

## *Does the Punishment Fit the Crime?*

A doctoral student in a lab where I had previously worked was apparently doing well. Bill had already published a first author manuscript in a high impact journal and had a second under review. Unfortunately, however, Bill's laboratory colleagues were less than professional, and he was frequently the butt of jokes and catty whispering. These unprofessional behaviors were, in my view, typical of the lab as a whole but seemingly condoned by Dr. Green, who did nothing to stop them.

One day, another graduate student in the lab, Larry, asked Bill for some bacterial strains that Bill had developed and that Larry wanted to use for some follow-up work. In Bill's haste, he accidentally handed the wrong strain to Larry, which Bill realized only later on when it was too late to cancel the experiment.

The PI of this lab, Dr. Green, was known for maintaining a culture of fear, recrimination and egoism among his lab personnel. I cannot help but think this played a factor in what Bill did next: Upon realizing his error, he switched the labels on two vials of bacterial strains, covering up his mistake in his lab notebooks and the lab stock records.

When the lab results came back with data that didn't correlate with what Bill and Larry knew from previous studies, Bill came clean and told Larry and Dr. Green about his mistake and his subsequent cover-up. He told them that he had been agonizing about his actions for weeks; he apologized profusely; and he offered to repeat the experiment on Larry's behalf so as to make amends.

Dr. Green refused this course of action, however, and had Bill come before an institutional ethics committee for a hearing and sanctioning. A number of persons testified as character witnesses at the hearing—some for and some against Bill. As word of what happened got around, the unpleasant interpersonal atmosphere in Dr. Green's lab was discussed both informally and then formally at the hearing. What carried a great deal of weight, however, was Dr. Green's own statement that, as things now stood, he could not trust any of Bill's data and he claimed he could no longer support Bill's doctoral work. Ultimately, the committee decided to grant Bill a masters degree and he was asked to leave the program.

How does one ethically evaluate all these goings on? Clearly, Bill's cover-up behaviors were deplorable, but did the eventual punishment fit this crime? Would it have been enough simply to accept Bill's apology and his offer to repeat the experiments? Did Dr. Green over-react with vindictiveness and blame towards Bill, especially as allegations about the poor psychological atmosphere of his laboratory were aired about the department and in committee? What standards ought a committee like this keep uppermost in their deciding the fate of someone like Bill and in maintaining the professionalism of their university?

### *Expert Opinion*

The facts of the case suggest that Bill probably felt isolated as he was often disrespected and perhaps humiliated by other people in the lab. Also, it seems fair to say that Dr.

Green is a poor leader, at least in the sense that he doesn't protect his people from abuse and fails to maintain a work atmosphere of professionalism.

In any event, Bill commits the error as described and then tries to cover it up. His deception seems motivated by a fear of retaliation or, perhaps, the expectation of additional ridicule should he immediately announce his mistake and not proceed with the cover-up. Two facts that very much tell against Bill, however, is that his deception is very careful and deliberate; second, he only speaks up when the experiments fail, and he feels the deception can no longer be maintained. Does this mean that if the experiment somehow succeeded or at least raised no suspicions, Bill would never have confessed?

We believe that Dr. Green's taking the matter to a formal committee is a very good idea. Such committees have experience with these kinds of situations; there is a good chance that the committee's membership knows how the University's policy on cheating or unprofessional behavior would apply to such a case as Bill's; and one would like to think the committee will conduct a thorough investigation and offer an objective, reasonably just verdict. Notice that some lab directors might have chosen a much different course, however. For example, not wanting to make waves or call unwanted attention to his lab, a director might be tempted to bring Bill and Larry together in private and quietly work out some plan, perhaps along the lines that Bill originally suggested (e.g., he would repeat Larry's experiment, etc.). But this approach cannot be preferred to the one actually taken because its real motivation is the self-interest of the lab director in keeping the incident quiet, not assuring that justice is done. Also, no one can guarantee that a deception like Bill's can be entirely kept quiet. If it would get out, it is easy to anticipate additional problems, especially by way of acute embarrassment to University administration over the lab director's failure to follow University policy.

The title of this dilemma, however, is "Does the Punishment Fit the Crime?" There seem to be at least two approaches in providing an answer. The first is a strictly formal, nominalistic, rule-bound one that follows the University's standards to the letter. Here justice is understood as the outcome of the University's adjudicative process, regardless of what the ultimate sanction is. For example, some institutions like the University of Virginia maintain a "one strike and you're out" policy.<sup>1</sup> Students who willfully commit a moral turpitude such as Bill's and are found out should therefore not be surprised when they are dismissed. Indeed, one might even argue that the University's expelling Bill can be construed as something other than a punishment; that is, that it stands as an expression of the University's opinion of Bill's professional credibility: "Bill cannot be a scientist or continue to work at our University because he lacks the necessary professional attributes. In our opinion, he would be best advised to find another line of work."

A second approach would be a more contextualized or situational one where the committee might be sympathetic with the stress that Bill felt working in Dr. Green's lab; that he momentarily "lost it" when he discovered his error; that overwhelming fear dictated his deciding to cover-up the error; that his eventual honesty should count for something; and that it would not be unreasonable to develop a "rehabilitative" plan for Bill. Thus, Bill might be ordered to participate in counseling; perhaps prepare a paper

explaining the moral wrongness of his behavior and why deception should never occur in a laboratory. And Bill might be invited to find another lab to finish his doctorate. However, the fact that Dr. Green refuses to accept Bill back in his lab is very significant. Bill might find himself with no other lab that would accept him and be forced to leave the University.

Ultimately, it seems difficult to fault the committee's decision that Bill receive his master's degree and leave the University. The University has a legitimate right to impose a sanction that is congruent with its historical tradition and which seems reasonably just (as this one does). Nevertheless, at least two ethical questions remain as Bill packs his bags. The first is, could there be a remedial plan for Bill (or people like him) such that one could be confident that Bill's participating in the plan would reduce the likelihood of a repeat offense to virtually zero? If the most morally salient objective of any punishment is deterrence, how much trust would we be willing to place in a "rehabilitated" Bill? Can he ever be trusted again?

And then there is Dr. Green's poor leadership of the lab. If Green had insisted that personnel treat one another with professional respect, would this incident have ever happened? Indeed, did Green's response to Bill constitute a deliberate over-reaction to criticisms that the work atmosphere in his lab was unprofessional, such that Green decided to trumpet his moral integrity to the rest of the University by taking a hard and unyielding line on Bill? Should the University pursue some sort of remedial plan with Green that improves his personnel management skills?

It's interesting to speculate that readers of this dilemma might have dramatically different reactions to it because of the various imponderables included in the two paragraphs immediately above. As we leave the case, one thing seems to be morally certain, however: That any employee in any work setting has the right to be respected. A consistent failure among lab directors to promote such a work environment is a failure of organizational ethics and merits administrative scrutiny.

1. [www.pbs.org/weta/washingtonweek/voices/200405/0521nat4.html](http://www.pbs.org/weta/washingtonweek/voices/200405/0521nat4.html).