

Butner if Groder disappears? As Saunders says, "In the prison system, one can not rest on the goodwill of one particular person."

So the chief concern is not what Groder plans, but what, given the institutional pressures of the prison system, the Butner facility will evolve into. Many reporters and critics who have questioned Groder find him to be distressingly vague on such matters as research protocols, selection methods for prisoners, and ethical guidelines. Groder appears to be deliberately trying to keep things flexible and open-ended. On ethics, for example, he says the Department of Health, Education, and Welfare and other bodies are busy formulating guidelines for research involving humans, so "we'll wait and see what settles out and looks sensible."

Observers agree that continued outside surveillance of activities at Butner is a must. Groder says he intends to run an "open institution," and he believes there exist adequate oversight mechanisms within Congress and federal agencies. An independent monitoring board would be "destructive . . . given the climate of opinion" among those who have an interest in destroying prisons altogether, he says. Bounds disagrees. "The only way to obviate the dangers inherent in a total institution is to have total exposure," and neither the institution nor its supporting establishment can be relied on to ensure openness. But Bounds is a rare voice among corrections officials, most of whom feel that having anyone looking over their shoulder will interfere with doing the job.

Butner's PR problems aren't over yet—most recently, Angela Davis, who now heads a group called the National Alliance Against Racism and Political Oppression, staged a demonstration in Raleigh to protest what she assumed would be psychosurgery and brainwashing of political radicals at the center. More moderate critics fear that even if all goes well at Butner it may open the way elsewhere for the involuntary commitment of prisoners to rehabilitation and therapy, as well as expansion of programs into the touchy and ill-defined area of behavior modification.

Groder remains confident that the fears are unfounded. And they may be, if Butner continues to be the focus of the kind of attention it has so far attracted.—CONSTANCE HOLDEN

## National Research Act: Restores Training, Bans Fetal Research

It is presently against the law of the United States to experiment on any "living" human fetus, before or after induced abortion, unless the purpose of the experiment is to save the life of that particular fetus—an unlikely circumstance. The law does not say what it means by "living," which, in this case, is not easily defined, but one minimum rule of thumb appears to be that, if the fetus has a beating heart, hands off.

The controversial moratorium on fetal research, which will be in effect at least until early next year, is a provision of the National Research Act, better known as H.R. 7724, which deals with both the training of biomedical and behavioral researchers and the ethics of human experimentation. The bill passed both houses of Congress by overwhelming majorities, and President Nixon signed it on 12 July, but it is virtually impossible to find anyone who thinks it is very good legislation. Nevertheless, no one, including its opponents in the scientific community and in the Administration, lobbied very hard against it.

In subtle and not so subtle ways, certain provisions of H.R. 7724 circum-

scribe the freedom of scientists to manage their professional lives as they alone see fit. The most conspicuous example of this is the ban on fetal research, but a provision regarding the awarding of training money could prove to be equally restrictive.

The new law says, "Effective July 1, 1975, National Research Service Awards may be made for research or research training in only those subject areas for which . . . there is a need for personnel." The National Academy of Sciences (NAS) is asked to decide which disciplines are needy, and which are more needy than others. The act calls upon the academy to conduct a continuing study to establish several things: the nation's overall requirement for researchers in the biological and behavioral sciences, the subject areas in which they are needed, and the "number" of persons necessary in each area. One fantasizes an academy proclamation next spring declaring that what the country needs in 1975 is precisely 73 more neurobiologists. The academy, which in all likelihood will agree to undertake the study of research training,

probably never will be that specific, though it is not clear, to the academy or anyone else, just how it will go about its job.

The National Research Act traveled a long and tortuous course through the halls of Congress, and what has been brought forth as law is the product of controversy and compromise. The first step occurred a year ago when Representative Paul G. Rogers (D-Fla.), persuaded that the Administration's move to kill the National Institutes of Health's (NIH) training program was a bad one, introduced training legislation in the House. That House bill provided for training grants and fellowships, contained a provision for providing some support directly to institutions in which researchers trained, and required everyone receiving support to provide "public service" upon completing his training. Researchers could either engage in health research or teaching for 2 years for each year of support received or serve in the National Health Service Corps for 2 years for each year of training received. The House bill also contained a paragraph saying, in effect, that research must be conducted according to ethical standards.

In the Senate, there were two separate bills, each introduced by Senator Edward M. Kennedy (D-Mass.). One dealt with training, the other with the ethics of human experimentation. They were not related to each other. The Senate training bill differed from the House version in a couple of key re-

spects, the most important being that it revoked all existing authority for awarding training grants or fellowships and set itself up as the only one. That meant that NIH would lose its longstanding, continuing authority for training and would have to seek its renewal every year before Congress. That provision made NIH officials uneasy, and it turned officers of the Association of American Medical Colleges (AAMC), who had virtually written the House version of the bill themselves, against the Senate's legislation. (To this day the relationship between Kennedy's staff and the AAMC remains strained, with neither having much good to say about the other.)

A second important difference between the House and Senate versions of the training bills lay in their service payback provisions. Where the House called for 2 years of service, the Senate demanded only 1 year and offered a greater variety of ways in which the service requirement could be met. Both bills called on the academy to help determine those scientific disciplines in which training money should be spent in the first place.

Using the House bill's paragraph on ethics as the necessary technical hook for joining two bills, Kennedy's staff tacked his human experimentation bill onto the training bill that came over from the House. Whereas the House had simply said that the Secretary of Health, Education, and Welfare (HEW) could not support any research that violated ethical standards adopted by NIH, which has had a formal code of ethics since 1966, Kennedy wanted to go much further. His bill called for the establishment of a permanent "National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research." It was to be comprised of 11 members, appointed by the President, and was instructed to undertake a number of whopping responsibilities, among them, a comprehensive study to identify basic ethical principles for clinical research, the establishment of institutional review boards within all research institutions, and certain special projects such as an analysis of the ethical, social, and legal effects of advances in biomedical and behavioral sciences.

As it stood, the Kennedy bill was controversial, and certainly not all members of the scientific community favored the creation of a permanent presidential commission on ethics. But

things rapidly became worse. On the floor of the Senate, Senator J. Glenn Beall, Jr. (R-Md.), introduced an amendment banning psychosurgery. He was persuaded to accept instead a provision that the commission make a study of the situation. Senator James L. Buckley (R-N.Y.) then introduced an amendment banning all fetal research. According to Kennedy staffer Lawrence Horowitz, who has been the prime mover behind these bills, Kennedy opposed all bans but figured that he would lose on that by a vote that was predicted could be as much as 80 to 2. He offered a "perfecting amendment" that called only for a temporary ban of 4 months, during which commission members would contemplate the issues and make a recommendation to the Secretary of HEW. The Senate bought it, and the bill went back to the House which, Horowitz recalls, was not happy about the ethics bill.

Subsequently, late in the summer of 1973, the House introduced its own ethics bill, to which Representative Angelo Roncallo (R-N.Y.) wanted to add what has become known as his "beating heart" amendment. It called for a ban on research on any aborted fetus that had a beating heart. Ultimately, it lost—this amendment is not in the final bill—although it passed overwhelmingly when it was first introduced on the House floor.

#### Controversy in Conference

For a long time, there was not much action on the training-ethics bill. Then, late this spring, the Senate and House met in what turned out to be a very difficult conference to resolve their differences. It appears that the Senate prevailed more often than not.

As far as training is concerned, the final bill contains the service provisions proposed by the Senate\* and repeals all previous authority to award training money. It includes a House provision for awarding some funds directly to institutions so that they can select their own trainees (as was the situation with the old NIH training grant program) but specifies that at least 25 percent of the funds go directly to individuals who can take their money with them

\* Service options: (i) health research or teaching at an accredited institution, or, if no suitable positions are available, (ii) service in the National Health Service Corps in the specialty in which training was received; specialty service in private practice in an area designated as needy; or specialty service in a nonprofit prepaid group practice in a medically underserved area (these options require 20 months of service for every year of training rather than 12 months, as do the others).

to whichever institution they attend.

The bill authorizes close to \$208 million for training in fiscal 1975—far more than training programs had when they were most affluent—but Administration officials say that sum will never be spent. "It is only an authorizing figure," said one. "It doesn't mean a thing."

The ethics bill reportedly was the source of serious disagreements during conference inasmuch as the Senate—primarily Kennedy and his staff—were intent on establishing a permanent commission on ethics and the House felt equally strongly that a temporary, 2-year commission would be quite satisfactory. The House felt that, once strong HEW guidelines were in place, it would not be necessary to have someone continually looking over the Secretary's shoulder, especially not someone with the authority to not only suggest regulations but then see to it that they were implemented, as the Senate wished.

The compromise version makes the commission only an advisory body, but the Senate pulled off a real tour de force as far as the life-span of the commission goes. The bill creates a commission that shall have a life of only 2 years and at the same time creates a permanent council that comes into being as soon as the commission goes out of existence. The temporary commission dies, and then a permanent council is born. Anyone who fails to grasp the distinction is not alone.

Although the commission, which must be appointed by mid-September, will have no regulatory authority, there is a requirement in the bill that will surely help give it clout. Whenever the commission submits a recommendation to the Secretary of HEW, he must make it public within 60 days by publishing it in the *Federal Register* for comment. Subsequently—within 180 days of publication—he must decide what to do with the recommendation and, if he decides to reject it, he is required to give his reasons, in writing. He won't have to do that after the council takes over from the commission.

The scope of the questions the commission will have to deal with is considerable, and the skill with which it acts is likely to have a significant effect on the conduct of research and on public thinking for quite a while. One hopes the 11 members of the commission face the issues head on.

—BARBARA J. CULLITON