



IN DEFENSE OF ANIMALS

September 12, 2003
VIA FAX (2 pages) and mail

The Honorable James Greenwood
Chairman, Subcommittee on Oversight and Investigations
House Committee on Energy and Commerce
2436 Rayburn House Office Building
Washington, DC 20515

Re: Illegal Threats Apparently Issued by the NIH's Alamogordo Primate Facility

Dear Chairman Greenwood:

Because of your demonstrated concern for the welfare of chimpanzees in labs, as well as your longstanding oversight actions regarding accountability at the National Institutes of Health, In Defense of Animals is writing this letter to apprise you of a profoundly disturbing situation at the NIH's Alamogordo Primate Facility (APF).

The APF, located on Holloman Air Force Base in Alamogordo, New Mexico, is operated by Charles River Laboratories, Inc. under a federal contract with the NIH. The APF is a "government-owned, contractor-operated" chimpanzee holding facility under the direct control of the NIH. In June 2001, Charles River Laboratories took over operations from The Coulston Foundation.

As you know, the NIH continued to fund Coulston for years despite unprecedented violations of animal welfare laws resulting in the negligent deaths of numerous chimpanzees. The NIH's malfeasance regarding Coulston is currently the subject of an investigation by your Committee.

Given the years of violations at Coulston, and the intense Congressional scrutiny led by you, one would think that the NIH would exercise that much more due diligence to ensure compliance at the APF. However, IDA has submitted evidence to the Otero County, New Mexico District Attorney alleging that the APF has apparently violated the New Mexico "Cruelty to animals" statute (Chapter 30 [Criminal Offenses], Section 18 [Animal] of the New Mexico code). As a result, the D.A. has initiated a criminal investigation. (Because the APF is defined as a federal research facility – even though no research is conducted there – the USDA does not have jurisdiction.)

Based on this evidence, IDA believes that the situation at the APF is actually worse than it was under The Coulston Foundation. Charles River's apparent reaction to the District Attorney's current criminal investigation of the APF seems to be consistent with this opinion.

IDA understands that, after learning about IDA's submission of evidence to the Otero County District Attorney and the resulting current criminal investigation, APF Director Dr. Rick Lee convened an all-employee meeting on August 29, 2003. At that meeting, Dr. Lee apparently repeatedly threatened to subject all of the assembled employees to lie detector tests in an apparent attempt to determine the identities of those who may have given information to IDA.

According to attorneys consulted by IDA, the Employee Polygraph Protection Act of 1988 (29 U.S.C. Chapter 22) states that it is unlawful for any employer to “require, request, suggest” or force any employees to take a lie detector test. It is also unlawful for any employer to “discharge, discipline, [or] discriminate in any manner” against employees who refuse to take such tests.

Additionally, attorneys have told IDA that any discrimination, discharge or any other form of retaliation against any current or former APF employees related to IDA's submission of evidence to the Otero County District Attorney, or to any other law enforcement, Congressional or oversight body, would violate the New Mexico Human Rights Act as well as the Animal Welfare Act.

Based on the apparent climate at the APF, IDA is concerned about just such retaliation. IDA is fully prepared to assist in vindicating the rights of any current or former APF employees who may suffer such illegal retaliation with any lawful means at our disposal. Such means could include, but not be limited to, funding lawsuits and notifying our international media contacts.

However, we believe that such actions on IDA's part should not be necessary. Federal contractors – especially ones operating government facilities – should not be allowed to violate state or federal law with impunity. The Coulston Foundation – enabled by the NIH's continued funding and duplicity – thumbed its nose at the law for years at this same facility. The APF is now under the direct oversight of the NIH, yet the situation appears worse. Indeed, IDA is not aware of Coulston ever threatening employees with polygraphs, despite our years of obtaining information from whistleblowers inside Coulston. Similarly, we believe that the evidence we have submitted to the District Attorney details animal treatment worse than anything ever documented at Coulston.

As you may know, In Defense of Animals has a special interest in the hundreds of chimpanzees at the APF who were formerly “owned” by The Coulston Foundation. IDA has fought for these chimpanzees for ten years, and has testified before Congress about them and the malfeasance of both Coulston and the NIH regarding their treatment. The evidence that IDA has submitted to federal agencies such as the USDA and the Food and Drug Administration has been repeatedly upheld, and has led to unprecedented regulatory action.

IDA would be happy to brief your staff in more detail regarding this extremely troubling situation. It is our hope that your staff will look into this matter so that the chimpanzees and the employees at this federal facility will be protected from violations of federal law.

Thank you for your longstanding efforts on behalf of chimpanzees and accountability at the NIH.

Sincerely yours,

Elliot Katz, DVM
President

cc: Dr. Elias Zerhouni, Director, NIH
Dr. Judith Vaitukaitis, Director, NCCR
James Foster, CEO, Charles River Laboratories, Inc.
Dennis Shaughnessy, Vice-President and General Counsel, Charles River Laboratories, Inc.