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Memorandum

Date December 17, 1991
From Chief, Laboratory of Tumor Cell Biology, BCP, DCE, NCI
Subject SUBJECT: Blood Test Patent and Related Information
THE RECORD
To

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I have learned of rumors from some university colleagues that still another "new" argument being made against me, NIH, the patent, and the Agreement, is that I "knew" and reviewed data "from Pasteur scientists" in early April 1984 (about two weeks before submitting our patent application), which showed that "their" blood test was about as good as ours. This is a big misrepresentation of the facts.

- 1) It is true I visited Pasteur Institute (I.P.) at that time. I told them almost all of our results, gave a seminar, and set the plan for comparing some of our various HTLV-III isolates to LAV. Indeed, the latter was my chief purpose for making the visit and it led to the two draft papers (which OSI has), but not published by Montagnier's request.
- 2) Unexpectedly (for me), Don Francis, then of CDC in Atlanta, attended our private meetings. He was not exactly an unbiased presence. I had a prior unfortunate experience with him when he would not provide blood samples from blood-transfused people (donor to recipient study) to my lab for human retrovirus testing in the 1982-1983 period, despite innumerable requests and pleas, even requests from the physicians who sent these samples to CDC (see the enclosed letters). Francis, with almost no prior laboratory retrovirology experience, and none with human retroviruses was trying to set up a CDC "Institute" of human retrovirology with himself as head. This was at a period of time when my lab was almost alone in the world working on human retroviruses. Moreover, the idea to look for such viruses in AIDS came from us. I thought Francis' position was absurd, self-serving, and obviously harmful to progress, and I said so. Francis then became the source of hostile material for Randy Shilts' book, "The Band Played On," and was, I have been told, an instigator of Mr. Crewdson in 1987.

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When Francis and Pasteur could not get a working blood test or basically any convincing data linking HIV to AIDS, Francis hired V. Kalyanaraman, my co-worker and close collaborator, and sent him to Pasteur to help the French. The data Francis refers to was: (1) not reproduced; (2) was with one select batch of serum; (3) was probably carried out by Kalyanaraman; (4) was without a confirmatory (Western blot) test; (5) was never published.

Kalyanaraman said if it were reproducible they would have published it. Obviously, what was done was to lower the "line" of the ELISA cut off to accept more positives. This gave a higher score, but with other batches they probably found many more false positives.

(3) Finally, when we wrote up the patent application I could not reference data I never really evaluated, never saw again, and had reasons not to believe. Quite frankly I never even thought of it at the time of the patent application and certainly not at the time of the declaration almost three years later.

cc: ✓ Dr. Broder
Dr. Healy
Mr. Lanman
Mr. Tom Mays
Mr. Onok