

Owing to incomplete and often sensationalized media coverage that has obscured the public's understanding of the Dr. Butler's case, we offer a brief factual history up to this point.

In January '03, Dr. Thomas C. Butler, a professor and scientist in the Internal Medicine Division of TTUHSC for over 16 years, noticed 30 vials of plague missing from his laboratory. He notified the TTUHSC lab safety officer and the Chair of his department concerning the missing vials, who in turn notified the Dean. Following a phone call from the Dean, TTU police responded to theft concerns, and later that evening the FBI flew 60 agents into Lubbock to interrogate Dr. Butler, among others, on concerns of bioterrorism.

Dr. Butler, who is 62 years old, was interrogated alone and without recording equipment by a handful of FBI agents first from 6-10 at the local police department and then in a small windowless room from 12-2 that evening. He then returned home and allowed agents to search his house where his wife and two young children (5 and 14) slept. He returned to the interrogation room the following morning at 10 on less than three hours of sleep. He endured intimidation in the form of multiple lie-detector tests administered by a professional interrogator and was finally persuaded to sign a written confession - all without a lawyer present - after being assured that it would diffuse public concerns and allow him to get back to work.

He was arrested immediately afterwards on lying charges (of which he would later be acquitted) and spent 6 days in prison, only to be released on \$100,000 bail. He and his family have continued to endure humiliating conditions since then, including:

(As described in "Statement by Nobel Laureates Peter Agre et al.) "Humiliating conditions of house arrest that initially involved wearing an electronic monitoring device, being allowed only 4 hours per day (9am-1pm) free movement away from home, a prohibition against his use of a computer or email, and being forbidden contact with colleagues who might be called as witnesses in his defense. These are extreme and paralyzing punishments for a scientist, and seem to presume guilt without proof. (Some four months later, upon appeal and posting of \$225,000 bond, these conditions were subsequently modified to permit 12 daily hours away from home, and use of a computer and email.)"

The National Academy of Sciences (NAS) came to the defense of Dr. Butler in May '03 on concerns that he was being treated inhumanely, only the second time in its history that it has made such a stand. The New York Academy of Sciences, The National Academy of Engineering, and The Institute of Medicine each issued a similarly worded statements. Nobel Laureates Peter Agre, Sidney Altman, Robert Curl, and Torsten Weisel issued an open letter several months later expressing grave concern about the repercussions this case may have on scientific freedom.

Across the nation it is common practice for universities to stand behind their faculty in the event that they experience legal troubles. Not only has TTU provided Dr. Butler with no assistance - morally or otherwise - it has worked hand in hand with government prosecutors in crafting legal strategies to humiliate and cripple him.

The government admitted during trial proceedings that it had ruled out any possibility of terrorism within the first day of investigation, yet TTUHSC has continued until now to treat Butler like a dangerous criminal. Motivations are unclear, but during the trial several TTU employees offered damaging testimony about lax lab security, vague consulting contract policies, and improper behavior among the administration towards Butler (the VP for Research ordered several career-threatening audits of Butler's work in apparent retaliation for an earlier grievance Butler brought in 2001). A reputable source has reported that TTU may also be afraid of losing government funding for sensitive bioweapons research on select agents (as an example, TTU currently is conducting a study in which large amounts of ricin can be grown from castor beans).

In another example of TTUHSC's unwillingness to be fair with Dr. Butler, it maintains to this day that he lied to the lab safety officer about the vials (TTUHSC's dismissal letter), even though he was acquitted of all lying

charges by the jury in federal court. Meanwhile, Dr. Butler has been forced to spend over one million dollars out of his own pocket in order to defend himself.

Presently Dr. Butler is awaiting sentencing from Judge Sam Cummings, and TTUHSC has sent him a letter of dismissal. His lawyers have filed a motion for acquittal on all counts or a new trial and hope for leniency in sentencing.

Below is a summary of the charges brought against Dr. Butler. It is significant to note that charges 1-54 were completely unrelated to the original investigation and were only added after Butler refused to accept an early plea bargain.

#### **Counts 1-54: Fraud**

These charges contended that monies received by Dr. Butler from Pharmacia, Chiron, and the FDA were in violation of Texas Tech Policy and thus constituted fraud, mail fraud and wire fraud. These payments were used to cover Dr. Butler's non-state salary (an arrangement with university administrators that had been in place for the previous ten years) and were used to fund research projects off campus, such as his plague research in Tanzania. Texas Tech believes that it suffered a monetary injury as the result of these appropriations. The defense demonstrated in trial that direct and indirect costs to Texas Tech of Dr. Butler's research were covered by his funding.

Verdict: Not-guilty: 10 (All FDA payments, some drug company payments), Guilty: 44

#### **Counts 55-59, 65-66: Smuggling of Plague into the United States and to Government Agencies**

The prosecution argued that Dr. Butler's transport of plague specimens to the United States as well as to Fort Detrick, MD and to the CDC was done without the proper paperwork and constituted smuggling.

Verdict: Not guilty on all counts

#### **Counts 61-64: Transport of Plague to Tanzania**

The government claimed that the transport of plague specimens, which were the property of the Tanzanian Ministry of Health, back to Tanzania without obtaining permits and properly labeling the FedEx package was illegal.

Verdict: Not guilty: 1 (CDC forms), Guilty: 3 (Department of Commerce export form, FedEx forms)

#### **Counts 60, 67-68: False Statements to FBI, Texas Tech**

These were the more publicized counts. The FBI contended that Dr. Butler misled them about the disappearance of the plague bacteria as well as his knowledge about paperwork needed for transporting select agents. Texas Tech believed that he misled them about the status of plague in his laboratory.

Verdict: Not guilty on all counts

#### **Count 69: Tax Evasion**

The IRS alleged that Dr. Butler underreported his income.

Verdict: Not guilty

Summary: Dr. Butler was cleared of all charges related to the original plague scare in January. Of the initial 15 count indictment, he was cleared of all the allegations with the exception of the single FedEx shipment to Tanzania. The 54 additional counts, brought on by the federal government and Texas Tech immediately following Dr. Butler's rejection of a plea bargain that would have required him to admit to lying to the FBI, formed the overwhelming majority of the guilty counts. It is perhaps the first time, according some lawyers, that a university has criminalized a funding dispute, rather than trying to resolve it in-house or in a civil court.