

## **Health Dept. Loses in AIDS Rule Dispute**

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By ROBERT PEAR, Special to The New York Times

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### **Body**

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The Bush Administration's sudden reversal on admitting foreigners infected with the **AIDS** virus resulted from a fierce struggle in which the Justice Department prevailed over public **health** experts, Administration officials said today.

In January, Dr. Louis W. Sullivan, Secretary of **Health** and Human Services, proposed to take **AIDS** off the list of diseases justifying the exclusion of aliens from the United States. But now the Administration has shelved that proposal.

The decision followed objections by conservatives and a flow of letters contending that the admission of foreigners infected with the **AIDS** virus would expose this country to public **health** risks and huge potential medical costs.

The Justice Department says it is not trying to second-guess medical judgments by the Public **Health** Service. But it questions whether Dr. Sullivan adequately documented his conclusion that **AIDS** is not "a communicable disease of public **health** significance."

#### **Bureaucratic Pique**

Justice Department officials said Dr. Sullivan's own agency had said that **AIDS** was a public **health** problem of immense significance.

In its proposal, the Department of **Health** and Human Services had also said that **AIDS** was not communicable through casual contact.

Bureaucratic pique also had a role in the Justice Department's opposition. Justice Department officials said Dr. Sullivan had not consulted any senior official of their department when making his decision, even though the Attorney General has primary responsibility for administering United States immigration laws. The Immigration and Naturalization Service is part of the Justice Department.

The White House has been trying to get Dr. Sullivan and Attorney General Dick Thornburgh to thrash out the issue, but so far the two men have not met to discuss it.

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## Potential for Compromise

Administration officials said they could discern the outline of a possible compromise. They suggested that aliens infected with the AIDS virus would still be prohibited from immigrating to the United States to become permanent residents, thus meeting the concerns about costs. But at the same time, they suggested, travelers and visitors would be able to obtain visas more easily for relatively brief stays. This would meet the concerns of advocacy groups and others who have complained for years that people infected with the AIDS virus were being kept out for no good reason.

Dr. Sullivan's proposal followed a change in Federal law. Under current law, aliens "afflicted with any dangerous contagious disease" are generally ineligible for visas to visit or live in the United States. The Immigration Act of 1990 redefined the grounds for exclusion and said aliens must be barred from the United States if they have "a communicable disease of public health significance."

That provision takes effect June 1, this Saturday. Administration officials said Dr. Sullivan might continue deliberations beyond that date to seek a compromise with the Justice Department.

In a notice published in the Federal Register on Jan. 23, Dr. Sullivan said aliens should not be excluded from the United States just because of infection with the human immunodeficiency virus, which causes AIDS.

## Little Added Risk of Contagion

"Allowing HIV-infected aliens into this country will not impose a significant additional risk of HIV infection to the U.S. population," Dr. Sullivan said then. AIDS is not transmitted by "casual contact" or through air, food or water, he noted.

Infection with the AIDS virus, Dr. Sullivan said, is "transmitted among adults in this country almost exclusively by two routes: sexual intercourse with an infected person and sharing of contaminated injection equipment" by drug users.

After receiving a torrent of public comments criticizing the proposal, Federal health officials told the Justice Department that people infected with the AIDS virus could be barred under another section of the immigration law if it appeared that they were likely at any time to become a "public charge," because of the high cost of their medical care.

This argument put the onus on the service and its parent agency, the Justice Department, to exclude people infected with the AIDS virus, because this section of the law is administered by immigration officials.

## Assessing Longevity

But Justice Department officials led by Deputy Attorney General William P. Barr argued that it was completely impractical for an immigration examiner to make a sophisticated analysis of an alien's infection and health insurance coverage to determine whether that person might become a public charge in 5 or 10 years.

It is "very common" for people infected with the AIDS virus to live for five years or more, said Dr. Jonathan M. Mann, a professor of epidemiology and international health at Harvard University.

In an interview today, Dr. Mann, who served as director of the global program on AIDS at the World Health Organization from 1986 to 1990, said, "A restriction on travel of people infected with the AIDS virus is inappropriate, unnecessary and unhelpful and would represent a clear victory for fear, misinformation and simplistic thinking over public health realities."

Jeffrey Levi, director of government affairs for the AIDS Action Council, whose members care for people with AIDS, said, "This issue is a battle for the soul of the Department of Health and Human Services because it comes down to a question of whether the agency will maintain its professional integrity in the face of this epidemic."

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In revising the immigration law last year, Congress said the Secretary of Health and Human Services should identify such diseases "based on current epidemiological principles and medical standards."

## Million in U.S. Already Infected

Some officials at the Department of Health and Human Services seemed reluctant today to defend Dr. Sullivan, who could not be reached for comment himself today. For example, Dr. William L. Roper, director of the Centers for Disease Control, which drafted the proposal to remove AIDS from the list of excludable conditions, said he did not care to discuss it. He noted that the department had received more than 30,000 public comments on the proposal, many in opposition.

Likewise, Constance Horner, the Deputy Secretary of Health and Human Services, said she would pass up the opportunity to explain Dr. Sullivan's position because she was "away Friday" and had not consulted recently with senior Administration officials. Mrs. Horner is often regarded as an exponent of conservative views in the department.

Dr. Mann said a million people in the United States were already infected with the AIDS virus. Excluding aliens with the virus "conveys the message that the danger is outside the U.S., is a foreigner, a stranger," he said.

If the United States continues to bar aliens infected with the AIDS virus, it could jeopardize the eighth international conference on AIDS scheduled to be held in Boston next year, conference planners said.

## Graphic

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Photos: Dr. Louis W. Sullivan, Secretary of Health and Human Services, proposed in January to take AIDS off the list of diseases justifying the exclusion of aliens from the United States.; Deputy Attorney General William P. Barr led the Justice Department's efforts to exclude aliens with the AIDS virus. (The New York Times)

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