

CHRONOLOGY OF EVENTS LEADING TO MULTIPLE COUNTS OF CRIMINAL ANIMAL CRUELTY FILED AGAINST THE NIH'S "ALAMOGORDO PRIMATE FACILITY" OPERATOR

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September 2004

Note: In Defense of Animals believes that the unprecedented criminal animal cruelty charges filed on September 7, 2004 against the National Institutes of Health's contractor operating the agency's Alamogordo Primate Facility can only be understood in the context of the NIH's long history of negligence, malfeasance and duplicity regarding this lab. Numerous instances of neglect leading to negligent chimpanzee and monkey deaths have been documented by IDA over the years, and many of the same players previously involved in this negligence are also currently involved in the criminal animal cruelty charges filed by Otero County, New Mexico District Attorney Scot Key. Consequently, IDA is including some of this history so that the public can more fully understand the extent of the NIH's responsibility for the multiple counts of alleged criminal animal cruelty committed by its hand-picked contractor, Charles River Laboratories, Inc. and Charles River's APF Director veterinarian Dr. Rick Lee.

Late 1950s – The U.S. Air Force forcibly removes numerous young chimpanzees from Africa and brings them to Holloman Air Force Base in Alamogordo, New Mexico. The Air Force establishes this chimpanzee colony to conduct space travel-related experiments in anticipation of human space flight.

Early 1960s – After being forced to undergo various procedures by the Air Force, chimpanzee Ham precedes astronaut Alan Shepard's sub-orbital space flight, while another chimpanzee, Enos, paves the way for John Glenn's multiple orbits around the earth.

1970 – The Air Force decides it no longer needs the chimpanzees for space research, and begins to lease the chimpanzees for biomedical experiments.

1972 – Toxicologist Dr. Frederick Coulston takes over management of the Holloman Air Force Base colony for Albany Medical College.

1981 – After leaving Holloman, Dr. Coulston establishes the White Sands Research Center toxicology lab on LaVelle Road in Alamogordo, New Mexico. Coulston will later advertise the availability of chimpanzees for the development of cosmetics and insecticides. White Sands and its 125 chimpanzees will eventually be merged into The Coulston Foundation.

1981 – Dr. Edward Taub, a researcher funded by the National Institutes of Health, is charged with multiple counts of criminal animal cruelty by Maryland prosecutors after investigators find 17 monkeys in appalling conditions. Taub is eventually found guilty of one count of cruelty against the primates, who become widely known as the “Silver Spring Monkeys.” The Maryland Supreme Court overturns Taub’s conviction on a technicality, finding in 1983 that the Maryland cruelty to animals statute was never intended to cover federally funded research. The Maryland legislature amends the statute to close this loophole the year after this decision.

The Taub prosecution marks the first time an animal researcher or laboratory has faced criminal cruelty charges. Until 2004 – when Otero County, New Mexico District Attorney Scot Key files criminal charges against the NIH’s Alamogordo Primate Facility (APF) contractor for multiple counts of alleged criminal animal cruelty committed against chimpanzees at the APF – there is only one other such case, filed in 1995 against an individual who worked at Hazelton Research Products in Michigan. Unlike the Taub or Hazelton cases, the criminal cruelty charges in New Mexico are filed for facility-wide institutional neglect allegedly committed by the NIH’s contractor, Charles River Laboratories, Inc., as well as the facility director, veterinarian Dr. Rick Lee.

The Taub-“Silver Springs Monkey” case helps to launch People for the Ethical Treatment of Animals (PETA). Later in the decade, the NIH will blatantly renege on a promise not to conduct invasive research on the Silver Spring Monkeys by opening some of the monkeys’ skulls and exposing their brains. The NIH’s actions prompt outrage from members of Congress and the public.

April 1993 – Frederick Coulston returns to take over the management of the chimpanzees on Holloman Air Force Base. The Coulston Foundation is incorporated, and takes over care of more than 500 chimpanzees from New Mexico State University, the U.S. Air Force, and Frederick Coulston’s White Sands Research Center. The Foundation operates two separate sites: the old White Sand Research Center lab on LaVelle Road and the chimpanzee facilities on Holloman Air Force Base. The National Institutes of Health begins funding the Foundation with millions of dollars annually for various experiments; the total will eventually exceed \$40 million.

October 1994 – The Coulston Foundation signs a five-year lease to care for approximately 150 Air Force-“owned” chimpanzees, who had previously been managed by New Mexico State University. The Foundation obtains use of the \$10.5 million, taxpayer-funded housing facilities on Holloman Air Force Base and can perform any experiment it desires on the Air Force chimpanzees.

November 1994 – IDA begins its investigation of The Coulston Foundation and the NIH’s funding of the lab, and starts to establish a network of whistleblowers at the Foundation that will eventually provide vital information

on violations that will be repeatedly corroborated by various federal and state law enforcement agencies.

May 1995 – The Air Force tries to give away to The Coulston Foundation the \$10.5 million taxpayer-funded chimpanzee housing facilities on Holloman Air Force Base and the 150 Air Force chimpanzees. An intense lobbying effort led by Dr. Jane Goodall prevents this; instead, Congress will mandate a competitive bid process.

July 1995 – The U.S. Department of Agriculture (USDA) files its [first set of formal administrative charges](#) against The Coulston Foundation for the 1993 overheating deaths of the chimpanzees Robert, James and Raymond, the 1994 water deprivation deaths of four monkeys, and various other violations. The USDA charges corroborate information provided by IDA's network of whistleblowers. The NIH continues to fund the lab with millions of tax dollars.

March 1998 – The USDA files its [second set of formal administrative charges](#) against the Foundation for the negligent 1997 deaths of the chimpanzees Jello and Echo, inadequate veterinary care, and various other violations. The USDA charges corroborate information provided by IDA's network of whistleblowers. The NIH continues to fund the lab with millions of tax dollars.

August 1998 – After a lengthy and contentious bid process, the Air Force awards 111 of the 141 surviving Air Force chimpanzees to The Coulston Foundation, despite the lab's long history of negligence. Air Force veterinarian Dr. Denver Marlow helps coordinate the effort. The Air Force, which had described the chimpanzees as "piece[s] of equipment," is widely criticized for its decision by animal protection groups.

October 1998 – The Center for Captive Chimpanzee Care, a Florida-based sanctuary which had bid to permanently retire the Air Force chimpanzees, sues the Air Force over the award. The lawsuit is handled pro bono by Spriggs & Hollingsworth, a Washington, DC-based firm.

February 1999 – The USDA files its unprecedented [third set of formal administrative charges](#) against The Coulston Foundation for the negligent 1998 deaths of the chimpanzees Terrance, Muffin and Holly, inadequate veterinary care and research oversight, and various other violations. The USDA charges again corroborate information provided by IDA's network of whistleblowers. The NIH continues to fund the Foundation, despite the fact that the Public Health Service (PHS) Policy for the Humane Care and Use of Laboratory Animals – with which all labs must comply to receive federal PHS funds – *mandates* that the NIH "shall suspend or revoke" funds to any facility that continues to violate federal animal welfare laws.

April 1999 – The NIH conducts a site visit and [audit of The Coulston Foundation](#) and finds the facility on the verge of bankruptcy, with questionable veterinary staffing and numerous other problems. Foundation CEO Dr. Frederick Coulston blames IDA for the lab's dire financial condition. The site visitors find that the lab may have misused millions of dollars in taxpayer-funded endowments meant for the lifetime care of chimpanzees used in research, and also question the veracity of Dr. Coulston.

July 1999 – The NIH begins providing the Foundation with public funds in order to avert bankruptcy. These illegal “supplemental awards” will eventually total over \$2 million. The NIH continues to fund the lab despite continuing violations of federal animal welfare laws.

July-August 1999 – The Food and Drug Administration (FDA) inspects The Coulston Foundation, audits three privately-funded experiments on chimpanzees, and finds over 270 violations of the Good Laboratory Practice (GLP) regulations, which exist to ensure data integrity and human safety. The FDA findings corroborate information provided by IDA's network of whistleblowers.

August 24, 1999 – [The USDA and the Foundation settle all](#) outstanding administrative charges. The Coulston Foundation agrees to halve its population by promising to give up 300 chimpanzees by 2002. The settlement also mandates extraordinary external oversight measures by the NIH – which is supposed to ensure Coulston's compliance with federal animal welfare laws and the GLP regulations – as well as review by an independent “External Review Team.”

October 1999 – The Center for Captive Chimpanzee Care wins its lawsuit with the Air Force. In the settlement, the Air Force and The Coulston Foundation agree to transfer 21 former Air Force chimpanzees to the state-of-the-art Florida sanctuary.

November 1999 – Donna, a 36-year-old former Air Force chimpanzee, dies gruesomely at The Coulston Foundation from a massive infection after carrying a dead fetus inside her for weeks. Veterinarians who belatedly performed a C-section on Donna removed one liter of pus from her abdomen and observed the partially decomposed fetus's skull through the ruptured wall of her uterus. The NIH continues to fund the lab with millions of tax dollars.

December 1999 – The FDA issues a rare Warning Letter to The Coulston Foundation, outlining the severity of the GLP violations, and also instructing the lab not to initiate any new GLP studies. This causes further erosion in the Foundation's base of private clients that seek toxicology testing.

February 28, 2000 – The Coulston Foundation [illegally refuses](#) USDA inspectors access to its facilities. The NIH continues to fund the lab.

March 2000 – [In Defense of Animals testifies](#) before Congress about the NIH's malfeasance regarding its continued and illegal funding of The Coulston Foundation. IDA bases its testimony largely on internal NIH records, and notes that the unprecedented USDA findings flatly contradict the NIH's claims about the Foundation's animal welfare compliance. During the testimony, IDA is asked if it has a solution to the crisis at the Foundation.

April 2000 – IDA, along with the Animal Welfare Institute and the Doris Day Animal League, submits a "permanent sanctuary plan," a proposal to Congress to solve the crisis at the Foundation by turning the facilities on Holloman Air Force Base into a permanent retirement sanctuary for the chimpanzees.

April 2000 – The Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) International conducts an announced site visit at the Foundation. AAALAC is acting as the "External Review Team" mandated by the August 1999 USDA settlement. AAALAC eviscerates the entire Coulston Foundation animal care program, finding it extremely noncompliant with the NIH Guide for the Care and Use of Laboratory Animals (compliance with the Guide is required for receipt of federal funds). One of the AAALAC site visitors and eventual authors of the report is Dr. Rick Lee, a respected veterinarian at the NIH-funded chimpanzee lab at the University of Texas M.D. Anderson Cancer Center-Bastrop. Despite the devastating AAALAC findings, the NIH continues to fund the Foundation.

May 2000 – Only weeks after IDA submits the permanent sanctuary plan to Congress, the NIH – which had previously testified to Congress that unnamed legal obstacles prevented it from doing anything about the Coulston chimpanzees – suddenly takes "ownership" of 288 chimpanzees from the Foundation, citing concerns about Coulston's animal care and financial stability. A substantial number of these chimpanzees were among the 111 whom the Air Force had awarded to the Coulston lab. Although the NIH's takeover technically fulfills the August 1999 USDA settlement to halve the lab's population, the NIH leaves the chimpanzees under the care of the Coulston Foundation until June 2001, during which time the lab continues to violate federal animal welfare laws and the NIH continues to fund it.

May 15, 2000 – An official with the NIH's National Center for Research Resources (NCRR), which is the Coulston lab's main funding component, claims in the [Washington Post](#) that the severe animal welfare violations at the Foundation were the result of "public relations" problems, and that the unprecedented administrative actions taken by the USDA constituted mere "wall surface" and "record-keeping" transgressions.

May 18, 2000 – The same NIH NCRR official testifies before Congress, and refuses to admit that the USDA – in direct contravention of the NIH – had repeatedly found substantial animal welfare violations at the Coulston lab.

Rep. James Greenwood (R-PA), Chair of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, is incredulous. He quotes the official's statement from the *Post* and states that it is very clear what the USDA's concerns are.

May 2000 – The NIH begins to search for a caretaker for the 288 chimpanzees now “owned” by the agency. NCCR publicly states that The Coulston Foundation, despite its unprecedented record of negligence, deserves an opportunity to compete for the contract because the lab has improved conditions for the chimpanzees. This is untrue.

June 22, 2000 – In response to a federal lawsuit filed by IDA to obtain Coulston-related records under the Freedom of Information Act, USDA Western Regional Director Dr. Robert Gibbens states in a [sworn affidavit](#) that the USDA anticipates filing charges against the Coulston lab for violations the agency uncovered regarding the gruesome November 1999 death of Donna. The USDA will not file charges against the Coulston lab until July 2001, almost two years after Donna's death. Sources tell IDA that the USDA delays its filing at the request of the NIH. The July 2001 USDA charges will come one month after the NIH stops all funding of The Coulston Foundation.

August 2000 – Ray, one of the 288 chimpanzees taken over by the NIH, dies at The Coulston Foundation after being left untreated for Coccidioidomycosis (also known as Valley Fever), which is endemic in New Mexico. IDA's network of whistleblowers states that the Coulston veterinarian who failed to treat Ray is Dr. Paul Langner.

October 2000 – The NIH rejects The Coulston Foundation's bid for a contract to take over the care of the 288 NIH-“owned” chimpanzees. The agency revises its bid guidelines; perhaps most importantly, the revised bid states that the Air Force has decreed that no research can be conducted on Holloman Air Force Base. Two new candidates hoping to take over emerge: Priority One Services, a Maryland-based services company, and Charles River Laboratories, Inc., a multinational conglomerate that is the world's largest private supplier of “animal models” for experiments, owns various toxicology labs, has advertised the availability of chimpanzees for toxicology testing, and is by far the largest importer of nonhuman primates into the United States.

December 2000 – The FDA re-inspects The Coulston Foundation and finds further violations of the GLP regulations, including the lab's initiation of multiple new studies despite the agency's prohibition from the December 1999 Warning Letter. The FDA findings corroborate information provided by IDA's network of whistleblowers. The NIH continues to fund the lab.

March 2001 – The New Mexico legislature adopts an amendment to the state's cruelty to animals statute sponsored by state senator Mary Jane Garcia after intense lobbying efforts by Animal Protection of New Mexico in

support of Senator Garcia's amendment. The amendment passes because the New Mexico legislature recognizes that it is not acceptable that the state's animal research labs be unaccountable for potential criminal cruelty. Like many states, New Mexico had previously exempted all research facilities from the cruelty statute. The amendment removes this blanket exemption, and institutes criminal penalties for research facilities that violate the statute. It is clear from statements by Senator Garcia that the abuses at The Coulston Foundation, and the federal government's inability or unwillingness to stop them through toothless administrative actions, are the reasons for the amendment. Although it does not specifically mention the Foundation, it is clear that the amendment is meant to cover all research sites in New Mexico, including The Coulston lab's Holloman Air Force Base facilities.

April 10, 2001 – The NIH office responsible for ensuring compliance with federal animal welfare laws at facilities receiving public PHS funds, the Office of Laboratory Animal Welfare (OLAW), expresses surprise that the Foundation has violated an agreement with the [NIH](#). It writes that the relationship between OLAW and The Coulston Foundation is “based on trust” (emphasis added). In other words, the NIH “trusts” the facilities it is supposed to regulate. The NIH writes this revealing statement after years of Coulston Foundation animal welfare and data integrity violations, attempts to deny inspectors access, and misrepresentations documented by both the NIH and the USDA.

April 20, 2001 – In a [Memorandum of Understanding](#) relating to the upcoming contract for care of the 288 NIH-“owned” chimpanzees, the NIH explicitly states that NCCR, the NIH office funding the lab, will be “responsible for the day-to-day management” of the newly-renamed Alamogordo Primate Facility as well as the APF's “associated animal activities.” Consequently, the NIH is ultimately responsible for any violations that occur at the APF. The APF will consist of the same facilities and same chimpanzees previously managed by The Coulston Foundation on Holloman Air Force Base.

May 4, 2001 – In a [letter](#) incorporating the April 20 Memorandum of Understanding, the NIH further states that it will be responsible for the APF's compliance with federal and state laws; this would include the New Mexico cruelty to animals statute. The NIH says that the APF will be an intramural NIH lab, meaning that it is essentially a satellite facility of the NIH. It will be considered a “government-owned, contractor-operated” (GOCO) lab.

Because the APF is an intramural NIH site, it is defined as a “federal research facility” under Section 2143(b) of the federal Animal Welfare Act (even though no research will be conducted there). Consequently, the USDA has no jurisdiction over the APF because the Animal Welfare Act precludes USDA oversight over sites defined as “federal research facilities.” Therefore, responsibility for compliance with the Animal Welfare Act at the Alamogordo Primate Facility lies with the NIH – a clear conflict of interest.

May 15, 2001 – The NIH awards Charles River Laboratories, Inc. a \$42.8 million, ten-year contract to operate the APF. In its [technical proposal](#), CRL states that its principal investigator on the contract, Dr. Rick Lee – formerly a veterinarian at the NIH-funded University of Texas M.D. Anderson Cancer Center-Bastrop chimpanzee facility – is “recognized” as “one of the world’s leading authorities on provision of veterinary health care to chimpanzees,” a “leading mentor of chimpanzee veterinarians,” and “a leading chimpanzee researcher and clinician with numerous publications and grants in these fields.” CRL notes that Dr. Lee has “provided formal training in great ape medicine to 14 veterinarians” at the NIH-funded University of Texas M.D. Anderson Cancer Center-Bastrop, and will be responsible for “ensuring that all of the animals [at the APF] receive clinical care according to the highest current standards.”

Dr. Lee’s well-regarded status in the biomedical research community is further illustrated by the fact that both AAALAC and the USDA picked him to help review the animal care program of The Coulston Foundation in April 2000, as part of the USDA-mandated “External Review Team.” Less than a year later, in January 2001, 42 rhesus monkeys overheated to death at Bastrop during Lee’s tenure there.

In addition, the American Society of Primatologists (ASP) recruits Lee to write the chapter “Chimpanzee Medicine and Care Program” in the ASP book “The Care and Management of Captive Chimpanzees.” This [ASP book](#) is edited by Dr. Linda Brent, psychological enrichment director at the Southwest Foundation for Biomedical Research – one of eight NIH National Primate Research Centers – and also president of the NIH-funded Chimp Haven.

In securing the NIH contract, CRL also states that it will perform professional and timely necropsies (autopsies) because, “given the past history of the Coulston Foundation,” proper necropsies will be an “essential component to convincing the animal protection community that the chimpanzees housed at the APF are receiving exemplary care.” This promise will be repeatedly broken.

June 2001 – After years of steadily mounting pressure from Congress and the public, the NIH finally ends its illegal taxpayer funding of The Coulston Foundation. Because the majority of the Foundation’s revenue comes from federal funding, this ultimately becomes a death blow to the lab.

June 2001 – Charles River Laboratories, Inc. takes over operations from The Coulston Foundation. The NIH renames the Holloman lab the “Alamogordo Primate Facility” and begins funding CRL, which has hired many employees from The Coulston Foundation. These include Dr. Paul Langner, the veterinarian who had allegedly failed to treat Ray in August 2000; Ray’s death will shortly be the subject of a fourth set of USDA charges.

June 2001 – CRL creates an Advisory Committee to provide oversight and advice to the APF on various issues relating to chimpanzee care, psychological enrichment, compliance with various animal welfare laws, etc. According to [legal pleadings](#) later submitted by CRL's own attorneys to defend against a federal sexual harassment lawsuit filed by the APF's ex-Associate Director, the Committee “consists of well-respected professionals from around the country whose task is to provide guidance and advice to the APF.” The Committee members include Dr. Thomas J. Rowell, director of the NIH-funded New Iberia Primate Center in Louisiana, currently the largest chimpanzee lab in the world, with approximately 400 chimpanzees and thousands of other nonhuman primates; Dr. Denver Marlow, the veterinarian involved in the Air Force's negligent divestiture of 111 Air Force chimpanzees to The Coulston Foundation (many of whom are now housed at the APF); Dr. Nicholas W. Lerche, Associate Director of the NIH's California National Primate Research Center located at the University of California-Davis; and Dr. Bill Hobson, Director of CRL's subsidiary Sierra Biomedical, which had advertised the availability of chimpanzees for toxicology testing.

June 2001 to December 2001 – According to the above-referenced legal pleadings submitted by CRL's own attorneys, there are no euthanasia drugs at the APF for the first six months of CRL's operation of the facility. During this period, according to the pleadings, at least one chimpanzee suffered needlessly because these basic drugs were not on-site. Incredibly, CRL – flush with a \$42.8 million contract from the NIH – has to borrow the drugs from The Coulston Foundation, which is teetering on the verge of bankruptcy. The NIH continues to fund CRL.

July 2001 – The USDA files an [unprecedented fourth set of administrative charges](#) against The Coulston Foundation for the 1999 death of Donna, the 2000 death of Ray, inadequate veterinary care, violating the August 1999 USDA settlement, and various other transgressions. The USDA files the charges one month after Charles River Laboratories assumes from Coulston care of the 288 chimpanzees whom the NIH had taken the previous year, and also one month after the NIH stops all funding of Coulston. The USDA charges corroborate information provided by IDA's network of whistleblowers. All the administrative violations occurred while the NIH was illegally funding The Coulston Foundation with millions of tax dollars to avert the lab's bankruptcy.

September 25, 2001 – Charles River announces that it has been awarded a five-year, [\\$24 million contract](#) to manage part of the National Cancer Institute's Frederick Cancer Research Center. If NCI exercises a two-year option, the contract will be worth \$35 million in public funds over seven years.

October 2001 – The FDA issues an unprecedented second Warning Letter against The Coulston Foundation, and states that because of the lab's record

of violations, the agency is considering “disqualification” of the facility. Disqualification would prohibit The Coulston Foundation from performing any GLP studies. Because Coulston no longer receives federal funding, an inability to perform FDA-approved GLP studies – the lifeblood of any toxicology facility – would constitute a death blow to the lab.

December 2001 – First National Bank of Alamogordo, the main creditor of The Coulston Foundation, files a foreclosure lawsuit against the lab.

January 2, 2002 – During its first [“courtesy inspection” of the APF](#), the USDA – which has no jurisdiction over the APF because it is defined as a “federal research facility” – finds no violations, despite the recent lack of euthanasia drugs.

Sometime in 2002 – The Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) confers full [AAALAC accreditation](#) upon the APF. Research facilities often point to AAALAC accreditation as proof of compliance with the highest standards of animal care.

September 16, 2002 – The Coulston Foundation folds, unable to recover from the loss of federal funding and its private client base. The Florida-based Center for Captive Chimpanzee Care, with multi-million dollar support from the Arcus Foundation, takes over the facility and permanently retires 266 chimpanzees and 61 monkeys formerly kept at the Coulston lab.

September 16, 2002 – The very same day that the chimpanzees at The Coulston Foundation are permanently retired, a 16-year-old chimpanzee named Ashley dies at the APF. IDA’s network of whistleblowers states that Ashley had suffered an injury to her sex skin, had been bleeding continuously throughout the day, and suffered from a medical condition that made clotting more difficult, as noted by the veterinarian treating her. During one five-minute period towards the end of the normal animal care workshift, she was observed standing on her head, then shaking violently and continuously while bleeding. Despite these obvious clinical signs of distress, animal care staff make the conscious and willful decision to leave the facility, leaving her in the care of a security guard totally untrained in animal care – but not before telling him to increase his observation rounds of her and to report any problems, thus indicating the animal care staff’s knowledge of her distress. Within hours of animal care staff vacating the facility, the security guard finds her dead. IDA does not know how long this apparent APF “policy” of having untrained security/maintenance personnel provide animal care to sick and/or injured chimpanzees has been in place. However, IDA is informed by its network of whistleblowers that this “policy” has been instituted, at least in part, to save money. Despite the pledge in its technical proposal to the NIH that it would perform professional necropsies, CRL fails to preserve some of Ashley’s tissues properly, making it impossible for the pathologist to examine them. The cruelty surrounding Ashley’s death will be included in District

Attorney Scot Key's criminal animal cruelty charges against Charles River Laboratories and Dr. Rick Lee. The NIH continues to fund CRL.

October 28, 2002 – *Forbes Magazine* names James C. Foster, Charles River CEO, Chairman and President, its "Entrepreneur of the Year."

December 30, 2002 – A 16-year-old chimpanzee named Rex dies at the APF. According to IDA's network of whistleblowers, Rex had not awakened from the previous day's sedation for a physical, itself a sign of how severely ill Rex was. He had been ill for months, and during that time had lost a significant amount of weight. During the day he died, he was observed to be vomiting frequently while unconscious. An animal caretaker stayed in his treatment cage and periodically removed the vomit from his mouth with a suction device. Rex also may have been on oxygen and/or given intravenous fluids. Towards the end of the animal care staff workshift, the treating veterinarian (who had also treated Ashley) came in and said that both she and the animal caretaker had to leave. Although the veterinarian wanted to stay and care for Rex, she was heard to say that she had been told, presumably by senior Charles River APF staff, that she could not stay, because that was now security's responsibility. Consequently, the animal caretaker actually removed the life support measures; the security guard had no training with any such life support. Despite the fact that Rex was unconscious and continued to vomit, no one continued to remove the vomit from his mouth, and animal care staff made the conscious, willful decision to abandon Rex and leave the facility – leaving behind an unconscious, vomiting chimpanzee who had been ill for months. The untrained security guard was again told to increase his monitoring rounds and report to the veterinarian. Rex was found dead several hours later, and the Charles River APF necropsy report indicated that vomit was present in his mouth and trachea when he died. IDA does not know if Rex ever regained consciousness. The cruelty surrounding Rex's death will be included in District Attorney Scot Key's criminal animal cruelty charges against Charles River Laboratories and Dr. Rick Lee. The NIH continues to fund CRL.

March 13, 2003 – The House Committee on Energy and Commerce, led by Rep. James Greenwood, initiates a [broad investigation](#) of the NIH's management and oversight of billions of dollars in extramural grants. The Committee's inquiry is precipitated by its [findings](#) that the NIH had continued to fund The Coulston Foundation despite the lab's numerous and continuous violations of federal law.

April 2003 – For the first time in its history, the FDA disqualifies a GLP lab. Not only is The Coulston Foundation disqualified, but all GLP data generated by the facility is now considered suspect in the eyes of the agency.

June 26-27, 2003 – A 26-year-old chimpanzee named Topsy almost bleeds to death at the APF. According to IDA's network of whistleblowers, Topsy, like Ashley, had also suffered a sex-skin injury, which occurred on June 26, 2003.

She was observed to be bleeding “stead[ily]” in repeated entries in the clinical notes written by animal caretakers. She was examined by ex-Coulston Foundation veterinarian Dr. Paul Langner in the afternoon at 2:15. He prescribed 10 milligrams of Valium, which is generally regarded as a small dose. Importantly, Langner noted that the injury had clotted “until she picked at it again” and that it appeared to clot quickly “when she leaves it alone.” This indicates Langner’s knowledge that she could continue to pick at the wound, which had already caused steady bleeding. She was not separated out into a treatment room. The next entry in the clinical notes is 6:50 a.m. the next morning, June 27, 2003, when, according to the clinical notes, she was “discovered” lying in a significant amount of fresh blood, and looked “weak with pale color.” This more than 16-hour gap in entries in the clinical notes, as well as the entries of June 27, 2003 stating that she was “discovered” and “found anemic and weak this a.m.,” is consistent with the IDA allegation that animal care staff left the facility at the end of the June 26 workshift and that security then took over monitoring of Topsy. The veterinarian who examined Topsy on June 27 described her as “very weak,” “very pale” and “non-mobile.” Blood tests revealed that she had suffered an acute blood loss; she had only approximately one-half of normal blood volume and approximately one-half of normal red blood cell count. She also had highly elevated white blood count. After oral rehydration failed to stabilize her, the veterinarians decided she needed intravenous fluids, steroids, antibiotics and, most significantly, a blood transfusion. A transfusion is a very serious step undertaken only when absolutely necessary. The Physical Examination sheet has the word “EMERGENCY” handwritten in all capital letters and underlined. Topsy, who just a month prior had been described in a veterinary staff meeting as a hepatitis B animal with “declining liver function,” was seriously weakened for days afterward. Two days after the injury she was observed to be still “weak” and “unable to eat or drink anything,” while four days after she was observed to be at only “50 percent” of her normal activity.

The “policy” of leaving sick and/or injured chimpanzees in the care of untrained security/maintenance personnel appears still to be in place at the APF. The cruelty surrounding Topsy’s near-death is included in District Attorney Scot Key’s criminal animal cruelty charges filed against Charles River Laboratories and Dr. Rick Lee. The NIH continues to fund CRL.

July 16, 2003 – During its [second “courtesy inspection.”](#) the USDA again finds no violations and gives the APF a clean bill of health. This inspection occurs approximately three weeks after Topsy almost bled to death.

August 7, 2003 – IDA provides Otero County, New Mexico District Attorney Scot Key with detailed information regarding the deaths of Ashley and Rex, and the near-death of Topsy, and urges the D.A. to investigate for alleged violations of New Mexico’s cruelty to animals criminal statute. The information includes an [affidavit from C. James Mahoney, DVM, PhD](#), who has over thirty years of veterinary experience with primates, and was the

head veterinarian at a large chimpanzee research facility for over twenty years. Dr. Mahoney describes the management of the APF – for which the NIH is ultimately responsible, as outlined in its contract records – as “fundamentally twisted and despicable.” IDA informs D.A. Key that the USDA has no jurisdiction at the APF because it is considered a “federal research facility,” and that he is the only legitimate law enforcement officer capable of protecting the chimpanzees. According to Section 2143(b) of the Animal Welfare Act, responsibility for compliance with the Act at “federal research facilities” such as the APF (which is defined as such a facility despite the fact that the Air Force has decreed that no research shall be conducted there) is the responsibility of the funding agency – in this case, the NIH. Consequently, the NIH – which has based its enforcement relationship on “trust” with The Coulston Foundation and other regulated entities – would have “oversight” over its own government-owned, contractor-operated facility – a facility for which it has admitted ultimate responsibility for day-to-day management. Without the intensive and ultimately successful effort by Animal Protection of New Mexico to help ensure that New Mexico’s cruelty to animals criminal statute was amended in 2001, the D.A. would have no jurisdiction over the APF, and the chimpanzees there would have absolutely no protection from the self-serving “oversight” based on “trust” practiced by the NIH.

August 8, 2003 – In a [glowing article](#) written by the Air Force, Andrea Lee – described as the APF’s “program administrator,” and the wife of Director Dr. Rick Lee – states that “Our mission is to give [the chimpanzees] the best quality of life that we can. We give them the best medical care possible and try to keep them happy. We figure they’ve paid their dues.” The article describes Dr. Rick Lee as “one of the top primatologists in the nation,” and is published approximately six weeks after Topsy almost bled to death. Although the Air Force article states that the APF welcomes visitors, a year later Dr. Lee will try to deny access to investigators from the D.A.’s office armed with a search warrant which states that “probable cause” has been established to suspect CRL of “institutional neglect,” and which details cruelty to the chimpanzees Rex, Ashley and Topsy.

August 29, 2003 – IDA’s network of whistleblowers states that at an unusual all-employee meeting convened by Dr. Rick Lee, the APF Director makes it clear that CRL knows of the D.A.’s criminal investigation, mentions that the D.A. has knowledge of alleged cruelty regarding Ashley’s death and unnamed others, and threatens all employees with polygraph tests in an attempt to find out the identities of individuals who may have leaked information to IDA. Such threats would be illegal, and would violate the federal Employee Polygraph Protection Act of 1988, the New Mexico Human Rights Act, and the federal Animal Welfare Act’s regulation prohibiting retaliation against whistleblowers. Lee states that IDA made a terrible mistake by going to the D.A., since the APF is located on a federal Air Force base, is a government facility with government-“owned” animals, and that the D.A. has no jurisdiction and can’t even get onto the Air Force base without permission.

The assembled employees are also forbidden from speaking to anyone about the situation; this prohibition apparently includes law enforcement such as the D.A.

To date, IDA has been unable to ascertain whether these threats and directives came solely from Lee, or from CRL corporate management. A search warrant later executed by District Attorney Scot Key at the APF on August 3, 2004 will provide further evidence of this apparent noncooperation by CRL.

September 12, 2003 – IDA [submits a letter](#) to Rep. James Greenwood, chair of the Subcommittee investigating the NIH's management and oversight of billions of dollars in taxpayer-funded extramural grants, regarding the information that IDA has submitted to District Attorney Key and his subsequent criminal investigation at the APF. IDA informs Rep. Greenwood of the illegal polygraph threats and its belief that the allegations against the NIH/CRL are worse than anything ever documented at The Coulston Foundation. (The violations at the Coulston lab are what prompted Rep. Greenwood's broad investigation of the NIH). IDA also states that it is unaware of The Coulston Foundation ever threatening employees with polygraph tests. IDA relates its concern about the apparent climate of intimidation at the APF as well as its incredulity that, after the years of unprecedented violations at the Coulston lab, the NIH apparently did not exercise that much more due diligence to ensure that the APF complies in every possible way with even the most basic standards of care. IDA cc's Dr. Elias Zerhouni, Director of the NIH, Dr. Judith Vaitukaitis, Director of the NIH's National Center for Research Resources – which funds the APF and is responsible for the day-to-day management of the facility – and Charles River Laboratories's CEO James Foster (Forbes 2002 Entrepreneur of the Year) and vice-president Dennis Shaughnessy. To date, IDA has never been contacted by anyone from the NIH in response to the agency's being informed by IDA about the allegations of cruelty submitted to the D.A. IDA does not know if the NIH ever contacted District Attorney Scot Key.

January 13-14, 2004 – IDA's network of whistleblowers states that three healthy chimpanzees are found dead from electrocution at the APF. The first two died on January 13; the third was found dead the next day. The electrocutions could have resulted from perches in cages housing the three chimpanzees somehow touching a live electrical wire in the facility wall, but the information is sketchy at best. To date, IDA has been unable to obtain any further information regarding these electrocutions.

January 20, 2004 – IDA files a lengthy [Freedom of Information Act request](#) with the NIH's NCRR asking for various records, including all records available for the three chimpanzees who had been electrocuted the week before. To date, IDA has only received incomplete records of the ten-year, \$42.8 million contract between the NIH and CRL.

January 28, 2004 – Former Coulston Foundation veterinarian Brit K. Oiulfstad, DVM, MPH, executes a seven-page [sworn and notarized affidavit](#), which IDA submits to D.A. Scot Key. Dr. Oiulfstad, currently an official with the Los Angeles County Department of Health, states that the allegations of cruelty against CRL/NIH are far worse than anything she had ever witnessed or heard of at The Coulston Foundation, and that these allegations, if true, would violate “the most basic precepts of veterinary ethics and basic human decency” as well as the solemn oath veterinarians take to reduce animal suffering. Dr. Oiulfstad, who had been a sworn witness for the USDA during a 1997 investigation of The Coulston Foundation, states that the NIH is ultimately responsible for the alleged cruelty. She notes her disgust at the apparent APF “policy” of untrained maintenance/security personnel performing animal care duties continues, despite the deaths of Ashley and Rex, and the near-death of Topsy. Based on the allegation that this “policy” is still in place, she states that another case of cruelty is simply waiting to happen, and wonders if more cruelty is occurring at other NIH-funded facilities. The NIH continues to fund CRL.

March 2004 – IDA’s network of whistleblowers states that a maintenance person, formerly employed by the APF, is interviewed by District Attorney Key’s office, indicating that the D.A.’s investigation has not been derailed by CRL’s apparent directives to employees not to speak to anyone about the situation, as outlined during the all-employee meeting of August 29, 2003. IDA’s sources state that the former maintenance person informs CRL that he has been interviewed. Consequently, CRL knows that District Attorney Key is continuing his criminal investigation, and immediately changes the “policy” of untrained security/maintenance personnel performing animal care duties. This immediate change allegedly occurs more than seven months after August 2003 – the date that CRL first becomes aware of both the D.A.’s criminal investigation and the D.A.’s knowledge of alleged cruelty regarding Ashley’s death as well as unnamed others. This change in “policy” also allegedly occurs approximately one-and-a-half years after Ashley’s death in September 2002.

June 2004 – Andrea Lee, who had been the APF’s “program administrator” starting in June 2001 and is the wife of Director Dr. Rick Lee, is criminally charged with 15 counts of fraudulently obtaining a controlled substance, and Otero County District Attorney Scot Key [issues a warrant for her arrest](#). According to the warrant affidavit, Lee had used the DEA numbers of at least two APF veterinarians to illegally obtain Vicodin at a local pharmacy. Lee did this during the time she was employed by CRL at the NIH’s Alamogordo Primate Facility – a facility that, according to CRL’s own legal pleadings, failed to have basic euthanasia drugs for the chimpanzees from June 2001 to December 2001.

August 3, 2004 – District Attorney Scot Key executes a [search warrant](#) at the APF. Facility Director Dr. Rick Lee initially tries to refuse the investigators access but relents when he is shown the warrant. Later, as the investigators

take pictures and video of the locations where alleged cruelty to chimpanzees occurred, Lee informs them that CRL's attorneys have said that the warrant is invalid because the state of New Mexico has no jurisdiction. IDA believes that Lee's initial refusal to provide access is consistent with IDA's sources' recounting of the August 29, 2003 employee meeting where employees were forbidden to discuss the situation with anyone – a proscription that seems to indicate a refusal to cooperate by CRL. In addition, Lee's statement to the investigators regarding the CRL attorneys' opinion that the state of New Mexico has no jurisdiction is also consistent with Lee's statements during the August 29, 2003 employee meeting.

Importantly, District Judge Frank Wilson signs the warrant, which includes an affidavit from investigator John Stubbe, a 24-year police force veteran attached to the District Attorney's office. Investigator Stubbe states that the warrant is necessary to obtain evidence that would be “helpful to the investigation and or prosecution of person(s) and or corporations responsible for the cruelty to the chimps herein described.” He further states that as a result of his investigation, “probable cause has been established to suspect Charles River Foundation of institutional neglect.” Investigator Stubbe's brief recounting of the circumstances surrounding the deaths of Rex and Ashley, and the near-death of Topsy – including the “policy” of having completely untrained security/maintenance personnel providing animal care to the chimpanzees – is entirely consistent with the information provided by IDA's network of whistleblowers.

September 7, 2004 – For the first time in U.S. history, criminal animal cruelty charges are filed against an entire animal research laboratory. District Attorney Scot Key files unprecedented criminal charges against Charles River Laboratories, Inc. (with Charles River President and CEO James C. Foster listed as the company's representative) and Charles River APF Director veterinarian Dr. Rick Lee for multiple counts of criminal cruelty related to the abandonment and institutional neglect of the chimpanzees Rex and Ashley, and the near-death of Topsy, at the APF. The filing also includes the detailed search warrant affidavit executed by D.A. investigator John Stubbe.

September 8, 2004 - In an [article published in the Albuquerque Journal](#), District Attorney Scot Key lambastes the NIH, noting that the agency has not provided the necessary regulatory oversight. He states, “They (NIH) have obviously failed, because any oversight that NIH has over Charles River is merely on paper, and in practice they've done little other than do several minor inspections.”

TODAY: As of this writing, it appears that Charles River Laboratories has made the decision to hide behind federal jurisdiction, perhaps in the hope that it will only have to answer to the “trust”-based, self-serving “oversight” of the National Institutes of Health. The multiple counts of alleged criminal animal cruelty found by the D.A.'s independent investigation have totally

escaped the “oversight” of the U.S. Department of Agriculture, the Association for Assessment and Accreditation of Laboratory Animal Care and, of course, the NIH.

The criminal charges constitute a searing indictment of the NIH’s oversight of animal research, raising this fundamental question: If the NIH cannot properly oversee such a high-profile facility that for years has garnered intense scrutiny from Congress, the public and the media, then how can the agency possibly provide proper oversight to the more than 1,600 labs it funds in the U.S. and abroad?

Otero County, New Mexico District Attorney Scot Key’s criminal charges against Charles River Laboratories and Dr. Rick Lee constitute the first time in U.S. history that an entire animal research lab has been charged with criminal animal cruelty – a lab directly owned and managed by the NIH.

The NIH continues to fund CRL.