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September 25, 1992

The Honorable Louis Sullivan, M.D.
Secretary
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Sullivan:

I write you to express my concern regarding the American-French dispute over the discovery of HIV and the subsequent patent of the blood test.

I have just retired after 20 terrific years with CDC. From May 1983 to June 1985, I was the Coordinator, AIDS Laboratory Activities at CDC. In that capacity I worked closely with both Dr. Gallo's laboratory at NCI and Drs. Montagnier/Chermann/Barre's laboratory at the Institut Pasteur.

From the collaboration that CDC had with these laboratories, we saw very clearly what happened regarding the discovery of HIV. When it was clear that the cause of AIDS was discovered, I asked for a meeting with Dr. Gallo, the Institut Pasteur group and myself so that the important announcement could be made in a coordinated way. That meeting was held at the Institut Pasteur in Paris the first week of April 1984. It was abundantly clear at that meeting that the French group had discovered the cause of AIDS a year before and that the three groups had comparable serologic assay systems functioning which could detect infection.

Given that information, we at CDC were extremely surprised when three weeks later, we received news of the planned press conference at which Dr. Gallo was to announce he had discovered the cause of AIDS. Jim Curran and I both talked to Dr. Gallo over the weekend prior to the press conference stating that it was wrong to announce the cause when he knew full well that the French had discovered it first.

A day or two before the press conference a group of us gathered in Dr. Mason's office in Atlanta to call Assistant Secretary Brandt to express

our concerns regarding the unjustifiable American claim of discovery. We strongly encouraged cancelation of the press conference, comparisons of the American and French isolates and, ultimately honest descriptions of the continuing research. The press conference was held despite CDC's warnings. The virus/serologic test was then patented and the battle began.

By the time the French officially objected to the American patent and Dr. Harmisson asked CDC staff to submit their files on the matter, I had transferred to California as the CDC AIDS Advisor. When I sent my records to Atlanta, I enclosed the attached letter expressing concern that if the PHS attempted to defend Dr. Gallo's groundless claims, it would be not only a scar on the PHS, but would be a scar on the whole field of science.

Now, with further laboratory data, Dr. Gallo has admitted that his virus was not only the same virus as the French, but actually originated from shipments sent to him by the Institut Pasteur.

There seems now an opportunity to reclaim some honor - both for the U.S. Government and for science. The proper and honorable thing to do is to give due credit to the French for their discovery, remove all claims to the patent and apologize for any confusion.

It is the honorable and necessary thing to do and this is an appropriate time to do it.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald Francis", written in a cursive style.

Donald P. Francis, M.D., D.Sc.

cc: Dr. James O. Mason
Mr. Michael Astrue

DEPARTMENT OF HEALTH SERVICES

2151 BERKELEY WAY
BERKELEY, CA 94704Confidential

September 5, 1985

James Curran M.D., M.P.H.
Chief, AIDS Branch
Room 288, Building 6
Centers for Disease Control
Atlanta, GA 30333

Dear Jim,

Enclosed are some of the material which documents collaboration between the Institut Pasteur and CDC. There is more somewhere in my moved material, but this is all I could find today.

I am not familiar with the legal issues being addressed by the French litigation, but there are really important ethical and scientific issues that the Public Health Service should consider before putting up a strong defense. I am sure that I am not alone in believing that Bob Gallo exceeded ethical bounds in his dealings with the French. If this litigation gets into open court, all of the less-than-admirable aspects will become public and, I think, hurt science and the Public Health Service. The French clearly found the cause of AIDS first and Dr. Gallo clearly tried to upstage them one year later. The major questions that could come out in public are:

1. Is HTLV-III actually derived from a culture of LAV?

LAV was certainly sent to Gallo's lab. The nucleic acid sequences of the two isolates (LAV and HTLV-III) are identical (variations within accuracy of assay systems). No other isolates are identical. Could this occur by chance? Probably not.

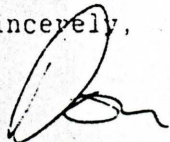
2. Did Dr. Gallo practice good scientific ethics regarding this subject?

Science must build on the work of others. It is accepted practice to acknowledge the work of others. Gallo was certainly aware of the French work. He reviewed their first paper, co-edited a book with the earliest serologic description and was consulted by phone and in person on multiple occasions. Yet, he was very reluctant to acknowledge their work in his papers and in his presentations. In fact, he actually deprecated their work. The major question is: did he, in fact suspect that the two viruses were the same? Before his press conference and his papers he knew the highly unusual morphology of the two isolates was the same. He knew that CDC-supplied sera from patients reacted to ELISA antigens in a similar manner and he knew (by conversations with you and me before his press conference) that other American isolates (CDC) were indistinguishable by competition RIA.

Even with the knowledge that they were the same virus, he actively prevented the comparison which is required by ethical scientific practices. He was very reluctant to send his virus to Paris. He was reluctant to send it to CDC and only did so after making us promise not to use our comparative assay (RIA) which was the only one available at the time.

With these serious violations of normal practices, we should caution the PHS regarding their defense of the NCI stance.

Sincerely,

A handwritten signature in dark ink, appearing to be 'D. Francis', written over the word 'Sincerely,'.

Donald P. Francis, M.D., D.Sc.
AIDS Advisor