



The Case Against Dr. Butler

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Early this year, government investigators, who have yet to determine who was responsible for the anthrax attacks, were faced with another scare with another possible bio-terrorism weapon: deadly bubonic plague.

This scare involved 30 vials of the plague bacteria that had disappeared from a research laboratory.

There had been intelligence reports that Osama bin Laden had an active program to weaponize plague for use in the United States. And so, when the 30 vials turned up missing from the laboratory of a world-renowned scientist at Texas Tech in Lubbock, the president was briefed, and a full-scale investigation was launched.

The scientist is Dr. Thomas Butler, who was working on a new antidote for plague when he discovered the 30 vials missing from his lab. Butler gives his only interview to **Correspondent Lesley Stahl**.

Butler feared the vials were stolen. "It was my leading concern," he says.

He reported to university officials that the vials were missing, and in no time, 60 FBI agents showed up. Butler was questioned for nine hours, and his lab and his home searched thoroughly. After finding no evidence of a break-in, the FBI concluded there had been no theft and honed in on Butler.

"They presented me with their evidence of the investigation that pointed to only one possibility, and that was accidental destruction," says Butler.

Butler says if he had destroyed the vials, he'd remember, which he didn't. But he says the FBI pressed him anyways to sign a statement that he had "accidentally destroyed" the vials -- and that he had done so long before he reported them missing. In other words, that he had lied.

"They told me that I would not be charged if I were able to confirm the accidental destruction," says Butler.

He says they told him if he signed a confession, he could go home, case closed. So he signed, even though no attorney was present. But instead of going home, Butler was hauled off to jail in handcuffs and leg irons. The charge? Lying to the FBI.

"I was tricked and deceived by the government. I feel I was naïve to have trusted them and the assurances they gave me," says Butler.

"They wanted to conclude the investigation and, they told me, reassure the public that there was no danger to the public."

Today, at 61, Butler's long and distinguished career is in ruins. He's a physician, a professor, and perhaps the nation's leading researcher on plague.

"I was working with a specific antibiotic called gentimycin, which our FDA wants, if effective in plague, to add to the national stockpiles for use in a possible bio-terrorist attack," says Butler.

What can he say to people who are hearing this story and wondering how 30 vials of a deadly pathogen can be missing? How could this have happened?

"Destruction of bacteria is a routine procedure in laboratories. And for one set of vials to be mixed up and placed

inadvertently into the sterilizer is something that might happen," says Butler. "It could be carelessness. It could be hurried activity at the end of a day."

However, Butler said the FBI had come to the conclusion that he had accidentally destroyed the plague bacteria: "I didn't quickly accept it as the right explanation, but I did because I trusted the FBI agents."

Even Butler's friends would tell you that it's impossible for them to see him as a criminal. But he is now barred from his lab, his research has been confiscated, and he stands accused of 69 felonies – a maximum penalty, he says, of more than 400 years in jail.

A court imposed a gag order in the case about an hour after **60 Minutes** finished our interviews with Butler and his lawyer, Jonathan Turley.

Turley says the government is engaged in massive overkill, its war on terrorism run amok: "They came to this town with 60 agents. And I think that they were planning to leave with an indictment against someone."

He says it's rallied scientists from all over the world: "For these scientists, this isn't just anybody, you know. Tom Butler is revered by scientists. I mean, as an academic I wish people would say these things about me."

"There is no question that the government should have and did take this seriously," adds Turley. "They had to. He took it seriously. How this got to this point, I'll never know. This is a train wreck."

Turley says that after the initial charge of lying, the government kept adding new counts to the indictment: smuggling, mail fraud, embezzlement, theft, "shadow" agreements with pharmaceutical companies and tax evasion.

Butler's lawyer says the government is persecuting his client: "The charges here refer to things like permit violations. That is, you know, not having the correct paperwork, not having the correct labels. There's a tax charge in there, a tax charge that deals with the world's most arcane tax question. I mean, you read these counts and they've got everything but ripping, you know, labels off mattresses."

The fraud allegations deal mostly with how Butler handled research grants. For instance, there is one that says he cheated his university, Texas Tech, out of approximately \$300,000.

"It's a standard dispute. I've had these disputes as an academic with my university. Every academic has a dispute like this," says Turley.

Since no one from the government could talk to **60 Minutes** because of the gag order, we asked Andrew McCarthy, a former federal prosecutor, to examine the case.

"I don't think it's remotely heavy-handed. This is a time when it's important to get the message out to the world that we're serious about dealing with components of weapons of mass destruction," says McCarthy.

Part of the government's case involves the way Butler brought the vials into the U.S. He went to Tanzania last year to collect live samples of bubonic bacteria. As he has throughout his career, he hand-carried the specimens on the flight home to the U.S.

"As a general practice over many years, several decades, scientists have transported medical specimens containing plague or other germs on airplanes," says Butler. "In fact, there's an expression that's been used: V.I.P.— vials-in-pocket - which indicates that sometimes they're just put in a coat pocket."

Butler's been charged with smuggling the vials into the country, in violation of laws requiring scientists to ship deadly biological agents like plague in special safety containers and label them properly. Butler says he was unaware of that law, and still thinks hand carrying is preferable.

"The alternative is to send them by air freight. But there you have to rely on baggage handlers who may not be well informed about how to handle things carefully," says Butler.

But McCarthy disagrees: "My reaction to that is. When I came to Washington yesterday, I needed to take my shoes off to get on the plane. I wasn't happy about that. But the nun in front of me needed to take her shoes off too. As far as the scientific community is concerned, they need to change like everybody else needs to change."

Then why all these charges about fraud and money?

"He's going to try to convince the jury that he's been railroaded and that the FBI agents are the dishonest ones in the equation," says McCarthy. "So, the jury's going to be asked to make a very simple decision: who's telling the truth? Is it the multiple fraudster who's telling the truth? Or is it the FBI agents, who don't have a reason to lie?"

Dr. William Greenough, a physician and medical researcher at Johns Hopkins University, is Butler's long-time friend and colleague. He says that Butler has never had any ethical problems.

The new Nobel Prize winner in chemistry, Peter Agre, has also offered to donate some of his winnings to the Butler defense. And the prestigious National Academy of Sciences wrote Attorney General John Ashcroft to protest the government's handling of the case.

"Tom Butler's only the second case of a U.S. academic that's been take up by the National Academy of Science," says Greenough.

Who was the other? Wen Ho Lee, the physicist that the government imprisoned on charges of spying for China. The judge who dismissed the charges said it was an example of prosecutorial excess. Dr. Greenough, who sees a parallel with this case, says he himself has hand-carried lethal pathogens into the country the same way Butler did.

"I feel the government has over-reacted. It's a tremendous overkill," says Greenough.

How is it possible that Butler didn't know how those missing vials were lost?

"I think it's probably a good thing that you don't know how many samples are in deep freezers and refrigerators in laboratories, and we haven't been required to keep a careful catalog of everything," says Greenough. "We should be better bankers, yes. No doubt about it. He did, to his credit, note some samples missing, which perhaps is remarkable in itself."

Greenough says the missing vials should have been a matter for the university, not the FBI. But McCarthy says Butler's "recklessness" deserves jail time.

"We can't make exceptions because, you know, we have upstanding, 61-year-old, amiable, well-educated doctors who have other facets of their personality that may be even admirable," says McCarthy. "Because if it doesn't get jail time, then all scientists will continue to do it. And it will continue to be very dangerous."

The case is scheduled for trial on Nov. 3. Butler says he won't entertain a plea bargain if it involves any jail time or admitting that he lied to the FBI. He has also recanted his confession. He now says he has no idea what happened to the missing vials.

Turley has also confirmed that he has filed a legal motion in which he says that Butler still doesn't know if the vials of plague were lost, stolen or destroyed.

"There's a lot of things alarming about this case," says Turley. "And it's not just a question of missing vials. I'm alarmed about the entire bloody case."