

2012 Worthington Essay Contest

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Freshman

MEMORANDUM

To: Colonel Boyd, USAMRIID Commander

From: Joseph Moon, CDC Director

Date: October 17th, 2012

Subject: Recommendation for the Disposition of Tainted Data

I urgently advise that you withhold the data and, if possible, destroy it. Regardless of one's intentions, it is ethically impermissible to use scientific data that has been acquired in an unethical manner. In light of the recent tragedy, it is important to clarify why the scientific community cannot afford any complicity with unethical practices. Even in consideration of the data's potential usefulness, to publish it would:

- 1) Disrespect the victims of Dr. Pena's crimes
- 2) Encourage further unethical scientific practices
- 3) Erode the legitimacy of the scientific community

While I understand that we must take every possible action to prevent and contain disease, this does not extend to using tainted data in any way, shape, or form. To do so would at best set a dangerous precedent for scientific ethics and, given the authority of your position, could at worst constitute a breach of ethics even more insidious than that of Dr. Pena.

Responsibilities to the Victims

In the aftermath of World War II, our country faced a similar dilemma with regards to German and Japanese data. Their scientists had conducted atrocious experiments against prisoners, yet we saw fit to freely use their data and even cite it in prestigious journals of medical research. Holocaust survivor Susan Vigorito has described such behavior as symbolically equivalent to "building on top of

Auschwitz.”¹ Regardless of the outcome of Dr. Pena’s trial, by publishing his data we would implicitly rehabilitate him into the scientific community and erode the memory of his crimes. Rather than trampling on the tragedy at Fort Bloom, I recommend that you symbolically memorialize the victims by explicitly discarding the data.

Furthermore, we have no right to publish data built on the suffering of innocent victims, as the data is not ours. The data belongs to those whose rights were violated and whose bodies were harmed. To publish Dr. Pena’s data would only add to the stress placed on his victims, knowing that their own victimhoods would be ignored and the criminal’s actions vindicated. If even a single victim objects to publishing Dr. Pena’s data, we would be ethically prohibited from stealing his or her suffering for the sake of a journal article. By going forward with publication without the victims’ consent, we would send a message that the victims are only test subjects, not human beings.

However, even with unanimous consent from the victims, to weigh the costs and benefits of Dr. Pena’s unethical research, with an eye to publication, could serve to relativize his crimes. Most observers would balk at the idea of justifying murder by the net benefit to society. We must treat Dr. Pena’s actions in the same light: as a vicious crime committed in a twisted mockery of science. Anything otherwise suggests that Dr. Pena could possibly be justified, given different circumstances. Indeed, we must ask ourselves if we would support Dr. Pena’s methods if he had achieved something of immense magnitude, such as a cure for Alzheimer’s. Destroying the data, especially if it is valuable, could generate immeasurable symbolic meaning; it would demonstrate that the scientific community will not deliberately harm human beings, without exception. The victims of Dr. Pena’s crimes deserve no less of an assurance. Moral relativism is not only disrespectful to the victims, but could also render us morally complicit with the perpetrator.

¹ Peter Mostow, “‘Like Building on top of Auschwitz’: On the Symbolic Meaning of Using Data from the Nazi Experiments, and on Non-Use as a Form of Memorial,” (*Journal of Law and Religion*, 1993) 403-431.

Disincentivize Unethical Research

While publishing the data is not tantamount to committing Dr. Pena's crimes, it would send a significantly more harmful message to the scientific community: that government officials indirectly condone unethical actions for the sake of a higher cause. It is our duty, as leaders in the scientific community, to reject this fallacy and its horrifying consequences. One might argue that Dr. Pena's data could save numerous lives in the event of an epidemic outbreak. This conclusion is problematic as it ignores ethical alternatives to human experimentation and the "slippery slope" on which scientists have at times fallen.

While I do not know the particulars of the disease, I understand that physiological and epidemiological studies such as those performed by Dr. Pena can often be conducted with animal test subjects.² Not only were Dr. Pena's actions criminal, but they were likely also needless. To learn more about this disease, could we not ignore Dr. Pena's data and instead conduct ethical research using alternative methods? To bury the tainted data while supporting ethical research into the same subject would signal to the scientific community that unethical studies are pointless. The additional resources required to reinvestigate the disease would be a small price to pay in comparison to the enormous implications of publishing the data.

For the Director of the USAMRIID to publish tainted data, or to even condone its publication, could nudge the scientific community toward a "slippery slope" of progressively more unethical practices. It is clear that scientists pressured to do studies that are both rigorous and capable of being completed quickly can often get the results they need from unethical actions.³ Based on official acceptance of Dr. Pena's data, perhaps during a public health crisis, a scientist might consider misusing human test subjects to efficiently achieve life-saving results. From there it is no great leap to scientists conducting unethical

² For example, Japanese scientists in World War II conducted many human experiments into epidemic diseases, even though earlier studies had established that several kinds of animals could be infected instead. Jing-Bao Nie, Nanyan Guo, et al., *Japan's Wartime Medical Atrocities* (New York: Routledge, 2010) 91.

³ George Annas and Michael Grodin, *The Nazi Doctors and the Nuremberg Code* (Oxford: Oxford University Press, 1992) 281.

research whenever they believe that the public good outweighs the costs. Such a course of events is not altogether far-fetched. The infamous Tuskegee syphilis experiment began as an effort to understand an untreatable disease and help a poor rural community, before slowly devolving into callous mistreatment of its subjects. Scientists who had initially observed the course of syphilis in already infected individuals eventually began to infect people without the disease, without either group's knowledge of the nature of the study. Even after the development of effective antibiotics, researchers withheld treatment from the infected individuals and continued the experiment. Furthermore, the experiment was able to continue for over 40 years due to the legitimacy it derived from governmental approval.⁴ With this consideration, I urge you to avoid granting official recognition to Dr. Pena's research. Although far removed from the original crimes, it is likely that publication would betray the cause of biomedical science: to improve peoples' lives.

Legitimacy of Science

Today, science holds enormous prestige thanks to its broadly beneficial impact on human life. Society continues to support, participate in, and celebrate scientific endeavors with the expectation that future advances will help humans rather than harm them. This view of science will only persist so long as science remains strongly principled. To entertain unethical research for the sake of the greater good, even if the ultimate benefits outweigh the costs, is to say that science cares more for knowledge than human dignity. It is important to remember that, in the eyes of most observers, science exists for the benefit of humanity, not the other way around.

Since the 1970s, the scientific community has reached a similar consensus. Most journals of medical research today will not publish articles containing reference to Nazi hypothermia experiments; it is unthinkable that they would accept any report making use of Dr. Pena's crimes.⁵ While it is conceivable that a journal could be found that would accept the data, the broad disapproval of the

⁴ Carol Kaufman and Saumya Ramarao, "Population Research and Policy Review," (*Population Research and Policy Review*, 2005) 151.

⁵ Annas, 282.

scientific community renders the issue moot. Dr. Pena's data is illegitimate not only to society at large, but also to the scientific community itself. While this point alone precludes publication of Dr. Pena's data, I believe it is equally important to consider the aforementioned ethical arguments. Journalistic standards may change with time, but moral principles will not.

I apologize if I have placed you under undue stress, but a matter as important as scientific ethics must be addressed with utmost care. While I understand that the final disposition of the data may not be up to you, I am compelled to ask that you consider the danger presented by its continued existence. Even if the data is shelved, it will remain a temptation for scientists into the foreseeable future. To unilaterally destroy the data could go against regulations or even the law, but it may also ultimately be the ethical course of action.

Bibliography

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