried to quickly shift into lawyer mode and to figure out if this was real or some prank. Maybe a friend who saw my name in the national media outpouring on the Olson case had someone make a joke call. The only counsel to the president I had heard of was John Dean, who turned on President Nixon in the Watergate scandal that had just brought Gerald Ford to the presidency.

“What kind of invitation?”

“President Ford would like to meet with Mrs. Olson confidentially at the White House on Monday.”

“This Monday, three days from today?”

“Yes.”

“Can you tell me the purpose and subject matter of this meeting so I can explain it to the Olson family?”

“The president will not discuss the legal claims you have asserted but as I understand not yet filed. The president has turned that over to the attorney general to discuss with you. President Ford feels strongly and personally about what occurred and is outraged by what our government did, and he wants to express sympathy and apologize to Mrs. Olson.”

“Do you literally mean just Mrs. Olson or the Olson family, which includes two sons and a daughter?”

“The whole family is fine. That won’t be a problem. Since it won’t be about the legal issues, it’s limited to the family and won’t include you or me.”

I started to believe and became concerned. The apology would be nice—the Olsons sure deserved it—and could help our claims, but a get-

together like this usually happens when the issues are resolved. The meeting could convey that the matter is over, resolved, and the fickle media could lose interest. "When you say *confidential*, do you anticipate a press conference or press coverage?" I asked.

"No press conference."

"A news release or some communication to the press?"

"There would be a statement saying briefly there was a meeting, who was there, and what was discussed, and maybe a photo op for the press."

"You mean they would be in front of TV and photographers for pictures?"

"Yes, a photo opportunity for a few moments after the meeting."

"Does there have to be a photo op or a statement?"

"We have an obligation to do that. It happens anytime someone meets with the president. The president doesn't want to be secretive, and people watch who comes in and out of the White House."

"I'll contact the Olsons right away. How can I reach you over the weekend?"

"I'll give you my home phone and a central White House number where they can reach me and patch you through at any time."

I took down Hills's numbers. "I'll get back to you tomorrow sometime."

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The Olson case began in June 1975, about a month before Hills's call, when a presidential commission investigating the CIA issued a report. The CIA had been widely criticized for wrongdoing and deception mostly related to the Vietnam War and a range of misdeeds that included overthrow of the democratically elected, left-leaning government of Chile and the death of its leader, Salvador Allende. Congressional hearings and investigations were spearheaded by Senator Frank Church, whose committee issued scathing reports. Former vice president and New York governor Nelson Rockefeller was appointed to head a presidential commission to investigate the CIA. The Rockefeller Commission identified some abuses but generally played down any serious or systemic problems. It did mention that some of the CIA's activities had hurt individual Americans, including one unidentified person who died in CIA drug experiments when he was unwittingly given LSD.

The dates and sketchy circumstances about that death announced in

the Rockefeller Commission report fit the death of Dr. Frank Olson, a biochemist who worked on high-level military research projects. A CIA researcher gave Olson and a few other scientists gathered at a retreat large doses of LSD secretly mixed in an after-dinner liquor. He died about a week later. Vincent Ruwet, one of Frank's former research colleagues who still lived down the street from Frank's wife, Alice, in Frederick, Maryland, confirmed that Frank was the person discussed in the Rockefeller Commission report.

Alice had been told that Frank committed suicide by jumping out a tenth-floor window of the Statler Hotel in New York on November 28, 1953. No one mentioned to her that he had been unwittingly drugged or that drugs were involved at all. All she knew was that he returned from the retreat depressed and acting strangely. He told her, before going to New York, that he had "made a mistake" and would leave his job. She and her three children, Eric, Lisa, and Nils—9, 7, and 5 years old when Frank died—had tried to cope for over 20 years with what they thought was Frank's inexplicable suicide. Ruwet was among several of Frank's colleagues and family friends who watched the family suffer without revealing the circumstances of his death.

Eric Olson shared an apartment with Rudy when we were in Tony's program, and Eric was a graduate student. I got to know him through Rudy. When Eric later taught at an experimental school for kids from Mantua, a poor black community near Powelton, I took off a month to teach and help build classrooms there with him, and we took a couple of the kids on a skiing trip.

Eric asked Rudy if we were interested in the case, which of course we were. Eric also knew and approached Harry Huger at Arnold & Porter, one of the most prestigious law firms in Washington. Huger won a big case for the victims of the Buffalo Creek mine disaster with help on establishing the types and extent of the harm done from Robert Jay Lifton, a leading psychologist at Yale. Eric worked with Lifton, and they co-authored some important works.¹

Huger was interested in the Olsons' case, and his firm had deep connections in government and unlimited resources. We had independence from Washington and a habit of questioning and challenging government and could probably get the expenses covered by NECLC. It seemed a close call for them made easier because Arnold & Porter's connections created conflict of interest problems.

This was one of the few cases that Rudy and I decided to do together. We always talked out our cases—sometimes it seemed that's what we mostly did—but one of us would take each case. The Olson case would require a lot of work and time, and we were both busy on other cases. We decided to do it together, but as it turned out, I took the lead and did most of the work. I particularly liked the investigative side of it, trying to figure out what happened to Frank Olson, which Rudy was less interested in.

The Olsons held a news conference on Alice's lawn to announce that they were the family of the deceased man described in the Rockefeller Commission report and that they intended to take legal action. Eric, reading the family's statement, said, "Suddenly we learn that Alice Olson's being left in adulthood to raise a family alone, her children left to grow up without a father—we learn that these deprivations were not necessary. And we suddenly learn that for 22 years we were lied to."

"It never occurred to me," Alice said, "that there was foul play."

"When friends would ask, 'How did your daddy die?'—that's always been a tough one," Lisa said. "I used to say he died of a concussion," Nils added.

They struck a chord with the national media and with the nation, perhaps because they were a tall, mostly light-haired, handsome family in a country setting and with obvious integrity who had suffered a great deal. News of every move and development in the case was widely covered.²



While the party continued downstairs at my house, I called Alice Olson. "I'm sorry to call in the late evening, but President Ford's counsel just called to invite you all to the White House, Alice," I told her. "He wants to apologize to you." It took a little while to get used to calling her Alice instead of Mrs. Olson. I was only 32, and I admired the way she got through Frank's death and raised the children with an unnecessary, false cloud over all of them.

"No kidding. I didn't expect that."

"I didn't either. Government and large institutions often settle cases, but they rarely apologize. He wants you to come to the White House on Monday."

"This Monday?" Her voice trailed off and she paused.

“Are you okay?”

“Yeah, it’s okay. I feel like I’m going through all this again and don’t know what comes next. But this is nice. They should apologize.”

“It’s fitting that it come from the president.”

“Yes. “

“If you don’t mind, I’d like to raise some issues with them before we go down there on Monday. Apologies and a public meeting where the parties come together usually happen at the end of the process. I don’t want the government or the media to get the idea that this ends it or diminishes what is yet to happen. I’d like to link the Monday meeting with a commitment on their part to provide us documents and to discuss the claims, and I want to discuss with them how the meeting is presented to the public so we can have a role in defining the story. I think we have some leverage since they want this public apology to happen Monday.”

“Sure. I really would like to hear this apology.”

Hills balked at some of my demands but, after checking with “our folks here,” accepted all of them. The White House would issue a joint statement following the meeting that consisted of a first part written by them and a second part written by the Olson family. They agreed that we could see their part in advance and suggest changes and that the Olsons’ part would be up to them with no advance look or suggestions. There would be photos taken by the White House photographer but no media access to the visit.

The White House part of the statement, which included all of our suggested changes, emphasized Ford’s apology. “The president met with the family of Dr. Frank Olson,” it said. “He 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. The Olson family asked that they be told of all the facts about Dr. Olson’s death. The president told the family that he had instructed his counsel’s office to make information available to them at the earliest possible date. He also informed the Olson family that the attorney general has been asked to meet with their legal representatives to discuss the claims they wish to assert against the CIA.”

The part written by the Olsons, mainly Eric, emphasized the importance of finding out what happened and resolving the legal claims. “We deeply appreciate President Ford’s expression of sympathy and apology to our family. His concern and his invitation to meet with him are of great

value to us. We hope that this will be a part of a continuing effort to ensure that the CIA is accountable for its actions and that people in all parts of the world are safe from abuses of power by American intelligence agencies.”

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The White House followed through on its commitments. Rudy and I were invited to meet with Attorney General Edward Levi to discuss the Olsons’ claims a few days later. The next day we went to CIA headquarters in Langley, Virginia, to see CIA director William Colby, who wanted to extend the CIA’s apology and provide us with documents about Frank Olson’s death. Alice refused to go to the CIA and didn’t want their apology. “Colby was there when Frank died,” she told me. “I got the apology that means something to me.”

At the CIA, Eric, Nils, Lisa and her husband Greg Hayward, Rudy, and I were ushered up an elevator to the seventh floor, which was the hub of CIA operations throughout the world. We walked through corridors and open areas that mostly looked like ordinary workplaces. There were desks in open areas and private offices. But some desks had large glass bowls on them. If it were anywhere else, I’d have thought they were fish enthusiasts. But the bowls were there for burning documents. And the drawers on file cabinets had thick metal fronts with combination locks. Handling documents was no simple matter there.

We were surprised to be met and hosted by Mitchell Rogovin, who introduced himself as “special counsel to the director.” Rogovin was a well-known partner at Arnold & Porter, who was brought in to help the CIA during this period of widespread public criticism.

I had read enough about the CIA to know that it had complicated and sometimes contradictory political tendencies. The CIA covertly aided foreign governments that supported narrow U.S. economic or political interests and covertly disrupted—or overthrew—governments that did not. But it also welcomed into its ranks many who had been removed from jobs at the Defense Department or the military as suspected communists during the “red-baiting” McCarthyism of the 1950s. It was often liberal on social and domestic issues, though the typical CIA employee had elite WASP origins and often went to the best schools. There were

very few Jews or African Americans. Arnold & Porter fit this complex mold as a liberal corporate law firm, so its sending a major partner to help the CIA wasn't as strange as it could seem.

Rogovin greeted us all warmly and acted, then and throughout our dealings, as if he was one of us. I returned his friendliness but didn't trust him. I told him we preferred that Colby's apology and the Olsons' responses were private. He agreed and assured me that we would not be recorded or photographed while at the CIA.

Rogovin led us into Colby's office, and Colby came in another door just after we sat down. He was a thin man of medium height with brown hair. He avoided eye contact and seemed wooden, perhaps worried that one of the Olsons might lash out.

"Please extend my apology to Mrs. Olson," he said. "I want to apologize on behalf of the CIA, myself, and everyone here. I can't explain why we didn't tell your mother the truth about Dr. Frank Olson's death. I can assure you that we are changing. Under our current regulations, this could not happen again. Our activities regarding Allende in Chile constitute an abuse, as Congress has said. It was initiated and ordered from the White House, but it's still an abuse."

I was surprised by his candor on issues beyond Olson's death and by his dull, emotionless tone as he detailed a series of abuses that cost lives and overthrew governments. None of us responded.

"I want to give this to you and your attorneys," Colby continued. "This is the entire file concerning the death of Dr. Olson." He handed us a folder of documents about an inch thick.

"Does this include," I asked, "all of the information and materials available to the CIA and the whole government?"

"Yes, it does," Colby said.

"It's everything we have," Rogovin added.

After an uncomfortable silence, Rogovin said, "If you'll come with me, I'll go over these documents with you."

Colby nodded to us and quickly exited as if he had something important to do, and we went down the hall to a small room with Rogovin.

"There are some excised portions of the documents that refer to other matters, and I can let you skim unexcised versions of documents on these other matters briefly to see that they don't mention Dr. Olson. I can't give you copies of them."

He pointed to two thick stacks of documents, which I looked

through. Most referred to projects called “MK/ULTRA,” “Bluebird,” and “Artichoke,” which I knew nothing about and couldn’t figure out with such a quick skim. I could see that it had a lot to do with drugs, but why and how was not clear.

Rudy and I looked through the stacks for maybe a half hour. “It’s hard for us to get anything from these with a short skim,” I said. “We’ll have to talk about this further.”

“That’s fine. Would you all care to join me for lunch?”

Lunch hadn’t been mentioned; I was surprised by the invitation. “What do you think, Eric?” I asked.

“I suppose, since we’ve got to get lunch soon anyway.”

Rogovin led us into a nearby small dining room on the seventh floor. It was very fancy and formal, with tablecloths, formal silverware and china settings, and drapes on the windows. This had to be the director’s private dining room. We sat at a long table, Eric at one end and Rogovin at the other. A waiter poured us each a glass of water and put butter patties on our small plates.

“Is this the official CIA china?” I asked the waiter, the first black person I had seen. The plates had a distinctive maroon design with a CIA logo.

He had a formal waiter outfit on with a large security identification badge on one of his lapels. “Yes, that’s official.”

“Do they sell them at the gift shop? It’s impressive.”

“I don’t think there is a gift shop.” He smiled.

Then Colby entered the room and sat next to Rogovin. He was joining us for lunch.

I wanted to leave, but this was the Olsons’ visit, not mine. Maybe everyone on our side felt the same, but it was hard to tell. There wasn’t any opportunity to discuss it, and I was hesitant to do it on my own. But as it turned out, I’m glad we stayed. Colby’s coming to lunch removed the formality of the visit and its limit to the Olson case.

“Eric, if I may call you by your first name, what are you doing now?” Colby asked, less stiff but still cold.

“I’m working on new ways of testing that involve responses to collages. We’re finding that they can be most revealing. What kind of testing do you use at the CIA?”

“We use the polygraph, and with great success. Agents are polygraphed before hiring and periodically thereafter.”

“What is it you want to find out about them with the polygraph?”

“Trustworthiness, loyalty, things like that.”

“Do you have political criteria you get at with the polygraph or otherwise?”

“No, no political criteria, as long as you can do the job.”

“Do you have any socialists or serious critics of government policy?”

I asked.

“Sure, that’s possible. There was a lot of discontent about the incursion into Cambodia, particularly among the younger CIA people. Those people are still here.”

“You mean they haven’t been allowed to leave the building?”

Eric laughed. Colby looked up from his soup and directly at me, then cracked a smile. Rogovin kept his head down in his soup, which was quite delicious. Colby had a gourmet chef somewhere in the building.

“Yes, very funny,” Colby said. “You know, the CIA was realistic about the strength of the enemy in Vietnam, and we saw the struggle as political, not really military. We regularly differed with presidents and the military on the political nature of the war.”

“But politically,” Eric said, “the people favored the Vietcong and North Vietnamese, not our propped-up Theiu regime.”

“That’s not so. The people had swung over to the Theiu regime, but by then we stopped the military aid and lost the will to continue. The Tet Offensive of 1968 was carried out by guerillas, but the offensives against us in the 1970s had to be carried out by North Vietnamese regular units. The guerillas had come over to the Theiu regime.”

“On what do you base that? We and the Theiu regime were widely despised by all accounts.”

“Look, I gave a half million guns to the people, and they didn’t use them on us. I could ride around freely without getting shot, and I talked to a lot of people who expressed widespread support for the Theiu regime.”

“What makes you think,” I said, “that the Vietnamese people would or could tell you what they really think? Your Phoenix program resulted in widespread assassinations and fear.” Colby was most known for the controversial Phoenix program, which armed locals loyal to Theiu and told them to weed out locals believed to be opposed.

“The support was there; the military aid wasn’t.”

“If the people were so supportive of Theiu, why did the South Vietnamese army fold in two weeks?”

“Because we didn’t give them the needed support anymore.”

“Weren’t there good political reasons why the people would be for the National Liberation Front, the Vietcong, and against the Theiu regime?”

“There were issues to exploit.”

There was a long silence, then we returned to more mundane matters. I was struck by his emphasis on the politics of the conflict but resort to military considerations to explain our loss. His explanations and arguments were weaker and less articulate than I would have thought, and he wasn’t used to being questioned.

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“Please extend my deepest regrets to the Olson family,” Attorney General Edward Levi said after greeting Rudy and me at his office at the Justice Department in Washington. “This was a horrible series of events.” President Ford selected Levi, a law professor, law school dean, and president of the University of Chicago, to restore public trust in the Justice Department after the “Saturday Night Massacre.” President Nixon had ordered Attorney General Elliot Richardson to fire the special prosecutor investigating the Watergate scandal, Archibald Cox. Richardson refused and instead resigned; the next in line at the DOJ, Donald Ruckelshaus, did the same. The third in line, Solicitor General Robert Bork, fired Cox. It was an ugly scene. Levi brought integrity and unusual ability to the DOJ, along with a lot of bow ties and cigars.

“Thank you, and we will,” I said.

“President Ford has asked me to give this matter some priority, so we have looked into it and want to begin discussions with you today. You’ve made a claim under the Federal Tort Claims Act.”

“Yes,” Rudy said, “and we set out the relief we seek in some detail, including the maximum allowable damages.”

“I’ve asked Rex Lee, from the DOJ Civil Division, to attend and explain the problem we’ve uncovered.”

We knew Lee from earlier cases. He was very conservative but a straight shooter. “The difficulty as we see it is that Mrs. Olson received benefits under FECA, the Federal Employee Compensation Act. That’s an exclusive remedy and forecloses any other claims.”

Employee compensation schemes usually had such provisions. They set up a trade-off. Limited benefits were relatively easy to obtain by filing an administrative claim, but much larger damages that might be obtained through a lawsuit were prohibited.

“We understand that argument,” I said, “and in the typical case, it would have considerable merit, but the circumstances here are quite unusual. The CIA made the decision to deceive Mrs. Olson and to cover up what had occurred, regardless of the impact on her and her children. The FECA benefits were part of the deception and cover-up. They told her she would be paid a monthly sum, which made it less likely she’d ask questions or hire a lawyer.”

“But once she got and accepted those benefits, we have a statutory defense to any claims you may raise.”

“She never should have gotten FECA benefits. It covers injuries ‘in the performance of his duties.’ A drug experiment—or being an unwitting guinea pig in an experiment—was not part of Dr. Olson’s duties. There is also an explicit exclusion of coverage in the FECA for suicide. The government cannot commit such a fraud and then benefit from it by using it as a defense to these claims.”³

Levi paused. “What concerns me is we’d have to raise the defense; you’d make those arguments, which have considerable merit; and a judge would rule. It might get sent back to the secretary of labor to look into the circumstances and determine if Mrs. Olson was due FECA benefits.”

“You’d raise the defense if we file the suit, but you can settle it before then. Cases are settled all the time when there is some defense that might be raised. This doesn’t seem a hard or unusual case to settle. The alternative is to litigate it, which from our perspective provides a formal discovery process that will enable us to fully explore what happened.”

“You are right, but these are, as you know, strange times. I do not want any public perception that we paid compensation in spite of a statutory defense. You’ve got the CIA documents, and we’ll cooperate fully on getting the facts.”

“We’re not satisfied that we got all the documents or yet know what happened, and that’s a predicate to any resolution of the case.”

“I understand. On compensation, we have an alternative to propose—a private bill adopted by Congress to compensate the Olson family.”

“I don’t know a lot about private bills, but they’re rarely passed and difficult to even get Congress to vote on.”

“That’s true, but this one would have the full support of the White House.”

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“I enjoyed your spirited questioning of Bill Colby at lunch,” Rogovin wrote in a letter to me the day after the CIA visit. “I have assured others at the agency that we have an agreement,” he added, “that the documents are for the sole purpose of prosecuting any claim. When you get a moment, simply send me a note confirming that.”

Documents provided in litigation or anticipation of litigation were not made confidential by law or court rule. A lawyer wanting confidentiality had to say so and negotiate confidentiality terms or get a court to require confidentiality before providing documents. Rogovin had neglected to do this and was trying to cover his tracks. The Olsons wanted to make all the documents and everything we could find out public, so I paid careful attention to any hint of a request or expressed assumption of confidentiality by Rogovin or Colby, and there was none. The documents that were previously classified had been declassified before they were given to us, so I saw no limit on our use of them. I told Rogovin that we would make them all public, and we did in January 1976.

The documents, which we started calling the “Colby documents,” were obviously incomplete and raised more questions than they answered. There were a variety of statements, memos, letters, and other writings but no overview, no discussions of policy or strategy, no medical or psychiatric opinions or details, no blood tests, no coherent or credible account of how or why Frank died, nor any credible investigation of what happened. The materials from the New York police and medical examiner were sketchy and had little content. The unwitting drugging was described as part of an experiment, but there were no details or discussion of the design of the experiment, what they sought to find out, how it was conducted, or what results they expected or obtained. Rogovin and the Justice Department added another handful of documents, and we asked for and got an affidavit from them saying under oath that we had everything there was, but the gaps and problems raised by the Colby documents weren’t resolved.

I spent most of my time for weeks looking for witnesses, additional documents, books and studies, experts—anything or anyone who could help me understand what the government had been up to and what hap-

pened to Frank. I shared a lot of information and leads with an investigative reporter at the *New York Times*, Joe Treaster, and to a lesser extent with Bill Richards at the *Washington Post*. They had useful resources, including offices and reporters around the world; came up with significant information and evidence; and kept the story alive. Treaster was able to find one of the main characters identified in the documents in India.

Using the Colby documents and everything else I could find out reliably, I began to piece together some details of the CIA operation and Frank's death. The retreat at which Frank and others were unwittingly drugged was a gathering at Deep Creek Lake, in a remote area of western Maryland, of scientists who worked at Camp Detrick. Though innocuous in appearance and located in a beautiful rural area near Frederick, Maryland, Camp Detrick was the nation's primary facility for chemical and biological warfare. Frank worked there for many years as a biochemist and had held some midlevel managerial positions. He and his colleagues were funded or employed by military and intelligence agencies, including the army and CIA.

LSD emerged as a pop culture drug in the 1960s. Onetime Harvard professor Timothy Leary became the guru of LSD, and the Beatles sang "Lucy in the Sky with Diamonds." Its hallucinogenic effects and altered state of consciousness fit the times. But in 1953 LSD was unheard of publicly. It was often dangerous in the 1960s, though taken voluntarily with some knowledge of its effects. Receiving it unknowingly and without any understanding of what it was—or that the effects usually go away—would be terrifying.

My research on LSD led to episodes in Europe going back centuries in which whole villages were suddenly overcome with some mass hysteria. People went raving mad. Many died, and more never recovered. It was usually seen as the wrath of God—the name given it was St. Anthony's fire—but the most likely culprit was a form of ergot in bread that in some circumstances spontaneously formed lysergic acid diethylamide, LSD. Bread was picked up from bakers each day, so a whole village unwittingly got LSD-tainted bread at the same time. Well-known author John Fuller wrote about the common symptoms in these episodes and in the "bad trips" of the 1960s: "the distortion of time and space, hallucinations, the feeling that the walls and ceiling are closing in, the trembling, the profuse and chilled sweating, the insomnia, the compulsion to commit suicide,

the compulsion to jump out of windows, including the conviction that one could fly.”⁴

At the retreat, LSD was added to an after-dinner liqueur by Sidney Gottlieb, an organic chemist who was Frank’s boss at Camp Detrick; chief of the CIA’s chemical branch; and a central figure in the CIA’s research and use of drugs, chemicals, and biological agents. Gottlieb’s assistant, Robert Lashbrook, also participated in the unexplained “experiment.”

The CIA looked into and developed a variety of substances for use in assassinations, interrogations, and localized or general incapacitation or killing of large populations. This work was used, for example, in the 1961 assassination of Patrice Lumumba, prime minister of the Congo, and in attempts to assassinate Fidel Castro. I didn’t know the range of substances or uses until much later—including the assassinations and unwitting doses of LSD to hundreds, if not thousands, mostly soldiers. The Colby documents and other materials showed CIA use of drugs, wittingly and unwittingly, in programs like MK/ULTRA, Artichoke, and Bluebird with a cavalier irresponsibility that was chilling.⁵

Gottlieb may have wanted to watch the immediate impact of unwittingly administered LSD on his colleagues and friends and to hear their descriptions of it later; he may have wanted them to learn what it felt like; or he may have used it as an interrogative tool, a use the CIA was making of LSD though it wasn’t suggested in the Colby documents, in an effort to gain information. It may have been Gottlieb’s idea of a joke, a Camp Detrick sense of humor run amok. It wasn’t clear and, as discussed in the Colby documents, didn’t make sense. CIA director Allen Dulles reprimanded Gottlieb for “poor judgment” in unwittingly administering the drug, but no further explanation was offered.

The Colby documents’ account of Frank’s fall from a 10th-floor window at the Statler Hotel and the circumstances leading to it was bizarre. According to statements from mainly CIA personnel, Frank was out of it and delusional for days after he was unwittingly drugged with LSD. They described him as agitated, somewhat paranoid, unable to sleep, and generally confused. They decided that he needed help, so they took him to an allergist.

Dr. Harold A. Abramson was a well-known New York allergist and, covertly, a leading CIA researcher on LSD. He had no training or expertise in therapy and no therapeutic association with hospitals or mental

institutions that might help Frank. His statements and memos showed he was unfamiliar with the common negative effects that LSD had on many people. The documents sometimes suggest that Abramson was helping or treating Frank, but his primary if not exclusive role, as someone familiar with LSD research who had top security clearances, was to evaluate the situation for the CIA. Frank saw Abramson a few times, was then taken back to Frederick for Thanksgiving dinner with his family, and then returned to New York to see Abramson again. He stayed with Robert Lashbrook, assistant chief of the CIA chemical branch, in a 10th-floor room at the Statler.

In the middle of the night, the statements said, Frank suddenly got up, ran across the room, and dived through a closed window with the blinds drawn, falling to his death on Seventh Avenue across from Pennsylvania Station. Lashbrook said he awoke when he heard glass break. He stayed in the room, without going to the ground floor to see how Frank was or calling for any emergency assistance. He telephoned CIA folks in Maryland and Dr. Abramson. The hotel night manager ran outside and found Frank on the ground, still alive and trying to speak but unable to say anything understandable before he died.

Experts on suicide I contacted found this scenario implausible. Someone intent on killing himself, particularly if able to precisely run and dive, would open the blinds, open the window, and jump.

The Colby documents sometimes described the presence of CIA people with Frank as protective of him, but they sounded more like a security detail. Hotels routinely placed anyone they were informed was having a mental problem on a low floor, and the Statler had such a policy. There were no medical or psychiatric reports, no consultations with any therapist, no results of blood tests, and the like. They shunted Frank around for a considerable period without helping or seeming to want to help him. Security, secrecy, and containment—rather than the well-being of Frank Olson—seemed the driving force for the government.

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“Alice,” I said, “we’re at the point of making a decision on the case. Rudy and I are on the phone.” We were on extensions at our office; Alice was at home in Frederick.

“Okay.”

“We’ve been talking about this for a while, but I think we should review it all now. The government is offering to push through a private bill for the amount we’ve discussed, \$1,250,000. We got somewhere with damages spread out on that table I showed you that highlights the different categories, pecuniary losses, pain and suffering to you and the children, additional pain and suffering due to the deception, loss of his companionship as a husband and parent, and the pain and suffering Frank experienced.”

“I like the table.”

“Thanks. This is much more than the actuarial calculation of Frank’s expected lost income, about \$300,000, but it’s not gigantic.”

“Just so you’re clear, Alice,” Rudy said, “if we did litigate, we can only sue under the Federal Tort Claims Act, and that doesn’t allow any recovery for the deception or any punitive damages. A lawsuit would take at least a year, and we could lose, although we think that’s unlikely. Also, you keep the employee compensation benefits already paid to you, about \$150,000, and it’s all exempt from taxes. Your total recovery would be \$1,400,000.”

“It’s a lot of money, and I don’t know how much more of this I can take.”

“The decision we need from you,” I said, “is whether to go the private bill route or litigate or do whatever it takes to find out what happened, why and how Frank died.”

“What do you think now? I know you, David K., have thought we should go on.”

I looked up and across the room at Rudy. “We both see good reasons for either decision, Alice, but there is some difference of opinion on our end. I don’t like ending it without a credible account of what happened and why it happened. The Colby documents say Frank gave away his identification and security cards and talked to strangers about his work, and he mentioned resigning to you. This could be delusional or the actions of someone greatly mistreated who was doubting his work and his government. Either way, he may have become what they regarded as a security risk or a risk of revealing something they wanted kept secret. There is the look and feel of a cover-up, but what they were covering up isn’t clear. That’s where Rudy and I have some difference.”

“Alice,” Rudy said, “I don’t find the Colby documents satisfying either, but there’s no motive to kill him. We can’t find anything that would rise to that level.”

“Rudy and I agree on that. From the Colby documents and from what we’ve been able to piece together so far, there doesn’t seem to be a strong motive to kill him or to facilitate his suicide. The LSD stuff was potentially embarrassing, but if Frank talked about it publicly, they could say he had a breakdown or contain it with national security explanations. There wasn’t much questioning of military and intelligence agencies back then, particularly so soon after World War II.

“Pushing ahead, with litigation if need be, might uncover a motive as well as the details of what actually happened to Frank. We’d exhume Frank’s body, and I’ve got that prominent pathologist we discussed. We’d depose Gottlieb, Abramson, Lashbrook, all of them, and get more documents.”

“Maybe I should go on,” Alice said. “I don’t know what Frank would want me to do. I guess I can’t imagine that what they did was even worse than we already know. I don’t know if I could handle it if they murdered him, and I don’t like bringing him up from the grave. I think we know enough. I’ve talked it out with all three of my children, and we’re ready to go with the private bill.”

“I understand, Alice,” I said. “You did miraculously well through all this, and you fought back for Frank and the whole family.”

The Olsons issued a statement about the settlement by private bill that closed with this: “For our family this agreement represents vindication of the claims we have made. The government has acknowledged the illegality of the CIA’s actions; we will be compensated in a reasonable amount; and the public will be provided with the facts concerning the circumstances surrounding Frank Olson’s death. Nothing more could be accomplished by a lawsuit.”



Only a handful of private bills were enacted each year. Congress’s usual work was on public bills directed at the future, which apply to everyone. Private bills granted something, usually money from the treasury, to a particular person based on something that occurred in the past. This

made them ripe for abuse, which probably explains the congressional rules that make them so difficult to pass.

The bill was introduced by Marylanders, since that was Frank Olson's home state, Senator Charles Mathias and Representative Goodloe Byron. It was taken up initially by the Senate Judiciary Committee and the Subcommittee on Administrative Law and Government Relations of the House Committee on the Judiciary. We prepared memos on several issues for the committees. Letters in support were sent from the White House and the CIA to the chairs of both committees. The CIA letters were signed by the new director, George H. W. Bush.

Almost all private bills failed to make it out of the committees. It was unusual for one to come to a committee vote because any objection could foreclose a vote and the committees were usually occupied with other matters. Members of Congress often used the gesture of proposing a private bill to satisfy constituents though they knew it went to the dead-end committees. This was so common that members had to tell the committee members when they really meant a private bill to pass.

Even with White House and CIA backing, it took months and secret CIA briefings to finally get quorums, votes, and no objections in the committees. It mattered just how each committee member was approached. When a House committee member was balking, one of the White House liaisons told me, "They like to be asked—they will want a post office in their district or something else later."

The Senate wasn't a problem. But when the bill came to a vote in the House in late September 1976, three members moved that it be "passed over." They could have been overwhelmingly outvoted, but that was unusual on private bills. "It's risky to call for a vote to override the objectors," the White House liaison said. "Many might vote against us to uphold the tradition on private bills." A small number of objectors could kill a private bill.

I went to Washington early the next morning and met with the White House, DOJ, and CIA liaisons and House staff and members. The three objecting House members were led by Republicans John Rousselot of California and Robert Baumann of Maryland. There was a range of ideas about why they opposed the bill. Rousselot had expressed opposition to all private bills and regularly objected to them. He was well known in Congress as an injured war veteran who was a leader of the extreme

right-wing John Birch Society. He had written an article in 1964 entitled "Civil Rights: Communist Betrayal of a Good Cause."

The liaisons and staff and favorable members of the House had spoken to Rousselot to no avail. Rousselot said that when he spoke to CIA director Bush about the bill, Bush said, "I don't give a damn one way or the other." When they offered to have the president call him, Rousselot said, "Fuck the president." Some of them had heard that the Justice Department was undermining our effort by saying the bill should be for a maximum of \$500,000, which was their proposed settlement amount and the most agreed to in Federal Tort Claims Act cases. Others said Representative Byron had told Rousselot that it wasn't a priority for him. They were all embarrassed and seemed to blame each other. They thought we should agree to accept \$500,000, which might secure passage immediately.

I asked to talk to Rousselot, so they set up a meeting in the Republican cloakroom on the floor of the House. I was led through checkpoints and security barriers to the back of the chamber, just beyond the rows of chairs for members. The House was in session; members walked every which way, and many were talking or hanging out in the cloakroom. I was asked to sit at a table while Rousselot was summoned. He approached, stern-faced with a pronounced limp, probably from his war injuries, I thought.

"We don't have much time," he said. "I am opposed, I suppose you've heard, to private bills in principle."

"I have heard that, and I can understand it. But some do pass, and none is more compelling than this."

"The government shouldn't be handing out money to individual people."

"This is a man whose work was dedicated to his nation and his military, who was drugged and struck down by that military. We wouldn't be here except the same government officials who did this covered it up by giving the widow paltry employee compensation benefits. That's a legal barrier to the usual sort of legal claim. This is a legitimate, compelling use of a private bill. The CIA and the military fully support it." I left out the president, who wasn't much help with Rousselot.

"It's extremely large for a private bill. I don't think the CIA or military really want it. They're bowing to media pressure. This family should take \$500,000. They've got Ford on his knees apologizing. Isn't that enough?"

“That would barely cover the lost income of this well-educated scientist. They’ve lived close to the edge since all this and had to deal with the lies about some inexplicable suicide.”

“There are always sacrifices. You get me a private letter from the CIA director exclusively to me, not for public consumption, saying unequivocally that he wants this, and I’ll go a little higher, maybe \$600,000.”

“We’ll get you that letter, but I can’t in all conscience recommend that figure to the Olsons. We’d take our chances with a lawsuit, and this would be all over the media and an embarrassment for the military and intelligence agencies for years to come.”

“Seven hundred and fifty thousand, and you get me that letter. I’ll go that far, more than I ever have before.”

I talked to the Olsons, and they talked among themselves. They agreed to accept \$750,000. Rousselot got an unequivocal, personal letter from Bush, and the private bill passed at \$750,000.

President Ford issued a statement when he signed the private bill. “My administration is opposed to the use of drugs, chemicals, or other substances without the prior knowledge and consent of the individual affected,” he said. “At the request of the family of Dr. Olson, I take this opportunity to highlight this continuing policy.”

§§§

But it wasn’t over. More investigations of the CIA yielded more victims of drugs, biological agents, and assassinations. And there was more tragedy for the Olsons. In 1978, Lisa; her husband, Greg Hayward; and their son, Jonathan, were killed in a small-airplane crash. Alice died in 1993 from a relapse of cancer that had first appeared when we were debating the private bill.

Eric moved to Sweden. He never really accepted the CIA’s explanations, and in the 1980s he came back to the United States, where he and his brother, Nils, continued their pursuit of the truth of their father’s death. After Alice’s death, they exhumed Frank’s body under the supervision of well-known pathologist James Starrs. His findings contradicted the CIA account with forensic evidence and a computer simulation of the fall. He found some evidence of a blunt-force blow to the head inflicted before the fall from the hotel window. A “homicide, deft, deliberate, and diabolical,” Starrs concluded.

In the mid-1990s, New York district attorney Robert Morgenthau opened a grand jury investigation, but no charges were brought. More details about the work at Camp Detrick emerged, including Frank's work on airborne biological agents and on aggressive interrogation techniques that killed some subjects. The latest revelations focus on Anthrax research and allegations of the use of germ warfare by our forces in the Korean War. These theories provide both a more substantial motive to silence Frank and more reason to believe he was discontented with his work and may have become a whistle-blower.

Frank Olson's death and the CIA's mischief are now the subject of many books, articles, films, TV exposés, and talk shows, with many theories of how and why the CIA may have murdered Frank Olson. There are reports of Israel's Mossad's studying the Olson case as an effective example of "deniable assassination." Some tie Colby's firing to the case or suggest that Colby's death in 1996 might be related. Others emphasize the behind-the-scenes work in the Ford administration to avoid further revelations with a settlement by none other than Dick Cheney and Donald Rumsfeld. Internal memos surfaced about CIA and White House concern that I disbelieved the Colby documents explanations and was pushing for full disclosure, which they didn't want. The best information is available on a Web site maintained by Eric and in the work and forthcoming book of author Hank Albarelli, Jr.⁶

I have not been actively involved in the Olson case since the private bill. I still don't know with certainty what happened to Frank Olson.