FOIA Number: 2018-0755-F

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CONFIDENTIAL

April 28, 1997

DETERMINED TO BE AN ADMINISTRATIVE

MEMORANDUM FOR BRUCE REED MARKING INITIALS: MI DATE: 4/10/14

FROM: Eric Goosby M.D., Office of National AIDS Policy 2018-0755-F

RE: Strategic Plan for Needle Exchange Issue

This memorandum will review where key stakeholders, Congress and HHS currently are on the ban on federal funds for needle exchange programs, and lay out strategy options for handling the issue.

HHS Secretary Shalala has indicated her readiness to move on lifting the ban imposed under the L/HHS Appropriations language -- affirming that needle exchange programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs. The February 1997 HHS report to the Appropriations Committee was moving in this direction, supporting a role in HIV prevention but maintaining some distance around data on drug utilization. Since the release of this report, the Director of NIH Harold Varmus testified before the House Appropriations Committee that -- in his personal opinion -- the data standards had been met to lift the L/HHS statutory ban. There has been no new research published since February.

Office of National AIDS Policy Sandy Thurman has publicly stated that science, not politics, must drive this issue. She is also acutely aware that politics, not science, should dictate the timing of Administration movement on this issue or else the long-term goal of actually enhancing HIV prevention will be lost. She is in accord with the contents of this memo.

ONDCP I have had two meetings with Gen. McCaffrey's staff, and I think there is room to reach an agreement on modifying the ban (see below). A discussion between Varmus and McCaffrey would contribute to ONDCP's comfort level around the data, and this can be arranged. The most compelling case for needle exchange at ONDCP would be the success of these programs as conduits for reaching and guiding IV drug users into treatment, with ultimate demand reduction.

Congress The first opportunity for Congressional action on this issue will come in May when the House Appropriations Committee marks up its bill. Reps. Wicker (R-MS) and Dickey (R-AR) are likely to lead a Republican effort to narrow or eliminate the waiver authority currently held by the Secretary of HHS, particularly if Secretary Shalala moves to lift the ban before markup. L/HHS Subcommittee Chair Porter (R-IL) has large needle exchange programs in his Chicago district, and might be helpful if convinced of the scientific integrity of efficacy data on needle exchange programs. He holds Varmus in high esteem. Given the composition of the Committee, proactively altering the language of the ban would be a high risk move. No reliable vote counts on this issue have been taken. It would be the safest course to hold further action steps on the ban until the House has completed action on the FY 1998 L/HHS/Education Appropriations bill.

The Senate is marginally more favorable on the needle exchange issue, with Sens. Spector (R-PA) and Harkin (D-IL) leading the L/HHS Appropriations Subcommittee. Both have expressed political reservations regarding taking any action on needle exchange, and a good vote count

would be needed before their support was guaranteed. Spector has very active needle exchange programs in Philadelphia. Both the National Governors Association (NGA) and Association of State and Territorial Health Officers (ASTHO) have more drag in the Senate, and a carefully orchestrated revision of the needle exchange ban language combined with a House-Senate conference strategy would be needed to come out with greater flexibility in use of federal funds.

The Congressional Black Caucus has not come out clearly on the issue of lifting the ban yet. Rep. Waters (D-CA) is ready to support needle exchange. Some advocates from the minority community are actively working the membership, and CBC is likely to sponsor a Hill briefing on this issue.

Community Groups The AIDS community remains split over strategies to lift the ban. Some voices in the gay press are strident in demanding that Shalala act affirmatively. A range of advocacy and research community voices continue to accuse the Administration of playing politics instead of following science and saving lives. The national AIDS groups in Washington are slowly coming around to realizing that even the Secretary's waiver authority could be lost if adequate groundwork with Congress is not laid down first. As a result, the NORA (National Organizations Responding to AIDS) Coalition is spending April-May in a grassroots and Hill educational campaign around needle exchange. The intelligence from these visits is still coming in. NORA indicated in their meetings with you and Kevin Thurm of HHS their interest in working with the Administration to achieve a good end result.

New Organizational Endorsements The US Conference of Mayors is likely to adopt a resolution supporting flexible use of federal funds for needle exchange programs in jurisdictions which want to pursue them at their June 20-24 meeting. They would join the NGA and ASTHO in making this local and states right argument. The National Medical Association, the minority counterpart of the AMA, is also drafting a resolution supporting limited needle exchange programs -- the text isn't yet available.

STRATEGY OPTIONS

1. Preferred Option Wait until the House Appropriations bill is completed. Tie Administration action on lifting the ban on L/HHS funds to the June 1997 US Conference of Mayors meeting (which POTUS is scheduled to attend) **after USCM passes an affirmative resolution on local flexibility.** With the nation's mayors, governors, and public health officials on record supporting local decision-making on use of HIV prevention funds, there is good political cover for allowing more flexible use of funds as long as the scientific data continues to support it. Recognizing that reasonable people may disagree on this issue, POTUS could indicate his support for local control while in San Francisco (where there's strong support for needle exchange) and the next day Secretary Shalala could lift the ban. The advocacy groups and Administration would then need to coordinate to hold a reasonable position in the Senate Appropriations process.

To help this position fly politically, several key conditions on funding need to be laid down in modified Appropriations language and Administration rhetoric:

1) Only HIV prevention funds (i.e. CDC) may be used for needle exchange programs, not SAMHSA drug treatment dollars. This makes sense as needle

exchange is being advanced primarily as an HIV prevention strategy. HIV prevention funds flow primarily to States, with smaller amounts going to the chief elected official in 7 large cities and a categorical minority CBO grant program. Use of Ryan White CARE Act funds was prohibited in last year's reauthorization bill.

2) In order for grantees to utilize federal funds for needle exchange, they must certify that:

a) the chief elected official of the State (where State is the grantee) or of the city/county (where the City or a local CBO is the grantee) supports needle exchange programs in their jurisdiction as an effective HIV prevention measure;

b) any needle exchange program using federal funds must provide referral access to medical and drug treatment, and provide HIV counseling;

c) needles are provided on a replacement basis and not a free-standing distribution program; and

d) needle exchange programs comply with established standards for hazardous medical waste disposal (minimizing stray needles in public places)

These conditions would ensure that needle exchange programs go forward only in those jurisdictions where there is local support (government, public health and law enforcement) and linkages to a broader continuum of drug treatment and medical care.

2. **A fallback strategy** would be stalling action until the Winter 1997 Congressional recess to lift the ban. Congressional backlash would be delayed until February, but the Administration would have to be ready to protect the policy in 1998 election year. This would be hard for Congressional Democrats.

3. **A third option** is to leave the ban in place and take the heat from constituent advocacy and public health groups claiming that the Administration is willing to put politics above public health. With both the New York Times and Washington Post writing editorials in support of lifting the ban, the groups can be expected to drive a media strategy and push local flexibility arguments. This will become a more difficult option over time.

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THE WHITE HOUSE

WASHINGTON

March 5, 1997

MEMORANDUM FOR: EXECUTIVE OFFICE OF THE PRESIDENT STAFF

FROM: CHUCK RUFF
COUNSEL TO ~~THE~~ PRESIDENT

RE: Document Request

We have received a subpoena from the Office of Independent Counsel Starr seeking documents relating to certain individuals and entities. Accordingly, please conduct a thorough and complete search of ALL your records -- whether electronic, paper, or any other form -- for the following materials:

Any and all documents and/or communications reflecting, related, or referring to any of the following individuals or entities, or any affiliates, subsidiaries, or corporations owned by, controlled by, or related to the following individuals or entities:

Individuals
David P.L. Chan
Gordon A.K. Chen
Charles L. DeQueljoe
Wardiman Djojonegro
Atie W. Djojonegro
Baby M. Djojonegro
Jose R. Hanna
Juwati Judistrira
Keith R. Prothero
Steven Riady
Peter P. Woo
David T. Yeh
Mark W. Grobmyer
C. Joseph Giroir, Jr.

Entities
Hong Kong China, Ltd.
Lippo Insurance Group*
Lippo Insurance Group (Asia), Ltd.*

Returned to Chuck Ruff 3/10/97

Lippo Securities, Ltd.*
The Hong Kong Chinese Bank, Ltd.
Winterthur Swiss Insurance Bank, Ltd.

Documents include, but are not limited to, memoranda, correspondence, notes, minutes from meetings, schedules, messages, appointment logs, telephone logs, telephone messages, photographs, and computer disks.

Each employee is responsible for searching all of his or her files and records to ensure a comprehensive search. In the White House Office, the Office of Policy Development, and the Executive Residence, each Office Head or Assistant to the President must certiify that his or her staff has done a complete search. For all other Executive Office of the President agencies or entities, the General Counsel must certify that all agency records have been provided.

All documents must be provided by Friday, March 14, 1997, to Shellie Peterson in OEOB Room 125. If you have any questions, please call Lanny Breuer at 6-5073 or Shellie Peterson at 6-7804.

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* Earlier memoranda from the Counsel's Office have asked you to provide documents referring to The Lippo Bank, the Lippo Group, and related entities. You need not provide again material that you provided to the Counsel's Office in response to earlier requests.

MEMORANDUM FOR: SHELLIE PETERSON
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: 3/5/97 Request for Documents

This certification is in response to the March 5, 1997, document request from Chuck Ruff, Counsel to the President, to the Executive Office of the President Staff. By signing this document, I am certifying that I directed all individuals in my agency to search their files as well as their office's files. To the best of my knowledge, the agency's files have been reviewed and responsive documents have been provided.

Chief of Staff: _____
Erskine Bowles
Chief of Staff

Counselor: _____
Thomas McLarty
Counselor to the President

Oval Office Operations: _____
Nancy Hernreich
Deputy Assistant/Director of Oval Office Operations

Strategic Planning and Comm: _____
Donald A. Baer
Assistant to President/Director of Communications

Cabinet Affairs: _____
Kathryn Higgins
Assistant to President/Cabinet Secretary

Executive Residence:

Gary Walters
Chief Usher

Office of Policy Development

Domestic Policy Council:

Bruce Reed
Assistant to the President for Domestic Affairs

National Aids Policy:

Eric Goosby
Acting Director, National AIDS Policy

National Economic Council:

Gene Sperling
Assistant to the President for Economic Policy

Office of the First Lady:

Margaret Williams
Chief of Staff

Office of the Counsel:

Chuck Ruff
Counsel to the President

Intergovernmental Affairs:

Marcia Hale
Assistant to President/Director, Intergovernmental Affairs

Legislative Affairs:

John Hilley
Assistant to President/Director, Legislative Affairs

Management and Administration:

Jodie R. Torkelson
Assistant to President for Management and Administration

Political Affairs:

Craig Smith
Assistant to President/Director, Political Affairs

Presidential Personnel:

Bob J. Nash
Assistant to President/Director, Presidential Personnel

Press Secretary:

Michael McCurry
Assistant to President, White House Press Secretary

Public Liaison:

Maria Echaveste
Assistant to President/Director, Public Liaison

Scheduling and Advance:

Stephanie Streett
Deputy Assistant/Director, Scheduling and Advance

Staff Secretary:

_____

Todd Stern
Assistant to President/Staff Secretary

Records Management:

_____

Terry Good
Director, Records Management

THE WHITE HOUSE

WASHINGTON

February 26, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy

RE: Update on Status of Needle Exchange Programs

There have been a number of recent events involving needle exchange programs. On February 13, a National Institutes of Health Consensus Conference Statement recommended lifting the ban on use of federal funds for needle exchange programs. On February 18, HHS sent a Congressionally requested report to the Senate Appropriations Committee reviewing the scientific data on needle exchange programs to date. This memo provides background to put the issue in context, with a discussion of these recent events.

Current Statute There are three statutory restrictions on the use of federal funds for needle exchange programs. (1) The Substance Abuse and Mental Health (SAMHSA) block grant prohibits use of federal funds for needle exchange unless the Surgeon General determines that they are effective in reducing the spread of HIV and the use of illegal drugs. The statute does permit federal research and evaluation of existing needle exchange programs. (2) The 1996 Ryan White CARE Act reauthorization places a flat prohibition on the use of Ryan White funds for needle exchange. (3) The Labor/HHS Appropriations bill prohibits funding of needle exchange unless the Secretary determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

Epidemiology of HIV Infection Thirty six percent of AIDS cases are directly or indirectly caused by IV drug use. Up to fifty percent of new HIV infections may be related to IV drug use. The effects of IV drug use have become a driving force in the HIV epidemic.

Number of Needle Exchange Programs There are over 100 needle exchange programs up and running in the US, with most programs distributing through two or more sites. As of 1995, twenty one States had local needle exchange programs.

Federally Sponsored Research The National Institute on Drug Abuse (NIDA) at NIH has funded 15 demonstration projects to evaluate the impact of needle exchange programs on rates of HIV infection, patterns of drug use, and their effectiveness as a gateway to entering IV drug users into substance abuse treatment. Only two of the 15 studies are completed at this time. There has also been a significant amount of privately funded research on needle exchange programs through foundations and other nonprofit groups.

State and Local Government At their recent winter meeting, the National Governors Association passed a resolution stating: "Federal restrictions or requirements on the use of available funding interfere with the ability of States to develop comprehensive prevention strategies." The Association of State and Territorial Health Officers passed the following resolution in December 1995: "The federal government should repeal the ban on the use of federal funds for needle exchange services to allow interested States and localities the financial flexibility to support successful prevention and treatment initiatives within their jurisdictions." The US Conference of Mayors also supports lifting the ban on use of federal funds for needle exchange.

HHS Report to Senate Appropriations Report language was included in the September 1996 Senate L/HHS Appropriations bill requesting that HHS provide a report on the status of current research projects, an itemization of previously funded research, and findings-to-date regarding the efficacy of needle exchange programs for reducing HIV transmission and not encouraging illegal drug use. The report prepared by HHS reviewed all published studies of US needle exchange programs, including one by the Institute of Medicine; it did not attempt to determine if the Congressional standard has been met for lifting the ban on federal funding. The summary section of the report contains the following: "Overall these studies indicate that needle exchange programs can have an impact on bringing difficult to reach populations into systems of care that offer drug dependency services, mental health, medical and support services. These studies also indicate that needle exchange programs can be an effective component of a comprehensive strategy to prevent HIV and other blood borne infectious diseases in communities that choose to include them."

NIH Consensus Conference A NIH Consensus Development Conference on Interventions to Prevent HIV Risk Behaviors was held February 11-13, 1997. This conference was developed and directed by a non-Federal panel of experts, predating the Congressional request for an HHS report. The resulting Consensus Conference Statement is an independent report of an expert panel, not a policy statement of the NIH. This Statement released on February 13 concluded that needle exchange programs are effective in reducing both HIV transmission and IV drug use, and recommended lifting the legislative restrictions on needle exchange programs.

Coordination of the Administration's Response HHS, ONDCP, and the White House jointly developed Q&A's to respond to questions about the HHS report. In summary, these say that data on reducing HIV seroprevalence is solid but the data on effect on drug use patterns is less clear-cut. HHS will continue research efforts to evaluate new data on needle exchange programs, and work with the Congress on effective HIV prevention strategies.

THE WHITE HOUSE

WASHINGTON

FEB 26 1997

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