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THE WHITE HOUSE  
WASHINGTON

October 10, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

RODERICK HILLS

FROM:

JAMES E. CONNOR *JEF*

SUBJECT:

Olson Family Compensation  
Case

The President reviewed your memorandum of September 30  
and made the following notation:

"Rod Hills' view but there should be  
consultation with Congress"

Please follow-up with appropriate action.

cc: Don Rumsfeld  
Jack Marsh

THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

October 9, 1975

MR PRESIDENT -

Staffing of the attached memorandum from Rod Hills resulted in the following:

- Bob Hartmann - Agrees with Rod Hills' position
- Jack Marsh - "I am inclined to the Hills' view, but it might be helpful to take a few discreet soundings on the Hill as to their view"
- Jim Lynn - "I have no comments -- I just have not had a chance to get to it."

Jim Connor

*Rod Hillis views but  
there should be consultation  
with Congress.*

THE WHITE HOUSE  
WASHINGTON

September 30, 1975

MEMORANDUM FOR THE PRESIDENT

THROUGH: RICHARD CHENEY  
FROM: RODERICK HILLS R.H.  
SUBJECT: Olson Family Compensation Claim

The pending law suit by the Olson family against the United States Government by reason of the death of Dr. Olson threatens to be a reality this week if no new effort to settle the case is made. The Attorney General has made a final offer of \$500,000 which has been rejected by the Olson family.

The Olson family has countered with a request for \$3 million but has indicated a willingness to settle for less.

Essentially, the Attorney General concludes that the claim of the Olson family is worth \$1 million, but must be discounted by \$500,000 by reason of the possibility that the government will ultimately succeed in the case on the grounds that exclusive remedy for the Olson family comes from the benefits provided by the Federal Employees Compensation Act. In short, the Justice Department argues that there is a substantial possibility that a court will find that Dr. Olson died in the course of his employment.

I frankly disagree with this analysis and believe that there is a real probability that an appellate court would decide that as a matter of law when one dies under the circumstances such as those causing Dr. Olson's death, he cannot be said to have died "in the course of his employment." In any event, the Department of Justice will not

offer a larger sum in settlement. However, the Justice Department would support a private bill which would waive the FECA defense for a total of \$1 million and would not object if a private bill provided "compensation for the extraordinary deceit" employed in the case of Dr. Olson. For this element of damages they would provide \$250,000.

Adding all the elements of the Justice Department together, they would then support a private bill for \$1,250,000 and they would also forego an offset of the approximately \$150,000 that the Olson family has received to date in compensatory benefits.

The Justice Department analysis is attached at Tab A.

#### RECOMMENDATION

I recommend that you authorize Special Counsel to the CIA Mitchell Rogovin to attempt a settlement with the Olson family at a sum not to exceed \$1,250,000 plus a waiver of an offset of the monies received to date by the Olson family.

In the event a settlement can be reached within these guidelines, the CIA and the Olson family can jointly petition the Department of Labor to re-consider its 22 year old decision that Dr. Olson did die in the course of his employment. Should the Labor Department so rule, the Justice Department is on record as supporting a settlement of \$1 million without an offset.

The CIA could agree in a settlement with the Olson family that any excess amount would be made the subject of a private bill and supported by the Administration. Alternatively, if the Labor Department does waive the FECA decision, we could ask the Justice Department to re-consider its settlement limitation. In the event that the Labor Department should reaffirm the 22-year-old decision that Dr. Olson did die in the course of his employment, we would agree that the private bill would be in the amount of \$750,000.

Mitchell Rogovin should be authorized to attempt a settlement of the Olson family claim for a sum not to exceed \$1,250,000 without an offset.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

See Me \_\_\_\_\_





Office of the Attorney General  
Washington, D. C.

September 24, 1975

TO: Mr. Roderick M. Hills  
Counsel to the President

FROM: The Attorney General *J. M.*

SUBJECT: Olson Family Compensation Claim.

An amicable disposition of the Olson family claim for damages can be accomplished without litigation either by settlement or private bill. In this regard, the Justice Department has determined that the reasonable settlement value of the Olson family claim is \$500,000. We have also determined that a private bill could reasonably provide compensation in the range \$1 million to \$1.25 million. Some of the factors which generated these values are described below.

I. Settlement Value - \$500,000.

A Tort Claims Act suit can be appropriately settled by the Justice Department at a dollar figure which represents the reasonable value of the claim (absent any defense) minus a discount for the effect of available defenses on the probability that claimants would succeed in litigation.

We have determined that the highest conceivable settlement value of the Olson claim absent any defenses is \$1 million. This figure exceeds by \$250,000 the highest unappealed awards for a single death under the Tort Claims Act -- awards achieved in cases where the decedent left three to five children and possessed an earning capacity many times that of Frank Olson. In addition, this settlement figure exceeds by \$500,000



what Mr. William Marbury recommends as a fair settlement value while matching his estimate of the highest conceivable compensation award in this case.

In reaching this figure, we have appreciated fully the emotional appeal of the unique circumstances of the Olson claim and its likely impact on any court's interpretation of applicable legal principles. On the other hand, we have not ignored the fact that damages in Federal Tort Claims Act suits are established by a judge and not a jury (28 U.S.C. §2402); punitive damages are not permitted (28 U.S.C. §2674); and no action is available for misrepresentation or deceit (28 U.S.C. §2680). In addition, applicable Maryland law may well limit compensation to pecuniary losses. See Plant v. Simmons Co., 321 F.Supp. 735 (D. Md. 1970).

In order to arrive at an appropriate settlement value, we have discounted the \$1 million figure by the possibility that the government will ultimately succeed in this case. We have concluded that whether or not the present FECA decision is vitiated by fraud, the courts will, according to their uniform practice, stay judicial proceedings pending an administrative decision on FECA applicability. Moreover, it seems clear that, consistent with available precedent, the FECA administrators will again find Olson's death compensable under the statute. Therefore, we judge the government's chances of ultimate success to be substantial and claimants' chances to be correspondingly remote. Even substantially overindulging the potential for claimants' success in court, we conclude that the settlement value must be discounted by one-half. Thus, \$500,000 represents the appropriate settlement value of the Tort Claims Act element of this suit. In addition, we have concluded that under the circumstances no offset should be made for the FECA benefits which the Olsons improperly received without any fault of their own. Thus, the total settlement value of the claim to the Olsons reaches \$650,000.

## II. Values Appropriate For A Private Bill.

The Justice Department recommendation on compensation values to be included in a private bill would necessarily be responsive to the language and purpose of that legislation. Legislation designed simply to remove the FECA defense to a compensation award should provide for no more than \$1 million - the highest conceivable value of the claim absent defenses. On the other hand, a bill could be designed to explicitly compensate for categories of damages which may not be available in a Tort Claims Act suit. Thus, Congress might provide compensation for the extraordinary deceit in this case, as well as a punitive award. While these elements of damage can not be valued with any precision, we would judge a reasonable value in compensation for these factors to be \$250,000, raising the total compensation award to \$1.25 million. Once again, it may be appropriate to forgo an offset for the FECA benefits received by the Olsons. Such a decision would raise the practical value of this compensation bill to the Olson family by approximately \$150,000.

I assume that if the Olsons are to seek a private bill, the agency which would express its views, if asked, as to the amount would be the DOD or the CIA.

October 10, 1975

MEMORANDUM FOR:                   RODERICK HILLS

FROM:                                 JIM CONNOR

The attached are returned to you to be placed with  
the decision memo sent to you earlier today.

Attachment -

Letter to Rod Hills 10/3/75  
from Kairys & Rudovsky

Telegram from Olson Family  
October 1, 1975 to the President

THE WHITE HOUSE  
WASHINGTON

DR

October 9, 1975

MEMORANDUM FOR: RICHARD CHENEY

FROM: RODERICK HILLS RH

The attached are self-explanatory and are consistent with my previous comments.

Please tell me if you want me to continue to worry the problem or if someone else should be brought in now.

~~Common~~  
Return to Hills  
w/ decision

KAIRYS & RUDOVSKY  
ATTORNEYS AT LAW  
1427 WALNUT STREET  
PHILADELPHIA, PENNSYLVANIA 19102

DAVID KAIRYS  
DAVID RUDOVSKY  
HOLLY MAGUIGAN  
JAYMA ABDON, LEGAL WORKER

(215) LO 3-8312

3 October 1975

Roderick Hills  
Counsel to the President  
The White House  
Washington, D.C.

Re: Olson Claim

Dear Mr. Hills:

We are quite concerned over the delay in the negotiations over the federal tort claim filed by the Olson family. As you know, the Olsons filed their claim this past July and, after meeting with the President and Mr. Colby, we first met with representatives of the Department of Justice on July 25. At that meeting we submitted our detailed analysis of the injuries we thought were compensable in the case. Our initial proposal of \$8.4 million was presented as a negotiable amount, and represented seven specific categories of relief for the four family members. However, because the Department of Justice then considered that the Federal Employees Compensation Act was a bar to recovery, the discussions at that time revolved solely around the legal issues in the case.

The deadlock over these issues was seemingly broken in late August and we were again invited to discuss settlement. On September 16, we met with Mr. Lee who made a first and "final" offer of \$500,000. This offer was based on a percentage reduction for the government's "legal defenses," and did not include any amount for pain and suffering or for the injuries caused the family by the twenty-two years of deception, during which the Olsons were led to believe that Frank Olson had inexplicably committed suicide.

We informed Mr. Lee that this amount was plainly unacceptable. The discussions then turned to whether any other course -- and specifically a private bill -- could effect the result that was warranted by this case. We expressed our willingness to explore this possibility and stated that \$3.2 million would be fair compensation for the Olsons. Mr. Lee acknowledged that a fair recovery (considering the twenty-two years of misrepresentation) would be substantially more than \$500,000.

Accordingly, it was agreed that the matter would be discussed with Attorney General Levi and the White House and that an answer would be forthcoming within a few days.

To date, despite repeated requests, we have received no reply. Mr. Lee informs us that the matter is now in the White House for resolution. In July, the President promised the Olsons an expeditious and just determination of their claim. However, they were first informed that the Department of Justice would raise as a defense the original fraud perpetrated on them by the CIA. Now, having been offered a plainly unacceptable settlement figure, they are still awaiting a fair offer from the Government. Thus, over the past two months, the Olsons have been frustrated in their desire for a fair resolution of this matter.

Under these circumstances, we now request that by Wednesday, October 8, the Government either make a new offer to the Olsons or formally deny their claim under the Federal Tort Claims Act so that litigation may commence. Obviously, we are willing to negotiate both the amount of the offer and the manner in which resolution of the case would be accomplished. However, we now feel it necessary and appropriate to set a deadline for receipt of a fair offer or denial of the claim.

We have appreciated your concern and attention to this matter and we are hopeful that it can be resolved in the near future.

Sincerely,

*David Rudovsky*

David Rudovsky

*David Kairys/hu*

David Kairys

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**western union Mailgram**



PRESIDENT GERALD FORD  
CARE OF RODNEY HILLS COUNSEL TO PRESIDENT  
WHITE HOUSE  
WASHINGTON DC 20500

OCTOBER 1 1975

DEAR MR PRESIDENT,

WE UNDERSTAND THAT OUR FINANCIAL CLAIM MADE FOR FRANK OLSON'S DEATH HAS BEEN REFERRED TO THE WHITE HOUSE. IN LIGHT OF WHAT WE FEEL TO HAVE BEEN A VERY SATISFACTORY MEETING WITH YOU THIS SUMMER, WE WOULD LIKE AGAIN TO CONVEY DIRECTLY TO YOU OUR THOUGHTS ON THIS MATTER.

THERE IS NO DOUBT AS TO THE EGREGIOUSNESS OF THE AMERICAN GOVERNMENT WRONGDOING BOTH IN THE ORIGINAL CONDUCT OF THE LSD EXPERIMENT ON FRANK OLSON AND THE CONCEALMENT OF THE TRUTH FOR 22 YEARS. THIS INCIDENT MUST CONSTITUTE ONE OF THE MOST FLAGRANT VIOLATIONS OF THE RIGHT OF AMERICAN CITIZENS IN RECENT HISTORY, AND WE BELIEVE WE ARE ENTITLED TO SUBSTANTIAL COMPENSATION FOR OUR SUFFERING. BUT BEYOND OUR OWN RECOMPENSE FOR THIS INCIDENT IT IS OUR STRONG WISH THAT THE MEANING OF FRANK OLSON'S LIFE MAY NOW BE EXTENDED THROUGH GOOD WORK UNDERTAKEN IN HIS NAME.

WHEN OUR CASE IS RESOLVED WE HOPE TO BE IN A POSITION TO MAKE A VERY SUBSTANTIAL CONTRIBUTION TO THE ESTABLISHMENT OF A CENTER FOR THE TREATMENT OF ALCOHOLICS IN OUR COMMUNITY. THE STRUGGLE AGAINST ALCOHOLISM WAS ONE OF THE BATTLES OUR FAMILY HAD TO WAGE IN THE AFTERMATH OF FRANK OLSON'S DEATH. IT IS OUR WISH THAT AN ALCOHOL TREATMENT CENTER MAY BE ENDOWED IN FRANK OLSON'S NAME SO THAT THE INCREASINGLY VITAL WORK OF ALCOHOL REHABILITATION MAY BE CARRIED ON AS AN EXTENSION OF OUR FATHER AND HUSBAND'S TRAGICALLY SHORTENED LIFE.

WE BELIEVE THAT THERE IS JUSTICE IN OUR SEEKING TO BE IN A POSITION TO MAKE A MAJOR CHARITABLE CONTRIBUTION IN FRANK OLSON'S MEMORY.

SINCERELY,

ALICE W OLSON  
ERIC W OLSON  
LISA OLSON HAYWARD  
NILS W OLSON  
RT 5 BOX 47  
FREDERICK MD 21701



# Mailgram



21:32 EST

MGMWSHT HSB