

Transplantation[®]

FORUM

FINANCIAL INCENTIVES FOR CADAVER ORGAN DONATION: AN ETHICAL REAPPRAISAL¹

ROBERT ARNOLD, STEVEN BARTLETT, JAMES BERNAT, JOHN COLONNA, DONALD DAFOE,
NANCY DUBLER, SCOTT GRUBER, JEFFREY KAHN, RICHARD LUSKIN, HOWARD NATHAN, SUSAN ORLOFF,
JEFFREY PROTTAS, ROBYN SHAPIRO, CAMILLO RICORDI, STUART YOUNGNER, AND
FRANCIS L. DELMONICO²

Ethics Committee of the American Society of Transplant Surgeons

A panel of ethicists, organ procurement organization executives, physicians, and surgeons was convened by the sponsorship of the American Society of Transplant Surgeons to determine whether an ethically acceptable pilot trial could be proposed to provide a financial incentive for a family to consent to the donation of organs from a deceased relative. An ethical methodology was developed that could be applied to any proposal for monetary compensation to elucidate its ethical acceptability. An inverse relationship between financial incentives for increasing the families' consent for cadaver donation that clearly would be ethically acceptable (e.g., a contribution to a charity chosen by the family or a reimbursement for funeral expenses) and those approaches that would more likely increase the rate of donation (e.g., direct payment or tax incentive) was evident. The panel was unanimously opposed to the exchange of money for cadaver donor organs because either a direct payment or tax incentive would violate the ideal standard of altruism in organ donation and unacceptably commercialize the value of human life by commodifying donated organs. However, a majority of the panel members supported reimbursement for funeral expenses or a charitable contribution as an ethically permissible approach. The panel concluded that the concept of the organ as a gift could be sustained by a funeral reimbursement or charitable contribution that conveyed the appreciation of society to the family for their donation. Depending on the amount of reimbursement provided for funeral expenses, this approach could be ethically distinguished from a direct payment, by their intrusion into the realm of altruism and voluntariness. We suggest that a pilot project be conducted to determine whether this kind of a financial incentive would be acceptable to the public and successful in increasing organ donation.

An increasing number of patients awaiting solid organ transplantation are dying waiting on the list. This increase

¹ From the Ethics Committee of the American Society of Transplant Surgeons.

² Address correspondence to: Francis L. Delmonico, MD, Professor of Surgery, Harvard Medical School, Massachusetts General Hospital, Boston, MA 02114.

in mortality is the result of an ever-expanding number of candidates seeking organ transplants, coupled with a continuing shortage of donor organs. Our current approach to obtaining organs from a cadaver donor relies upon altruism and voluntarism. Donation is empowered by the consent of a family member to donate the organs of a deceased relative, or less commonly by the specified intent of the deceased. Over the past decade, only a 15% increase in cadaver organ recovery has been realized by this approach, clearly inadequate to meet the demand of those needing organs (1). Two observations help to explain the ineffectiveness of the current system. First, the recent data from the United Network for Organ Sharing (UNOS) suggest a decrease in the number of dead individuals suitable for organ donation; and second, the rate of family consent for organ donation remains low, ranging from 40 to 60% (2).

These observations prompted the American Society of Transplant Surgeons (ASTS) to assemble a panel of ethicists, Organ Procurement Organization (OPO) executives, physicians, and surgeons (under the auspices of the ASTS Ethics Committee) to reconsider financial incentives to increase the consent rate for organ donation. Previous proposals to provide such motivation, which have appeared sporadically but noticeably in the press and medical literature (3), have been highly controversial; in part, because of the National Organ Transplant Act (NOTA) of 1984 that states "it shall be unlawful for any person to knowingly acquire, receive or otherwise transfer any human organ for valuable consideration for use in human transplantation."

The panel's ultimate question was whether a financial incentive is an ethically acceptable method to increase the number of cadaver organs available for transplantation. There was an empirical assumption embedded in this question—that incentives will increase donation. In turn, this raises two additional questions: 1) will consent to donation increase among those who currently refuse and 2) will the program be perceived by those who currently consent altruistically, as an inducement that the devalues the gift; and thus, lead to a decrease in consent among this group?

Thus, the panel's practical objective was to assess whether an ethically acceptable pilot trial could be developed by the seminar participants that could plausibly receive the sanc-

tion of society (and the United States Department of Health and Human Services), and be tested as a means of increasing organ donation. Because such a proposal would be in violation of the current National Organ Transplant Act of 1984 (NOTA), congressional hearings would likely be necessary to develop the appropriate changes in the federal law.

Although the model of the Pennsylvania plan was discussed at the conference and is presented accurately in this review (see below), the panel did not attempt to solve practical questions such as who in the family would be eligible for the incentive, or how monies would be raised to pay for an incentive program. Rather the purpose of the panel's deliberations was to focus on the ethical eligibility of several plans. If the incentive plans were not believed to be acceptable, the details of a specific approach would not matter. However, if the panel were to consider one or more of these plans as acceptable, then it was acknowledged that further work would be needed to determine the plan's practicality.

BACKGROUND

Some consider the ethical arguments against financial compensation for organ donation to be disingenuous (4). They note that everyone in the organ transplant process (other than the live organ donor or next-of-kin who gives consent for cadaver donation) is compensated in some tangible way. A salary is provided to the OPO coordinator who obtains family consent, the OPO then charges an acquisition fee for the recovery of organs, the transplant surgeons and physicians who care for the patient are paid for their service, and finally the transplant center charges for the hospitalization.

Those who are opposed to monetary compensation for organ donation respond by pointing out that compensation for services rendered to the transplant recipient is ethically different from the compensation that would be provided for an organ. Providing compensation to the transplant center physicians and OPO staff is accepted by our society because these transplant professionals provide a service to patients in the exercise of their responsibilities; it is this professional service for which they are compensated. However, payment for organs would foster a commodification of the human body that is not referable to a professional service; it uses the human being as a means rather than an end in itself, and brings an unacceptable commerce to the value of human life (5).

WOULD A PAYMENT INCENTIVE INCREASE DONATION?

Those who are opposed to providing compensation as an inducement for organ donation emphasize that there is no evidence to conclude that financial compensation will accomplish the desired increase in donation (6). According to survey opinion polls, the approval for financial incentive programs varies from a low of 12% to as much as 52% (7, 8). The Gallup study of 6127 individuals found that only 12% of respondents reported an increased willingness to donate, and most thought that incentives would have no effect at all on their donation decision (7). Furthermore, there are data suggesting that a policy of compensation could deter donation from those who would have consented altruistically (6). Unless the approach of a financial inducement would increase consent for donation and the supply of organs, there would be little enthusiasm to initiate a controversial practice that may require a complex administrative system. Any proposal intended to increase consent for donation should be tested in a pilot fashion

to demonstrate its effectiveness, before recommending widespread implementation. Thus, the panel was well aware of the necessity to estimate utility and acceptability in the pilot proposal conceived as the result of its deliberations.

ADVERSE CONSEQUENCES FROM THE PAYMENT FOR DONOR ORGANS

The purchase of organs for the purpose of human transplantation could encounter formidable opposition from governmental, medical, and religious segments of our society because of the following undesirable consequences that such a policy might foster:

- It could exploit the poor as an economic underclass of organ donors to serve the wealthy
- It could risk the withholding of medical information that results in the transmission of donor disease (malignancy or infection) to the recipient (as experienced with blood donors see below)
- It could influence the family of a patient to prematurely withdraw care (if the death of a person is linked to the sale of their organs, and the payment is made to the next of kin who has the decision-making authority regarding the withdrawal of life support measures; such a transaction could blur the line between deciding to withdraw treatment and deciding to donate organs, which should be separate processes)
- It could result in the perception of the human organ as a commodity

Although the Food and Drug Administration does not currently prohibit monetary compensation for the blood donor, blood classified as recovered from a paid donor must be labeled as such, and it is rarely used (Christopher P. Stowell, CP, MD, PhD, Director, Blood Transfusion Service, Massachusetts General Hospital, Boston, MA). Blood donation in North America and western Europe has largely been transitioned to a volunteer, nonremunerated supply of donors because donation of blood from paid donors was shown to have a higher rate of posttransfusion infection (9). Paid donors who have an economic need for compensation were found to be untruthful about their medical history. Thus, blood donated from paid donors is now considered to be relatively unsafe for human use. Even as newer technology is being used to detect viral antigen in the blood of a donor within 24–48 hr of exposure, the issue of accurate and honest medical history remains critical to assuring safety. The same caution would apply to the acceptability of organs recovered from compensated donors.

Current societal views on financial incentives. The breadth of opposition to such payments for organs extends from the current law (National Organ Transplant Act of 1984) to a religious view expressed by Pope John Paul II in a statement to the 2000 International Congress of the Transplantation Society.

"Every organ transplant has its source in a decision of great ethical value: the decision to offer without reward a part of one's own body for the health and well being of another person. Here precisely lies the nobility of the gesture, a gesture which is a genuine act of love. It is not just a matter of giving away something that belongs to us but of giving something of ourselves, for by virtue of its substantial union with a spiritual soul, the human body cannot be considered as a mere complex of tissues, organs and func-

tions . . . rather it is a constitutive part of the person who manifests and expresses himself through it. Accordingly, any procedure which tends to commercialize human organs or to consider them as items of exchange or trade must be considered morally unacceptable, because to use the body as an 'object' is to violate the dignity of the human person."

Secular philosophical arguments come to a similar conclusion. Our society subscribes to a fundamental legal and moral principle that we are created equal, and that each individual has an intrinsic value as a person that cannot be assigned monetarily. Otherwise, it is readily conceivable in today's Internet world, that the worth of one person's bodily parts could be bartered against another's, by entrepreneur auctioning and electronic recipient bidding.

Some members of our society advocate for payment for organs because they hold the libertarian view that the autonomy rights of individuals are paramount, and that those rights encompass the ability to sell one's body or organs (10). This "right" to sell an organ from their own body, enables individuals to dispose of a valuable commodity that belongs to them, and as they see fit (11). These individuals understand the above undesirable consequences but believe that the abuses can be prevented through the establishment of regulatory bodies that would oversee organ sales (12).

Armed with this background of arguments in favor of and in opposition to the use of a monetary payment for organ donation, an ethics seminar was convened to consider the development of a proposal that would permit a financial incentive as a means to increase organ donation. Individuals were selected on the panel under the general auspices of the ASTS. Care was taken to choose individuals of different backgrounds who have expressed different opinions regarding incentives. Individuals were chosen because of their expertise in ethics, organ donation, transplantation, and public policy.

CADAVER VERSUS LIVE ORGAN DONOR COMPENSATION

The panel decided that it should focus on the ethics of experimental financial incentives to increase cadaver donation rather than live donation. A pilot project to provide a monetary inducement for the dead organ donor would avoid the risk of physical injury to a live donor. Transplant medical decision-making influenced by a consideration of a live donor payment could undermine the confidence of our society in the proper care of both the live donor and the recipient. The potential live donor could pressure the physician to make an inappropriate decision regarding donor suitability. The panel recognized the current position of the (international) Transplantation Society, which applies to live donation: "organs and tissues should be freely given without commercial consideration or commercial profit." (13).

However, it should be noted that the panel unanimously agreed with the participants of the recent live donor consensus conference in recommending that live donors should not personally bear any costs associated with donation (14). Indeed, the existing NOTA legislation does not prohibit "reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of the human organ or the expenses of travel, housing, and lost wages incurred by the human donor in connection with the donation of the organ."

In considering a variety of proposals, the panel addressed the amount, the timing, and the method of payment. The

sources of funds that were considered included a publicly established trust fund, a voluntary contribution fund, an OPO acquisition fee, funds legislated from state taxes, and federal or other grant funding. Each of the proposals presented practical and ethical complexities. As none of the compensation approaches was found to be uniformly acceptable, it became evident in the course of the deliberations that the controversies that had stymied the development of such plans previously were being revisited in the Boston seminar. Furthermore, the panel was aware of a 1994 Pennsylvania law that included a pilot program for reimbursement for funeral expenses to donor families; however, the state health department was not in favor of permitting the program to proceed (Nathan H, personal communication).

AN ETHICAL METHODOLOGY

The panel decided that its most significant contribution would be to develop an ethical methodology that could be applied to any proposal for monetary compensation as an incentive to consenting to cadaveric organ donation. The panel recognized that these ethical principles would constitute the ideal, and that compliance with all of these criteria might be difficult to achieve for any given proposal. The panel agreed to the following criteria for an ethically acceptable incentive:

- It should preserve the concept of the organ as a donated gift
- It should convey gratitude for the gift
- It should not subvert or diminish the current standard of altruism
- It should not be an excessive inducement that would undermine personal values and alter decision-making solely to receive the compensation
- It should preserve voluntariness (e.g., so that a family member is not coerced to donate by the will of another family member solely to receive the compensation)
- It should not lead to a slippery slope that fosters the sale of live human organs
- It should honor the deceased (i.e., it should not dishonor the merit of an individual's life by assigning a monetary value for the individual's organs)
- It should respect the sacred nature of the human body by not intruding or tampering without specific permission
- It should serve the public good by maintaining the current public perception of organ donation as good

It should maintain public trust by the following: not altering patient care by premature life support withdrawal from the person who might donate and not placing transplant recipients at increased health risk by jeopardizing the integrity of the organ pool.

Four approaches that could provide a financial incentive for the deceased's next of kin to consent to organ donation from the deceased family member were considered: 1) a direct payment for organs; 2) an income or estate tax incentive; 3) a reimbursement for funeral expenses; and 4) a contribution to a charitable organization determined by the family or the deceased. These were not exclusive proposals, as others could come to attention in the future. Nevertheless, the panel made the following assessment, applying the ethical methodology described above to each of the proposals, surveying the perspective of each panel member.

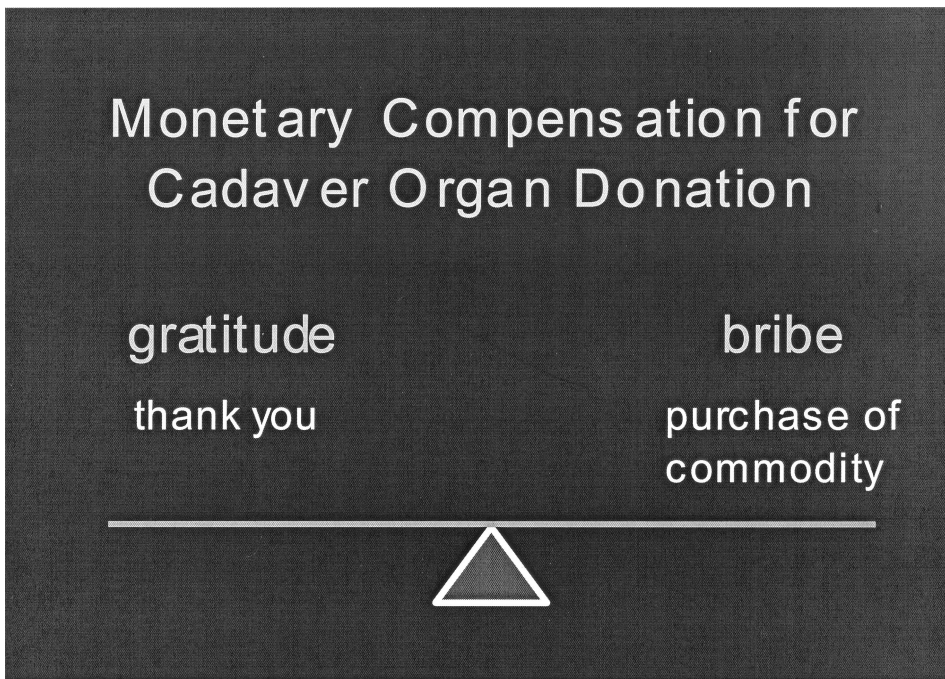


FIGURE 1. Monetary compensation for cadaver organ donation.

Direct payment for organs would *not* fulfill the following ethical principles: preserve the concept of a gift, convey gratitude for the gift, avoid commodifying organs, honor the deceased, not alter care of the donor, or maintain public trust in the integrity of the organ supply. In addition, depending on the amount of compensation provided, direct payment for organs would not likely fulfill the ethical principle of preserving voluntariness without an excessive inducement. Thus, a direct payment to provide an incentive for organ donation was not thought to be consistent with the ethical principles identified and should not be instituted.

An income tax credit could provide a significant incentive to increasing donation; however, a tax benefit is a form of a direct payment. As such, it appears to have many objectionable elements that are associated with a direct payment of money for organs to the next of kin. Moreover, one would have to write the legislation to counteract the typically regressive nature of the United States Tax Code.

A reimbursement for funeral expenses might not fulfill the following ethical principles, depending on the amount of compensation provided as an incentive: preserve the concept of a gift, convey gratitude for the gift, and avoid commodifying organs. However, again depending on the amount of compensation provided, reimbursement for funeral expenses might allow for altruism, preserve voluntariness, might not be an excessive inducement, could still honor the deceased, and it might not alter the care of the prospective donor. In addition, it could serve the public good and maintain public trust in the integrity of the organ supply if the reimbursement is emphasized to be a thank you by society for the donation. One would need to determine the reimbursements tax implications. Currently, reimbursements for funeral expenses, even if given directly to the funeral home, could be considered income and be subject to taxation. However, these reimbursements would still be considered pro-

gressive, providing more financial return to the poor rather than the wealthy.

A contribution to a charitable organization would fulfill all of the ethical principles. However, if the charitable contribution were too large, it might become an excessive inducement that alters voluntariness and commodifies organs. The charitable contribution would certainly convey gratitude.

ETHICAL PROPRIETY OF INCENTIVES TO INCREASE ORGAN DONATION

The above four approaches of providing a financial incentive for organ donation were considered in a spectrum ranging from an exchange of money for organs that could be perceived by some families to be a bribe, to emphasizing a thank you and gratitude on behalf of society for consenting to donation (Fig. 1). Given the motivation in a capitalistic society, the panel speculated that a direct payment might provide the greatest likelihood of increasing donation; however, a direct payment was also considered to be the least acceptable ethically (Fig. 2). In addition to violating many of the ethical principles, a direct payment for organs would clearly violate the current federal law, it would be difficult to standardize by the amount of payment, it would introduce bargaining for quality organs, and it would place the transplant community on a pathway to payment for organs from live donors. Conversely, the approach of a charitable contribution fulfilled the ethical principles, but it was also acknowledged that this approach might be the least likely to increase consent for donation. A reimbursement for funeral expenses was found by a majority of the panel to be consistent with the ethical principles identified, *depending on the amount of compensation* (see below). Moreover, ethical acceptability could be enhanced if the reimbursement was optional, to be accepted (or not) as the family wished, sustaining the principles of voluntariness and altruism.

FIGURE 2. Relationship of donor motivation levels and forms of payment.

	direct payment	income tax credit	funeral expenses	charitable contribution
ethically acceptable	low	low	moderate	high
likely to increase donation	high	high	moderate	low

DISTINGUISHING THE ETHICAL PROPRIETY OF A FUNERAL REIMBURSEMENT OR CHARITABLE CONTRIBUTION FROM A DIRECT PAYMENT AS AN INCENTIVE TO CONSENT TO ORGAN DONATION

Given the panel’s unanimous support for the concept of altruism, and its opposition to a direct payment for the reasons given above, the panel acknowledged that a simultaneous advocacy for a funeral reimbursement might be perceived to be the “fallback position” of a laundered form of compensation. At best, it could appear to be inconsistent.

On the contrary, the panel concluded that the concept of the organ as a gift could be sustained by a funeral reimbursement or charitable contribution that conveyed the appreciation of society. Guided by the ethical methodology formulated above, the panel focused on a central principle: the benefit to the family consenting for donation should be perceived as an expression of gratitude on behalf of society for the gift. This objective of expressing gratitude might seem to be unrealistic in a capitalistic society, and difficult to distinguish from a more market-based incentive such as a direct payment (15). Direct payment may convey gratitude and may honor the deceased, but by the ethical analysis that distinction of preserving the concept of the donated organ as a gift was clear. Moreover, because the gift is focused (on the funeral) rather than an open-ended financial gift, it reflects society’s attempt to thank the deceased individual for giving an organ.

Direct payment or an exchange of money for the organ more severely undermines the altruistic ideal than does a funeral reimbursement or charitable contribution, and as noted above, a direct payment brings an unacceptable commodification of organs. Whether families will appreciate these differences is an empirical question and one of the reasons for a pilot study prior to large changes in public policy (see below).

There were four panel members who did not approve of a funeral expense reimbursement as an incentive to consent for organ donation, because it violates pure altruism. Thus, there will be others who will reject monetary incentives in any form as ethically unacceptable. However, in balancing the obligation

to preserve altruism with the obligation to increase the supply of organs to save lives, the majority of the panel found the intrusion into the realm of pure altruism to be relatively more acceptable using a funeral reimbursement than a direct payment (when the ethical methodology was applied).

Further, in supporting the ethical propriety of a funeral reimbursement, the panel acknowledged an unresolved tension in the methodology that comes from a dynamic of supporting two goals: 1) a purely altruistic system in a capitalistic system and 2) the potential for a more effective method of procuring organs. That tension requires the balancing of the likely effectiveness of providing an incentive, with the ideal of sustaining voluntariness.

The system yielding the most donors would be one that mandated or required donation, followed by a system of presumed consent with a right to refuse, followed by a progression of less and less effective and more and more voluntary and altruistic systems. The selection of a reimbursement for funeral expenses emerges from the deliberations as a proposal that might achieve an effective balance. This option assumes that it will influence behavior, so it does not leave a purely altruistic system nor one of voluntarism intact. However, it proposes a system that sits squarely at the intersection of the conflicting values and attempts to protect the ideal of altruism while providing an opportunity to implement a more effective system. The data of organ donation demonstrate that the good of donation has not been realized in the context of pure altruism. If society takes that good seriously, we are challenged to develop an alternative system that is ethically defensible but improved by increasing organ donation.

ALTRUISM, COMMODIFICATION, AND INCENTIVES

Altruism is considered to be an action that is motivated primarily or solely by concern for the needs of others, and is freely chosen rather than done out of duty, obligation, persuasion or exploitation (16). This definition conveys the concept of doing good for someone else by one’s own accord that may carry some cost or risk to the agent. Altruism assumes that there can be conflict between what promotes one’s self-interest and the well being of others, and encourages indi-

viduals to consider primarily the interests and well being of others. This commendable good action on behalf of another has been the underpinning of organ donation as a nonobligatory virtue. Maintaining altruism as the central incentive to donation has averted the donation of organs from becoming a commodified exchange, which could be exploitive in nature, and as noted earlier, could bring an unacceptable commerce to the value of human life.

It is also important to note that our society does not permit its capitalistic system to operate in certain commodified exchanges because they are considered to be intrinsically wrong. For example, validation of consent is inadequate to neutralize the evil of slavery or prostitution. Slavery is not permitted to be practiced even if a person volunteers to be a slave, and prostitution is not condoned even if a person wishes to sell his or her body. In a similar vein, the buying and selling of organs has been considered by our society to be illegal and thus a prohibited exchange. If organ donation were to become legally commercialized, the ethical value of altruistic donation as a good act might be jeopardized. It might influence those who would have donated in an altruistic system, not to donate. Thus, the panel attempted to reconcile preserving the concept of the organ as a donated gift without the perception of commodification, and providing an incentive for organ donation.

RECONCILING ALTRUISM WITH THE AMOUNT OF COMPENSATION AS AN INCENTIVE

The application of altruism in a proposal to reimburse funeral expenses hinges on determining how much additional incentive would be acceptable for encouraging consent, and thus to do good; and yet, not overwhelm or exclude the possibility of altruism. The panel explored the limits of incentives that could comfortably coexist with altruism, and a majority concluded that "limited" reimbursement for funeral expenses and/or charitable contributions to be directed by the family represent acceptable approaches. However, the amount of compensation that would be considered limited engendered much debate. The cost of a funeral in this country varies but it is likely to be at least several thousand dollars (from the National Funeral Directors Association). Therefore, scaling such a compensation to convey gratitude for the donated gift, versus a perceived purchase of organs, became a controversial focus of the deliberations. A socially referable amount, such as a universal social security death benefit, was considered as a potentially acceptable standard.

The panel reviewed the mechanism by which a voluntary fund was created by the State of Pennsylvania as an Organ Donor Awareness Trust Fund (the Robert P. Casey Memorial Fund in honor of the Pennsylvania Governor who was a multiple organ transplant recipient) to provide a reimbursement for funeral expenses made directly to the funeral home of an organ donor (and not cash in hand to the next of kin). The Pennsylvania Funeral Benefits Pilot Program is part of a legislative effort to increase organ donation. The legislation included provisions enabling people to indicate their willingness to donate organs on their driver's license and at the time of their car title renewals, and to donate one dollar from their license fee and car title renewal fees to the Organ Donor Awareness Trust Fund. Ten percent (\$120,000) of the fund has been dedicated to the Pennsylvania Funeral Benefits Program. Although the legislation allowed for a maximum reimbursement of \$3000, the Trust

Fund at the time of creation was only large enough to offer \$300 to each family of 400 anticipated donors. The program was set up to be voluntary, meaning that families would have the right to refuse the funeral benefit. Only the OPO staff was authorized to discuss funeral benefits with families after consent for donation had been obtained. The OPO would serve as the conduit of a reimbursement directly to the funeral home and not to the donor family.

Nevertheless, the pilot program was not initiated because of concern by state government officials that it might be a breach of the current NOTA. A substitute plan is being proposed for reimbursement of incidental expenses such as food and lodging expenses for families of donors. However, there is disagreement on the state advisory committee of whether this is an appropriate use for these funds (Nathan H, personal communication).

THE AMOUNT OF COMPENSATION BY FUNERAL EXPENSES VERSUS CHARITABLE CONTRIBUTION

The panel was then polled as to the amount each might consider as an appropriate benefit for either a funeral expense reimbursement or a charitable contribution. The amount of compensation considered acceptable for funeral expenses (\$600–3500) interestingly exceeded the amount that the panel would have proposed for a charitable contribution (\$500–1500). The dilemma is revealed by the range of responses. Providing a financial incentive that would be appropriate to convey gratitude, although not providing an excessive amount that undermines societal values and altruism, is not an easily accomplishable goal. Moreover, the difficulty was compounded by the following observation: an excessive amount for an individual of one socioeconomic status may not be an inordinate benefit for another.

THE USE OF A PUBLIC OPINION SURVEY

Some panel members suggested that a current public opinion survey might be a helpful reference in determining a socially acceptable amount of compensation for an approach such as a reimbursement for funeral expenses. Such a survey could also solicit public input regarding the use of a financial incentive for consent to donation. This is an important goal because after meeting the test of ethical acceptability, the most significant measure of any compensation approach would be to determine whether it would be effective in increasing organ donation.

The National Kidney Foundation (NKF) has conducted surveys of donor families to determine the factors that influenced their decision to donate. A recent questionnaire included the following: "If you were offered a small monetary donation (\$300) to help pay for the funeral services of your loved one at the time the option of donation was presented, would that have influenced your decision to donate? The survey was sent to approximately 3000 families and 160 replied. Only 3 of 160 responded "yes," 77 said "no," and 80 replied "unsure" (Paykin C, National Kidney Foundation, personal communication). Many commented that this form of compensation could lessen the value of the gift.

Another public opinion survey is to be conducted in the near future. Sponsored by the Greenwall Foundation, this survey will assess the impact of a financial incentive on organ donation, by determining the respondents' understanding of and reaction to the proposed Pennsylvania program, and examining

how various benefits programs might affect the decision-making process (Arnold R, personal communication). This reference base of public opinion could be used in the genesis of a pilot financial incentive proposal. However, it could be argued that a public opinion survey is a weak surrogate for how individuals actually act when faced with the decision to donation. For example, although more than 70% of individuals say that they would be willing to donate their loved one's organs when asked in public opinion polls, less than 50% actually do so when confronted with the decision.

NEW LEGISLATION

Congressional legislation has been proposed that would amend the Internal Revenue Code to allow a \$2500 tax deduction against gross income or a tax credit against a tax liability "of a qualified person" for all "qualified organ donations" (17). The term "qualified person" is meant to include either a live organ donor, or in the case of a deceased organ donor, the designated beneficiary or estate. The term "qualified organ donation" is meant to include the donation of a kidney, liver, heart, pancreas, pancreatic islet cells, lung, or intestine; it is not to include the donation of an organ, if for example the donor had committed suicide, or had received assistance from a physician to end his or her life. As noted above, the participants of the seminar did not consider the tax credit plan ethically acceptable because they considered it to be tantamount to a direct payment.

SUMMARY

The inverse relationship between financial incentives for increasing the consent for cadaver donation that would be ethically acceptable (charitable contribution) and those approaches that might be successful (direct payment) was clearly evident in the deliberations of this seminar. The panel unanimously supported the use of a charitable contribution to the family of the deceased as an ethically acceptable expression of gratitude from society. The family would be able to readily understand a charitable contribution as being a thank you for the gift of donated organs. However, this approach was also considered to be less likely to provide an incentive for families' consent for donation, than a direct payment for organs might achieve. In contrast, the direct payment uniformly violated all of the ethical criteria for organ donation financial incentives established by the participants of the seminar. Thus, there was unanimous opposition to a direct payment (or a tax benefit) to consenting families as a means of increasing cadaver organ donation.

A majority of the panel members supported the use of a funeral expense reimbursement as ethically permissible. However, some were opposed to it as a thinly veiled form of a payment. Nevertheless, a majority contended that this form of incentive could be promulgated as an expression of appreciation to the family for their gift. The perception of gratitude was the critical determinant of ethical propriety to distinguish this approach from compensation for organ donation that might be perceived as a bribe. The emphasis of a thank you for the donated gift could be linked to a reimbursement for funeral expenses, to achieve an ethical propriety and preserve the public good. By limiting the compensation to a reasonable amount targeted to expenses, altruism and voluntariness would not be subverted or diminished.

CONCLUSIONS

A system of organ donation based on the ethical standard of altruism is ideal, but it has been inadequate in achieving a high rate of consent for donation. The ethical imperative of saving further lives necessitates an attempt to reconcile the good that might be achieved by a more effective system (pilot use of the funeral reimbursement incentive) with the ideal of the purely altruistic system.

Altruism should not be abandoned for an organ donation system that would commodify human organs. However, among the spectrum of proposals that could provide a more effective system, the panel concluded that the concept of the organ as a gift (and altruism) could be sustained by a funeral reimbursement or charitable contribution that conveyed the appreciation of society to the family for their donation. The reimbursement for funeral expenses was found to be consistent with the principles of the ethical methodology, to be an acceptable approach to test as a financial incentive, and less undermining of the altruistic ideal than a direct payment or tax incentive. These conclusions lead us to suggest that a pilot project be conducted to determine whether this type of program, as an expression of societal gratitude, would be acceptable to the public and successful in increasing cadaver organ donation.

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