The original documents are located in Box 34, folder “Swine Flu (3)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

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JOHN J. HORAN
PRESIDENT

MERCK & CO., INC.
RAHWAY, N. J. 07065

April 13, 1976

Mr. James H. Cavanaugh
Deputy Assistant to the President for Domestic Affairs
The White House
Washington, D. C. 20500

Dear Mr. Cavanaugh:

I want to record with you and others an urgent concern we have about one aspect of the national vaccination program to protect against a possible epidemic of swine influenza.

Merck is one of four vaccine manufacturers licensed and able to produce influenza vaccines this year and thus has a direct interest in the terms and conditions under which swine influenza vaccine is to be made, purchased by the government, and distributed. We are asked to produce as much vaccine as we can, as fast as we can, to government specification. This we will do if our current effort to develop a vaccine is successful.

The government has asked that after the vaccine we produce has demonstrably met government safety, purity, and potency standards, it be made available to the government for national distribution. Under such circumstances, we would have no further role in its distribution and use.

The cause of our concern is that Congressional and HEW actions to date indicate that if there is any failure in the government's programs, through states and municipalities, to use the vaccine properly — failure to warn responsible adults of any possible adverse reactions to the vaccine, as well as any other failure that might become the basis for litigation — we would be expected to bear the risk of liability for the government's failures.

HEW proposes to try to help minimize our possible liability by a national program of communication which would plan for appropriate warnings at the same time as it encourages citizen participation. This does not deal with the question of where liability rests if the government fails to inform a patient who is injured and brings suit. Moreover, whatever degree of protection even this HEW proposal may afford will be negated if a recent action in Congress is affirmed.

In Congress, the indemnification question was not dealt with on the House side. On the Senate side, it was dealt with only in language in the report associated with the appropriations measure — and that language conveyed the intent of the Committee that no arm of the government should assume any liability risk for any part of the swine influenza vaccination program, and that all such risk should be borne by the vaccine manufacturers!
The legal risk is very real, even though the vaccine may prove to be relatively safe. Under similar circumstances involving Sabin polio vaccine, the courts recently held — and the Supreme Court refused to review the case — that the vaccine manufacturer was liable for patient injury allegedly related to use of the vaccine on the basis of its failure to provide adequate warning directly to the participant of the risk of such injury, even though the vaccine was properly made and the manufacturer’s only involvement was to provide vaccine to government specification and sell it to the state for use in government-sponsored mass immunization programs.

Our own insurance carrier has just told us that it is willing to insure us only against negligence or fault on our part. Moreover, because of the massive number of people involved, the carrier considers it not feasible to place any broader coverage in the existing world insurance markets at virtually any price. Thus, the carrier is willing to provide us with protection only against claims arising from our own negligence or failure to manufacture in accordance with government specifications, i.e., against those risks which are clearly our responsibility.

I do not want to risk being misunderstood. We do not ask to be relieved of our responsibility to produce vaccine which meets government safety and potency standards, or of product liability based on negligence or other fault on our part in manufacturing the vaccine. We do ask to be relieved of liability for matters for which we have no responsibility and over which we have no control. No private company has the resources to assume absolute liability for the actions of others, including Federal, state, and city governments in an immunization program designed to reach the total U.S. population.

We want to participate in this program that has been declared to be in the national interest. But we believe the Administration and the Congress should find a solution to our current dilemma. I urge your participation and that of your staff in the search for a solution. We are of course prepared to cooperate to the fullest in this endeavor.

To assure that our concern, and the sense of urgency we accord it, is known to those who have played active roles in the rapid evolution of this program to meet a national emergency, I am sending identical letters to those listed on the attached sheet.

Sincerely,

John J. Moran
Mr. James H. Carvanaugh, The White House  
Mr. Spencer C. Johnson, The White House  
Honorable Theodore Cooper, M. D., HEW  
Honorable David Mathews, HEW  
Harry M. Meyer, Jr., M. D., HEW  
Dr. David J. Sencer, HEW  
Honorable Edward W. Brooke, United States Senate  
Honorable Clifford P. Case, United States Senate  
Honorable Edward M. Kennedy, United States Senate  
Honorable Warren G. Magnuson, United States Senate  
Honorable Richard S. Schweiker, United States Senate  
Honorable Hugh Scott, United States Senate  
Honorable Harrison A. Williams, Jr., United States Senate  
Honorable Tim Lee Carter, House of Representatives  
Honorable Daniel J. Flood, House of Representatives  
Honorable Robert H. Michel, House of Representatives  
Honorable Paul G. Rogers, House of Representatives  
cc: C. Joseph Stetler, PMA
Mr. James H. Cavenshough, The White House
Mr. Spencer C. Johnson, The White House

Honorable Theodore Cooper, M. D., HEW
Honorable David Mathews, HEW
Harry M. Meyer, Jr., M. D., HEW
Dr. David J. Sencer, HEW

Honorable Edward W. Brooke, United States Senate
Honorable Clifford P. Case, United States Senate
Honorable Edward M. Kennedy, United States Senate
Honorable Warren G. Magnuson, United States Senate
Honorable Richard S. Schweiker, United States Senate
Honorable Hugh Scott, United States Senate
Honorable Harrison A. Williams, Jr., United States Senate

Honorable Tim Lee Carter, House of Representatives
Honorable Daniel J. Flood, House of Representatives
Honorable Robert H. Michel, House of Representatives
Honorable Paul G. Rogers, House of Representatives

cc: C. Joseph Stetler, PMA
MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: Secretary Mathews' First Biweekly Report on Immunization Campaign

Last week you asked Secretary Mathews for a biweekly report on the status of implementation of the national influenza immunization program. Attached is his first report.

We have sent a copy of the report to our staff and to Jim Lynn for necessary follow-up and action.
TO: JAMES CAVANAUGH

From conversation.

Robert D. Linder
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I have your memorandum of April 6th concerning the influenza immunization campaign.

I will most certainly keep you informed as you requested, and am attaching the first of the reports that you asked for with this reply.

Faithfully yours,

[Signature]
Secretary

Attachment

cc: The Honorable James Lynn
    The Honorable James Cavanaugh
    Theodore Cooper, M.D., Assistant
    Secretary for Health
MEMORANDUM FOR THE PRESIDENT

Since you announced the National Influenza Immunization Program, hearings have been held before both Houses of Congress. The House has passed authorization legislation that it felt was necessary to carry out this program and the House and Senate have passed appropriation bills designed to implement it.

I have established an Intradepartmental Task Force, chaired by the Assistant Secretary for Health, Dr. Theodore Cooper, that will report directly to me. It will serve as a device for exchanging information rapidly, expediting needed decisions assuring rapid clearance for action items, and, in general, facilitating the successful completion of the program.

In addition, Dr. Cooper has established a management focus in his office to implement the operational objectives cited by you in your memorandum of March 31. This management focus will develop policy, set priorities, and provide guidance for the implementation of the program. An Operational Planning System Objective with targeted milestones to monitor the progress of the program has been developed. The three agencies of the Public Health Service (PHS) that will carry out these objectives are the Center for Disease Control (CDC), the Bureau of Biologics (BoB) of the Food and Drug Administration (FDA), and the National Institute of Allergy and Infectious Diseases (NIAID) of the National Institutes of Health.

To date (1) initial steps have been taken that will lead to field testing and subsequent production of the vaccine, (2) an effort is under way to ensure that the nation's health professionals will be encouraged to fully support this effort, and that the public will be fully aware of the necessity to receive the vaccine, (3) a plan is being developed for the distribution and administration of the vaccine, and (4) steps are under way to ensure adequate epidemiologic and laboratory surveillance of this effort.
On March 25, a workshop was held at the BoB, FDA to discuss developments relevant to influenza immunization for the 1976-77 influenza season. This workshop was attended by scientists from BoB, NIAID, and CDC, representatives from the Department of Defense and Veterans Administration, university investigators working on influenza research, members of BoB, NIAID, and CDC advisory committees, pharmaceutical manufacturers engaged in producing influenza vaccines, biologics control authorities from other countries (in this instance Canada), the general public, and the press. Despite the rapid pace of events, it appears that the various groups involved in this effort are working together reasonably well and that a rather remarkable amount of progress has been made in the short time since the A/swine-like virus was recovered in early February.

On April 2, CDC, the lead PHS agency for the program, discussed it with members of the State and Territorial Health Officers Association representatives from the State medical societies, officials of the major drug companies, and personnel from other PHS agencies. During the meeting, the attendees were briefed on the scientific basis for the program and the general strategy for its implementation. While some health officers questioned the adequacy of the funds available to the States, and some health officers and private practitioners questioned the ability to carry out such a massive immunization effort in such a short period of time, the overwhelming majority thought it could be done. They indicated they would make every effort to see to it that the program was successfully carried out.

On April 12, a meeting was held by Dr. James H. Cavanaugh, Deputy Director of the Domestic Council, with some 20 principals concerned in this effort. Its purpose was to review the current status of the program vis-a-vis your charge to it and to consider emerging policy, priority, and implementation problems.

At present:

1. the lack of an appropriation for the program is the major impediment to its forward progress;
2. the question of liability indemnification for the manufacturers of the vaccine requires further resolution.

Close attention is being given to both of these matters.

[Signature]
Secretary
MEMORANDUM FOR:     JIM CANNON
FROM:          SPENCE JOHNSON
SUBJECT:  Presidential Decision Memorandum on
          Canadian Vaccine Purchase

Secretary Mathews' memorandum to the President on this
subject was returned to HEW Assistant Secretary Ted
Cooper yesterday to be redrafted to reflect new
information.

A new Presidential decision memorandum will be prepared
as soon as a new memorandum is received from the
Secretary.
MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON

Attached for your consideration is H.J. Res. 890, sponsored by Representative Mahon, which provides a total of $1,942,384 for the following activities:

-- HEW: Nationwide swine influenza immunization program;

-- Labor: Temporary employment assistance; summer youth employment program and community service employment for older Americans;

-- Community Services Administration: Summer youth recreation and sports program.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), Bill Seidman, CEA (Malkiel) and I recommend approval of the enrolled resolution and proposed signing statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you sign H.J. Res. 890 at Tab B.

That you approve the signing statement at Tab C.

Approve ______ Disapprove ______
I. PURPOSE

To sign into law H.J. Res. 890, Joint Resolution making emergency supplemental appropriations for public employment programs, summer youth programs, and preventive health services (the flu program) for the fiscal year ending June 30, 1976, and for other purposes.

II. BACKGROUND, PARTICIPANTS, PRESS PLAN

A. Background: On March 24, 1976, you announced plans for a National Influenza Immunization Program to inoculate Americans against a swine-type influenza virus. You requested the Congress to act on your supplemental appropriation request of $135 million for this program before the Easter recess.

This appropriation will be used to manufacture the necessary vaccine, assist the states in distribution and inoculation efforts, test the efficacy and effectiveness of the vaccine, continue ongoing surveillance of disease trends in outbreaks, and conduct professional and public awareness programs.

In addition, the measure included the following program appropriations: $300 million, EPA construction grants; $528,420,000, summer youth jobs; $1,200,000,000, public services jobs; $55,900,000, older americans jobs; $17 million, summer recreation program; $6 million, summer sports program.

B. Participants: HEW Secretary David Mathews and Congressman Paul Rogers (D-Florida), chairman of the Health and Environment Subcommittee of the House Interstate and Foreign Commerce Committee. Also Congressman Dan Flood (D-Penn.), chairman of the Labor-HEW Appropriations Subcommittee.

III. TALKING POINTS

Talking points to be provided by Bob Orben.
April 19, 1976

Mr. & Mrs. Harry W. Lewis
10 Oak Street
North Billerica, MA 01862

Dear Mr. President,

Since February fourth, we have been acutely aware of the news surrounding the severe influenza, since our son David was the one who died from it at the age of 8. For a time it seemed nothing could be done, as many were saying one death didn’t warrant concern. We were very relieved when you came on TV and showed real concern, and let us know that indeed something was being done. Now that the season is over, we know the possibility of his illness causing an epidemic has lowered greatly.

Although this concern and the actions taken, can’t bring our son back, we have an assurance it will help protect other son and daughter. We thank you so much for this.

Sincerely,

(Mrs.) Harry W. Lewis
THE WHITE HOUSE
WASHINGTON

April 27, 1976

MEMORANDUM FOR: JIM CANNON
FROM: SPENCE JOHNSON
SUBJECT: Correspondence for Presidential Signature

Attached is a draft letter for Presidential signature in response to an incoming letter from the parents of the swine-flu victim who died at Fort Dix in February.

I recommend that you sign the attached memorandum and forward the package to Roland Elliott for appropriate action.
MEMORANDUM FOR: ROLAND ELLIOTT
FROM: JIM CANNON
SUBJECT: Correspondence for Presidential Signature

April 27, 1976

Attached is a draft letter for Presidential signature in response to an incoming letter from the parents of the swine-flu victim who died at Fort Dix in February.

I recommend that you prepare the letter for transmittal over the President's signature.
Dear Mr. and Mrs. Lewis:

Your recent letter in support of my national influenza immunization effort is very much appreciated.

I truly regret that your son was fatally stricken by this swine-type influenza virus. As you have pointed out, however, this specific incident has served as a crucial warning so that we can protect every man, woman and child against this potential danger.

I also specially commend you for your selfless outlook in your concern for the well-being of the entire nation.

Warm personal regards,

Gerald R. Ford
Dear Mr. President,

Since February fourth, we have been acutely aware of the news surrounding the severe influenza, since our son David was the one who died from it at just two.

For a time it seemed as though it would be done, as many were saying one death didn't warrant concern. So were very relieved when you came on TV and showed real concern, and let us know that indeed something was being done. Now that the season is a fact, we know the possibility of his illness causing an epidemic has bowed greatly.

Although this is a great concern, and the actions taken can't bring us back our son, we have an assurance it will help protect other sons and daughters. We thank you so much for this.

Sincerely,

(Mrs.) Harry W. Lewis
MEMORANDUM FOR THE PRESIDENT

I am submitting here the second in a series of Biweekly Reports on the National Influenza Immunization Program. It indicates our progress and problems in achieving essential program goals and timetable targets as requested in your memorandum on April 6.

Four major goals have been achieved since our last Biweekly Report of April 12, 1976.

First, on April 15, you signed H.R. Res. 890, Emergency Supplemental Appropriations for Preventive Services, which contained a $135 million appropriation for the National Influenza Immunization Program.

Subsequently, during the same week, 24,000 doses of A/New Jersey/76 (the technical and preferred name for swine influenza-type vaccine) were provided to the Bureau of Biologics of the Food and Drug Administration for laboratory testing and verification of purity and quality.

On April 21, clinical trials began involving the participation of 3,000 volunteers in an effort to document reactivity, efficacy, and potency and to determine the dosage of vaccine which is adequate for immunization against the A/New Jersey/76 virus.

Recently, Immunization Program Guidelines for Grant Applications were sent to State and Regional Offices and contacts with State and other health officers have been firmly established by the Center for Disease Control to insure rapid exchange of technical and administrative information.

The problems of the moment are confined to three areas.

First, legal concerns consisting of potential tort liability and possible antitrust violations have not been formally resolved between vaccine manufacturers and the Department. The General Counsel of HHS, however, along with members of the Antitrust Division of the Department of Justice have met with legal representatives of the four vaccine manufacturers and have taken steps that promise to resolve these issues effectively.
A major unresolved question still exists. That is, whether the United States should consider sharing, in view of uncertain and possibly limited vaccine, our A/New Jersey/76 (swine influenza-type) vaccine with other countries, and on what basis should we determine our position vis-a-vis Canada, Mexico, and the rest of the world. We have reached a preliminary decision as to how to proceed in this matter and it is the subject of an accompanying memorandum. Presently, the Assistant Secretary for Health is in regular contact with Dr. Alex Morrison, Deputy Minister of Health for Canada, regarding our status on the question of vaccine availability and our ability to assist them in meeting their needs.

A final potential problem relates to the coordination of offers of assistance by volunteer organizations and the management of plans for this activity by well-meaning groups. To address this problem, a series of meetings is planned between members of the Center for Disease Control, the Office of the Secretary and volunteer groups to determine how to generate, coordinate, and maximize participation by volunteer agencies. The first Departmental meeting to formally address this matter is scheduled for Thursday, May 6, 1976.

/s/ David Mathews
Secretary

Enclosure
MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Influenza Immunization Program Report

Attached is the second in a series of Biweekly Reports on the National Influenza Immunization Program by HHS Secretary David Mathews.
MEMORANDUM FOR THE PRESIDENT

I am submitting here the second in a series of Biweekly Reports on the National Influenza Immunization Program. It indicates our progress and problems in achieving essential program goals and timetable targets as requested in your memorandum on April 6.

Four major goals have been achieved since our last Biweekly Report of April 12, 1976.

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The problems of the moment are confined to three areas.

First, legal concerns consisting of potential tort liability and possible antitrust violations have not been formally resolved between vaccine manufacturers and the Department. The General Counsel of DHHS, however, along with members of the Antitrust Division of the Department of Justice have met with legal representatives of the four vaccine manufacturers and have taken steps that promise to resolve these issues effectively.
A major unresolved question still exists. That is, whether the United States should consider sharing, in view of uncertain and possibly limited vaccine, our A/New Jersey/76 (swine influenza-type) vaccine with other countries, and on what basis should we determine our position vis-a-vis Canada, Mexico, and the rest of the world. We have reached a preliminary decision as to how to proceed in this matter and it is the subject of an accompanying memorandum. Presently, the Assistant Secretary for Health is in regular contact with Dr. Alex Morrison, Deputy Minister of Health for Canada, regarding our status on the question of vaccine availability and our ability to assist them in meeting their needs.

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Enclosure
MEMORANDUM FOR

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

The purpose of this memorandum is to clarify the requirements for the President's bi-weekly status report on the National Influenza Immunization Program.

In order to reduce confusion over the due date of the report, the report will be due on the 1st and 15th of every month. In addition, certain format requirements are necessary in order to coordinate the informational needs and activities of the Domestic Council and OMB, as indicated in the President's original communication.

The report should include a brief outline summary of accomplishments, as well as identification of problems and actions taken to resolve problems. Also, the charts developed that express quantifiable targets for the Federal effort, State and local efforts, and industrial efforts, should be included.

Thank you very much.

[Signature]
MEMORANDUM TO: JIM CAVANAUGH  
FROM: SPENCER JOHNSON  
SUBJECT: DHEW Secretary Bi-weekly Influenza Program Status Report.

Attached is a draft memorandum for your signature to the Secretary defining the contents of the bi-weekly report to the President.

First, in order to avoid due date confusion and slippage, I suggest that we require the report on the 1st and 15th of every month. Also, in order to solve the format dispute and fulfill the necessary informational requirements I propose that the report be in three parts:

A. A summary memorandum by the Secretary to the President,

B. An outline of accomplishments, problems and actions, and;

C. The inclusion charts that OMB developed for the program.

Samples are attached.

Tab A Draft memorandum to the Secretary.
Tab B Sample summary of accomplishments, problems and actions.
Tab C Sample OMB target charts.
MEMORANDUM

TO: The President
FROM: The Secretary

SUBJECT: Biweekly Status Report on the National Influenza Immunization Program (NIIP), for the Period Ending April 30, 1976

ACCOMPLISHMENTS

1. The President signed H.J. Res. 890, Emergency Supplemental Appropriations for Preventive Services, which contained the $135 million appropriation for NIIP, April 15, 1976.
2. 24,000 doses of vaccine were provided to the Bureau of Biologics of FDA for laboratory testing for purity and quality.
3. Clinical trials were launched on April 21, 1976, involving 3,000 volunteers to document reactivity, efficacy, potency and dosage of vaccine adequate for immunization against A/New Jersey/76 (swine influenza-type) virus.
4. Immunization Program Guidelines for grant applications have been sent to state and regional offices, April 14, 1976.
5. Contacts with state and other health officers were established for continuing information and technical exchange.

PROBLEMS

1. Legal problems of vaccine manufacturers.
2. International aspects of NIIP.
3. Coordination of offers of assistance and plans of activity by volunteer organizations.

ACTIONS TAKEN TO RESOLVE PROBLEMS

1. General Counsel of HEW along with members of Anti-trust Division of the Department of Justice have met with legal representatives of the four vaccine manufacturers and have taken steps to resolve the issues that relate to potential tort liability and possible antitrust violations.
2. The Assistant Secretary for Health has been in regular communication with Dr. Alex Morrison, Deputy Minister of Health of Canada, regarding vaccine availability.
3. A series of meetings is planned between the Center for Disease Control, the Office of the Secretary, and volunteer groups to determine how to generate, coordinate, and maximize participation by volunteer agencies.
MEMORANDUM

TO: Special Assistant to
The Assistant Secretary for Health

FROM: Director
Center for Disease Control

DATE: April 30, 1976

SUBJECT: Biweekly Status Report on Nationwide Influenza Immunization Program

Enclosed is the biweekly status report on the National Influenza Immunization Program and three copies of the Program Guidelines for influenza immunization project grants.

The biweekly status report provides projected target information for CDC, Bureau of Biologics (FDA), NIAID, and industry. Dr. George Galasso, Chief, Infectious Disease Branch, and Mr. Lawrence Stern, Executive Officer, will provide the information necessary for completion of the report from NIAID and BOB, respectively. Dr. Galasso has requested the "number of contractual actions" be reduced from 20 to 16 to reflect what currently appears to be a more accurate and realistic figure.

Accomplishments noted since our preliminary status report of April 26 are: (1) Initiation of clinical testing of pilot lots at George Washington University Medical School; (2) verbal approval from OMB regarding waiver of A-95 review and comment procedures relative to influenza immunization projects grants (A-95 Clearinghouses will be notified of grant awards, but pre-award reviews will be waived); and (3) bids to supply jet injector guns have been received and are currently being evaluated. We anticipate that contracts will be awarded next week.

Enclosures

[Signature]
Assistant Surgeon General

5 pages 4/30/76
Please hardcopy to Dr. Meriwether
Hardcopy 447-5435
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MEMORANDUM FOR: JIM CAVANAUGH
FROM: SPENCE JOHNSON
SUBJECT: The National Influenza Immunization Program update.

The purpose of this memorandum is to outline several issues that have arisen in the implementation of the President's National Influenza Immunization Program.

1. Reporting Procedures and Management Practices

A problem still exists with the timeliness and format of the bi-weekly reports. The May 15th report was not received until May 20th. In addition, it did not comply with the format described to the Secretary in your recent memorandum. Also, in terms of management practices, there appears to be an undue delay in programmatic decisions to be made by the Secretary. For example, the delegation of authority to award state program grants was delayed for one week pending the Secretary's approval; and a recommendation from the Secretary to the President on the question of assistance to Canada and Mexico has been pending since late March. No serious complications have arisen yet, however, unless a mechanism is established to rapidly respond to such decisions, a problem could arise later in the program when there is shorter turn-around time.

2. Seed Virus Error

It has been discovered that a lot of vaccine manufactured by the Parke-Davis Company was at variance with the production protocol. A team from CDC and FDA are at the Parke-Davis facility to determine the extent of the problem. Apparently the cause of this error is that the wrong seed virus for the manufacture of the vaccine was supplied to Parke-Davis. One unconfirmed estimate is that 15 million doses may be involved. The doses produced would not represent any danger to those being inoculated, however, they do not contain the appropriate antibodies for the A/New Jersey/1976 strain, but rather
3. Liability and Indemnity

Arrangements have been made by the General Counsel of HEW, with concurrence of the legal representatives of the four vaccine manufacturers, to relieve the producers from liability for those parts of the immunization program under government control. This was achieved by inclusion of specific language in the purchase contracts. Merrill National, the smallest of the producers, has retained former Secretary of State William Rogers to reopen this question with HEW. Mr. Rogers has indicated that Merrill National wishes the government to assume all risks connected with the manufacture of the vaccine and further that they deem the assurances in the contract language as insufficient. Unless their liability is limited specifically by legislative action by the Congress, they will withdraw from the program. The HEW General Counsel and the Assistant Secretary for Health are meeting with Secretary Mathews today to discuss alternative approaches to this issue.

4. Liability of Health Professionals

Several questions have been raised by various health professional organizations about the liability of practitioners and allied health personnel in delivering the vaccine. Because of the unusual nature of the program these organizations feel that health professionals engaging in the mass delivery of the vaccine should be held harmless from any liability. A meeting has been set for June 3rd with various provider organizations to discuss this issue. Also on June 4th, there will be meetings to discuss inter-agency organization and volunteer efforts.

5. International Assistance

We are still waiting for a decision from Secretary Mathews as to the best possible solution to the question of whether or not we commit ourselves to share vaccine production with Canada and Mexico. Our Ambassador in Canada has been contacted several times by the Canadian Health Minister and the State Department is anxious to formulate a response as soon as possible, and they have circulated a draft telegram.
for White House approval. (Copy attached). It is my understanding that this telegram was sent to Secretary Mathews about two weeks ago for his concurrence and was rejected.

I believe it is essential to convene a meeting of principals to reassess our efforts in the program. I would suggest that the meeting include and be limited to Secretary Mathews, Assistant Secretary Cooper, and Paul O'Neill.

cc: Jim Cannon
    Art Quern
THE WHITE HOUSE
WASHINGTON

DATE: May 18, 1976
TO: Spencer Johnson
FROM: JIM CAVANAUGH
SUBJ: FYI
ACTION
LIMITED OFFICIAL USE

PRIORITY
OTTAWA

E.O. 11652: N/A
TAGS: TPHY, TBIO, OSCI, CA
SUBJECT: SWINE FLU VACCINE

FOR THE AMBASSADOR

IN RESPONSE TO REQUEST OF CANADIAN MINISTER OF HEALTH
FOR U.S. ASSISTANCE IN MEETING CANADIAN NEEDS FOR SWINE
FLU VACCINE, YOU SHOULD RESPOND DRAWING FROM FOLLOWING
TALKING POINTS:

—PRESIDENT FORD HAS MADE A PUBLIC COMMITMENT TO
VACCINATE ALL AMERICANS THIS SEASON AGAINST SWINE FLU.
U.S. MUST BE SURE WE HAVE ADEQUATE SUPPLIES TO MEET THAT
COMMITMENT BEFORE WE CAN DETERMINE EXTENT TO WHICH WE WILL
BE ABLE TO ASSIST IN MEETING CANADA'S VACCINE NEEDS AND
REQUESTS FROM OTHER COUNTRIES.

—WE WILL NOT KNOW HOW MANY DOSES VACCINE PRODUCTION WILL
YIELD UNTIL CLINICAL TESTS TO DETERMINE DOSAGE OF VACCINE
NECESSARY FOR EFFECTIVE IMMUNIZATION, ARE COMPLETED.
THESE TESTS ARE NOT UNDERWAY. UNICORE POSSIBLE VARIATION
IN STRENGTH OF DOSE NECESSARY FOR IMMUNIZATION MAKES EVEN
ROUGH PREDICTION OF TOTAL NEEDS IMPOSSIBLE AT THIS TIME.
WE EXPECT TEST RESULTS TO BE AVAILABLE AROUND MID-JUNE, AND
AT THAT POINT WE WILL BE ABLE TO DETERMINE AVAILABILITY

LIMITED OFFICIAL USE
THE UNITED STATES WILL DO EVERYTHING POSSIBLE WITHIN ITS MANUFACTURING CAPABILITY TO MAKE THE A/NEW JERSEY/76 STRAIN VACCINE AVAILABLE FOR PURCHASE FOR HIGH RISK POPULATIONS IN THE NORTH AMERICAN EPIDEMIOLOGIC REGION.

ONCE SUFFICIENT SUPPLIES ARE ASSURED TO MEET THE U.S. DEMAND FOR VACCINE, THE HIGH RISK POPULATIONS IN CANADA AND MEXICO WILL RECEIVE FIRST PRIORITY IN HAVING THE VACCINE MADE AVAILABLE TO THEM. FYI: MEXICO HAS NOT YET REQUESTED VACCINE SUPPORT BUT SHOULD IT DO SO WE WILL TREAT SUCH A REQUEST PARALLEL TO THAT OF CANADA, AS THE MEDICAL CONSIDERATIONS WITHIN THE WHOLE NORTH AMERICAN EPIDEMIOLOGICAL REGION ARE NOT DISTINGUISHABLE AS TO RISK OR SEVERITY. END FYI.

SHOULD U.S. DETERMINE THAT VACCINE IS AVAILABLE, WE WILL WORK CLOSELY WITH GOC TO MAKE SUPPLIES AVAILABLE TO CANADIAN HIGH-RISK POPULATION AS EARLY AS POSSIBLE. WE WOULD EXPECT TO BE ABLE TO BEGIN TO SUPPLY VACCINE TO CANADA ONCE U.S. NEEDS ARE ASSURED AND WHILE OUR OWN INOCULATION PROGRAM IS UNDERWAY.

WE SUGGEST THAT CONCERNED OFFICIALS ON BOTH SIDES GET TOGETHER SOON TO DISCUSS DETAILS OF CANADIAN AND U.S. PROGRAMS IN ORDER TO PREPARE AS FULLY AS POSSIBLE TO PUT COOPERATIVE EFFORT INTO PLACE WITHOUT DELAY SHOULD FAVORABLE SUPPLY DETERMINATION BE MADE. WW