

NATIONAL RESEARCH COUNCIL

2101 CONSTITUTION AVENUE, WASHINGTON, D. C.

CONFIDENTIALEstablished in 1916 by the National Academy of Sciences under its Congressional
Charter and organized with the cooperation of the National Scientific
and Technical Societies of the United States304 Medical Arts Bldg.
Baltimore, Maryland.

January 23, 1943.

Dr. Carl Reynolds,
Commissioner of Health
Raleigh, North Carolina.

Dear Doctor Reynolds:

On January 19 you called me long distance to ask if a meeting could be arranged in Raleigh with yourself, the Governor, and various other persons to consider the subject of human experimentation in the chemical and chemotherapeutic prophylaxis of gonorrhea among volunteers from the prisons of North Carolina. You asked that the meeting be held on January 21. It was impossible for either Dr. Charles M. Carpenter of the University of Rochester, who had previously conferred with you informally on this subject, or myself to come to a meeting on the 21st, in part because of a prior commitment, and in part because of the undesirability of holding such a meeting until authorization for it has been obtained from the Office of Scientific Research and Development.

Informally and confidentially I am at liberty to inform you that the question of this type of experimentation has been considered by the Subcommittee on Venereal Diseases of the National Research Council; that in the opinion of this committee the experimentation is desirable and that it should, both for medical and expedient reasons, be carried out if possible in several states simultaneously. Proposals for OSRD contracts have been submitted to the Subcommittee on Venereal Diseases by responsible investigators who plan, if the work is approved, to carry out such experimentation in New York, Illinois, Georgia, and now possibly North Carolina and Maryland. The matter has been thoroughly discussed with the Committee on Medical Research from the Chairman of which, Dr. A. N. Richards, we have received a ruling that further negotiations with state authorities should be postponed until the Committee on Medical Research and the Office of Scientific Research and Development have acted upon these proposals for contract. Such action has not yet been taken but it is believed that action will have been taken within a week to ten days.

I suggest therefore that the proposed conference in North Carolina be postponed until OSRD has acted, following which either Dr. Richards or myself will communicate with you again.

In the meanwhile, I should like to emphasize, as ^{Dr. Carpenter} did not, that the documents which he left with you and the subject as a whole is to be regarded from the military standpoint as confidential.

Sincerely yours,

Cc: Dr. A. N. Richards
Dr. C. M. Carpenter.J. E. Moore, M.D., Chairman,
Subcommittee on Venereal Diseases.

804 Medical Arts Bldg.
Baltimore, Maryland.

January 23, 1943.

Dr. C. Phillip Miller
Department of Medicine
University of Chicago
Chicago, Ill.

Dear Phil:

A meeting was held in New York yesterday at the Office of the Commissioner of Health, Stebbins, which was attended by various legal lights, by Dr. A. N. Richards, and myself. Out of this emerged the facts that CMR-OSRD had not yet acted on the proposals for contract of Carpenter, Cohn, and yourself, but that such action could be anticipated within a week to ten days. It developed further that the action of CMR-OSRD would be based in part on the legal aspects of the situation, which it is generally believed can be clarified or surmounted, and on political expediency.

As soon as I am notified of the action taken, I shall get in touch with you by letter or telephone with regard to the desirability of a conference in Illinois, to be attended by a representative of CMR as well as by myself.

Sincerely,

J. E. Moore, M.D., Chairman
Subcommittee on Venereal Diseases.

JEM:G
Cc: Dr. A. N. Richards



CONFIDENTIALMemorandum
of a

Conference on the Prophylaxis of Gonorrhoea in Human Volunteers

Held in New York on January 22, 1943.

Present were Commissioner of Health of the City of New York, Stebbins; and from the New York City Health Department Doctors Rosenthal and Cohn *. From the State Health Department, Dr. Perkins. From Sing Sing Prison the Chief physician, Dr. Sweet. From the office of the Corporation Counsel of New York, Mr. Byard. From the office of the Attorney General of the State of New York, Mr. Caddy. From the University of Rochester, Dr. Carpenter. From CMR, Dr. Richards and Mr. James B. Donovan of the Legal Department. And Dr. J. E. Moore. *Dr. Rosenthal - absent to telephone*

Mr. Byard reported that there were certain legal difficulties in the way of this type of experimentation in New York State: first, there was doubt as to the legal authority of the New York City Health Department to engage in research work. Second, the proposed experiments appeared to violate Section 100 and 181 of the Sanitary Code, which make it a crime to infect another person with a disease. This Code is, however, written by the Board of Health and subject to amendment by it. Third, the proposed experiment is possibly in violation of the Penal Code of the State of New York, cited in the previous Minutes, and which deals with mayhem.

Mr. Byard discussed further the question of the legality of the consent of a volunteer prisoner and believed that such consent could be legally secured with the probability of complete, or nearly complete, protection of the experimenter.

Mr. Byard's feeling was that the legal difficulties could be surmounted; that the experiment could be done by rearrangement with the probable necessity for the contractor to be a university rather than the Health Department; and he felt perhaps the most serious difficulty in the way was the legal authority of the New York City Health Department to engage in research activities.

Mr. Caddy, on the other hand, felt that consent from a prisoner might not be valid, and that to establish validity of such consent it might require an act of the legislature. Mr. Caddy suggested that a memorandum be prepared as to the legal obstacles confronting this type of research in New York or, conversely, how these obstacles might be surmounted. He stated that the State's Attorney's Office was sympathetic with the entire program and hoped that arrangements could be made to carry it out.

Dr. Richards pointed out that before a program of this sort could be undertaken, it would be necessary to obtain approval not only of the Subcommittee on Venereal Diseases and the Committee on Medicine, National Research Council, which is already available, but also of the Division of Medical Sciences and of NRC as a whole; and that Dr. Harrison and Dr. Jewett would have to be consulted as well as Dr. Weed. Dr. Richards reported also that the final authority was Dr. Vannevar Bush of OSRD, and that in his preliminary conversations with Dr. Bush three questions had

* Dr. Cohn of the New York City Health Department was unable to attend because of illness, but submitted his written report which appears hereafter.

2-
been raised: first, the legality of the proceeding; second, the social hazards involved, i.e., the political expediency; and third, that the desired result could not be obtained by any other means.

Mr. Donovan reported for the Legal Department of OSRD that the legal obstacles were far from insurmountable, and that in his opinion it would be perfectly possible to carry the experiment to a successful conclusion.

It was ultimately agreed that the preliminary opinion from OSRD would be requested on the basis of expediency and that if OSRD agreed that the experiment was desirable on medical and social grounds, opinions as to its legality would be sought from the Solicitor General of the United States and from the legal authority of the States involved. A decision on the former point is expected within a week to 10 days.

J. E. Moore, Chairman,
Subcommittee on Venereal Diseases.
National Research Council.

January 23, 1943.

