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## Dispute Turns a Researcher Into an Inmate

By MIREYA NAVARRO

Petr Taborsky has traded the scientist's white coat and the experiments that bind researchers to their laboratories for the white shirt and pants of the state prison here and the shackles of a Florida chain gang.

Mr. Taborsky's transformation, from student research assistant at the University of South Florida to Prisoner No. 514527, serving three and a half years at the North Florida Reception Center here, is the result of a dispute that led his professor to accuse him of stealing research. The university, in what many academics are calling an unprecedented move, decided to press criminal charges.

It's remarkable," said David Lange, a professor of intellectual property rights at Duke University in Durham, N.C. "It's hard to imagine circumstances sufficiently exacerbated under which a university would sue one of its students, much less pursue criminal charges."

After a jury convicted him in 1990 of grand theft and theft of trade secrets, Mr. Taborsky was sentenced to a year's house arrest, a suspended 3 1/2-year prison term and 11 1/2 years' probation, during which he was to put in 500 hours of community service. But last January that was superseded by imprisonment and two months of work under armed guard -- legs shackled together, clearing brush and trees -- after he violated a court order barring his use of the disputed research and obtained three patents.

"Filing a patent application was the only way to protect my work," he said in a recent interview.

Since then, however, a judge has assigned one patent to the university as restitution; hearings regarding the other two patents are pending.

Some scholars say the university's decision to take one of its own to the police does not come entirely as a surprise. Mr. Taborsky's laboratory work -- he discovered how to turn a claylike material similar to cat litter into a reusable cleanser of sewage -- was part of a project financed by a private utility holding company. It is the kind of sponsored research that generates millions of dollars for universities and is aggressively protected by them.

At the University of South Florida, the second-largest state university in Florida with 36,000 students, industry- and government-sponsored research has grown to about \$100 million a year from \$22 million in 1986.

The growth in private research money followed a 1980 Federal policy change that gave universities the right to own patents on discoveries made on campus under Federal grants. The change also allowed companies to obtain exclusive licenses by sponsoring research. Since then, the financing of research by

private industry on campuses has grown nationally to \$1.5 billion a year, according to the National Science Foundation.

But as Mr. Taborsky's family lobbies for his release, his case has shocked experts, who say intellectual-property disputes usually end in negotiated settlements or in civil, not criminal, court. Gov. Lawton Chiles of Florida has asked his staff to look into the case to determine whether it merits a clemency proceeding or other action.

University officials say they had to report Mr. Taborsky after he "disappeared" with several research notebooks and jeopardized the university's contractual obligation to the company paying for the work. "It was a theft," said a university lawyer, Henry Lavandera. "He walked out of here with property that didn't belong to him."

Nobody seems to know how much the patents are worth. Both sides maintain that money is not the issue. But some scholars say that industry-sponsored research is potentially so lucrative that getting a piece of the action -- a name on a journal article, a patent, a share of royalties -- has overshadowed the notion of research as an intellectual pursuit. And as financial gains beckon, students, who often perform the actual experiments, are more aggressively asserting their rights.

"Universities have in a sense been colonized by companies in a mutually beneficial way," said Sheldon Krinsky, a professor of science policy at Tufts University in Medford, Mass., who has written about these university-corporation partnerships. "On the other hand, this has created an atmosphere of secrecy and financial conflict, as well as turning science to more pragmatic ends from a basic research orientation."

Mr. Taborsky was a 26-year-old undergraduate in chemistry and biology, working as a laboratory assistant in the College of Engineering in 1987, when he was tapped for a research project for a subsidiary of Florida Progress, a large utility holding company. The university said its contract gave the company all rights to the research and to any results it might yield.

The project's goal was to make sewage treatment less expensive and more efficient. Mr. Taborsky, who performed the testing for the project, discovered such a process.

The project's principal investigator, Robert P. Carnahan, said that Mr. Taborsky was part of a team and that the discovery stemmed from the team's decisions about the direction of the research.

But in the interview, Mr. Taborsky said that he made his discovery after the project had ended and that he conducted related experiments on his own, intending to use them as a basis for his master's thesis.

Professor Carnahan, 59, an associate dean for research at the College of Engineering with a long career as an Army engineer and two patents to his name, said he felt betrayed. "I thought I understood people," he said. "I trusted him."

Many universities require a person working on a grant project to sign a patent and copyright agreement that cedes ownership rights to the university. The universities then determine who gets what share of the profits the research yields.

But in 1988, the University of South Florida had not yet defined a policy regarding the research efforts of undergraduates like Mr. Taborsky. And both the university and Mr. Taborsky say that he did not sign the sponsor's standard confidentiality agreement -- in which he said he would not use or exploit

company-sponsored research without the company's permission -- until months after the discovery.

Mr. Taborsky, who comes from the former Czechoslovakia and whose father and sister are scientists, said he believed that the university pressed criminal charges to scare him into giving in. The case has cost him dearly: his four-year marriage crumbled, and his plans for a career as a neurologist have been scuttled.

But, insisting that the jury that convicted him was misled and did not hear vital information, Mr. Taborsky vowed not to rest until his conviction is overturned. His initial appeal of the conviction was denied, and he is now pursuing other legal avenues for relief.

In the meantime, prison officials are taking advantage of his talents. They have put him to work at the prison's waste-water treatment plant, doing sampling and testing to monitor its daily operation.