



**The Elusive Tuberculosis Case:  
The CDC and Andrew Speaker  
Epilogue**

That evening, May 25, 2007, Dr. Martin Cetron reached Andrew Speaker on his cell phone. He instructed Speaker to drive straight to Bellevue Hospital in New York City. Speaker complied voluntarily. At Bellevue, Dr. David Kim served him with a federal order for provisional quarantine that authorized 72 hours of mandatory isolation and medical examination for XDR TB. It was the first such order issued since 1963. Tests at Bellevue showed Speaker remained smear negative—his TB did not appear to have progressed as health officials had feared—although subsequent tests would show he was still culture positive.

Two days later, CDC director Julie Gerberding signed off on an extension of the isolation order, approving Speaker's transfer, via CDC-provided aircraft, to his hometown, Atlanta. There he was met on May 28 by a team of CDC and Georgia health officials, as well as representatives of the Fulton County Sheriff's Department. They served him with the new isolation order and escorted him to Grady Memorial Hospital.

On May 31, Speaker was transferred again, this time via air ambulance provided by his insurer, to National Jewish Hospital in Denver. There he was kept in continued isolation and began treatment for XDR TB. On June 2, with Denver County health officials assuming responsibility for Speaker's treatment and isolation, the CDC rescinded its federal isolation order.

In the meantime, the CDC began a contact investigation to identify and follow up with those Speaker might have infected. He had taken a number of commercial flights, but only those seated within two rows in front and behind him on the two flights lasting over eight hours were considered at risk of infection, so finding those people was a top priority. CDC officials began by requesting the passenger manifests.

The CDC Director's Office also held a series of press conferences, beginning on May 29, 2007, at which they outlined the public health implications of the case. They explained the reasoning behind the isolation order, and encouraged passengers on the two long flights

to contact the CDC.<sup>1</sup> They emphasized that Speaker was not highly contagious, but that the gravity of his illness itself demanded every precaution.

By the June 1 press briefing, 40 passengers had contacted the CDC to self-report, and Gerberding announced that all at-risk US citizens had been identified, contacted by the CDC, and their details given to their respective state health departments for follow-up testing.<sup>2</sup> World Health Organization (WHO) guidelines considered countries responsible for notifying their own citizens in such cases, so the CDC also provided WHO with Speaker's itinerary. WHO in turn contacted health agencies in the affected countries, which began taking steps to notify their own at-risk citizens.<sup>3</sup>

Following its policy to protect patients' privacy, at those early press conferences CDC officials did not use Speaker's name or identifying details. But in the media firestorm that followed, even without a name or a face, the XDR TB patient described in the media—a young lawyer who had knowingly endangered others by traveling against medical advice—became the target of public outrage.

Speaker began a defensive media campaign to respond to the negative publicity. He first spoke under the condition of anonymity to the *Atlanta-Journal Constitution*, but on May 31 he gave an interview to *Good Morning America's* Diane Sawyer, recorded from his hospital room for broadcast the following day.<sup>4</sup> Before that interview even aired, the Associated Press had identified him, and public criticism was unleashed in full force, now aimed squarely at Speaker and his family. They went on to defend themselves in various outlets, including *Newsweek*, *People*, and *Larry King Live*.<sup>5</sup>

In his media appearances, Speaker took issue with the CDC's version of events. He argued that before he left the country he was told in no uncertain terms that he was not contagious, and he was never ordered not to travel, as the media was suggesting, but only that the CDC would prefer that he not do so. In Speaker's view, the CDC later cornered him in Rome with the impossible choice of either paying a fortune for a private return flight or being isolated for an indeterminate period outside his country—even though he was *still* not contagious. He was, he said, absolutely terrified—and now he felt he was becoming a scapegoat for the CDC's mistakes.

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<sup>1</sup> CDC press conferences, May 29, 2007 and May 31, 2007. For full transcripts see:

<sup>2</sup> Gerberding statement, CDC press conference, June 1, 2007. See:

<http://www.cdc.gov/media/transcripts/2007/t070601.htm>

<sup>3</sup> WHO guidelines indicate that in cases like this, each country is responsible for notification of its own citizens. Gerberding statement, CDC press conference, June 1, 2007.

<sup>4</sup> "Atlantan Quarantined with Deadly TB Strain; CDC Issues Rare Isolation Order; Air Passengers Warned," *Atlanta Journal-Constitution*, May 30, 2007. Also: "Exclusive: TB Patient Asks Forgiveness but Defends Travel," *Good Morning America*, June 1, 2007. See:

<http://abcnews.go.com/GMA/OnCall/story?id=3231184&page=1#.UZThZYJMZTO>

<sup>5</sup> Eve Conant, "His Side of the Story," *Newsweek Magazine*, June 1, 2007. See:

<http://www.thedailybeast.com/newsweek/2007/05/31/his-side-of-the-story.html>; Nina Burleigh, "Medical Fugitive," *People Magazine*, June 18, 2007. See: <http://www.people.com/people/article/0,,20061197,00.html>; and "T.B. Traveler Tells His Side of Story," *Larry King Live* (CNN, June 6, 2007). See: <http://transcripts.cnn.com/TRANSCRIPTS/0706/06/lkl.01.html>.

Speaker was not alone in his criticism of the CDC's handling of the case. Other naysayers argued in that the CDC had overreacted, given Speaker's low level of contagiousness, speculating that health officials had seen this as good opportunity to hook public funding for anti-TB efforts.<sup>6</sup> Others contested this view, responding that the CDC had handled the case in the best way possible, given the challenge of tracking down those exposed and the seriousness of the illness in question.<sup>7</sup>

As CDC officials had anticipated, the media attention triggered scrutiny from public representatives and demands for accountability. On June 6, committees in both the House of Representatives and the Senate held hearings to determine what went wrong, and what changes should be made to prevent it from happening again.<sup>8</sup> It turned out that the US border patrol agent who had scanned Speaker's passport at the Canadian border had seen the TECS alert, but allowed Speaker to pass because he did not appear sick.<sup>9</sup> The border agent was subsequently fired. As a result of the incident, the Customs and Border Patrol refined its TECS system to prevent individual agents from overriding public health alerts.<sup>10</sup>

Also as a direct result of the Speaker incident, the Department of Homeland Security and the CDC refined their procedures for inter- and intra-departmental communication about TB patients, and streamlined the process whereby CDC officials could request assistance from the DHS to track and restrict the movements of patients believed to pose a public health threat.<sup>11</sup>

These new procedures included the implementation of a "Do Not Board" list which, unlike the terrorism-oriented "no fly list," was specifically designed for public health purposes.<sup>12</sup> The new provision allowed health authorities in the US and abroad to contact the CDC and ask that an infectious disease patient be prevented from boarding a commercial flight to or from the United States. Upon CDC approval, the person's name was placed on the list and airlines were instructed not to issue him a boarding pass until he was determined to be non-contagious.

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<sup>6</sup> "Did CDC hype TB case as a fund-raising ploy? Agency denies it, but critics say Andrew Speaker was pawn in publicity grab," *Atlanta Journal-Constitution*, January 13, 2008.

<sup>7</sup> Lawrence K. Altman, "Experts Mostly Back Way U.S. Reacted in TB Case," *The New York Times*, July 5, 2007, sec. National. See: <http://www.nytimes.com/2007/07/05/us/05tb.html>.

<sup>8</sup> For complete transcripts of those hearings see: "The XDR Tuberculosis Incident," Full Hearing of the Committee on Homeland Security, US House of Representatives, June 6, 2007, <http://www.gpo.gov/fdsys/pkg/CHRG110hrg48919/content-detail.html>, and "Cracks in the System: An Examination of One Tuberculosis Patient's International Public Health Threat," Hearing Before a Subcommittee of the Committee on Appropriations, US

Senate, June 6, 2007. See: <http://www.gpo.gov/fdsys/pkg/CHRG-110shrg41837/pdf/CHRG-110shrg41837.pdf>

<sup>9</sup> Lawrence K. Altman, "Agent at Border, Aware of Alert, Did Not Detain Man Who Has TB," *The New York Times*, June 1, 2007. See: <http://query.nytimes.com/gst/fullpage.html?res=9F04E2D71530F932A35755C0A9619C8B63>

<sup>10</sup> "Public Health and Border Security," Government Accountability Office Report to Congress, October 2008, p. 8. See: <http://www.gao.gov/new.items/d0958.pdf>

<sup>11</sup> For more details on the procedural changes that were implemented in response to the Speaker incident, see: "Public Health and Border Security," Government Accountability Office Report to Congress, October 2008. See: <http://www.gao.gov/new.items/d0958.pdf>

<sup>12</sup> Kathleen S. Swendiman and Nancy Lee Jones, "Extensively Drug-Resistant Tuberculosis (XDR-TB): Emerging Public Health Threats and Quarantine and Isolation," *Congressional Research Report*, November 26, 2010, p. 7.

On July 3, 2007, the CDC and Denver National Jewish Hospital announced that new test results showed Speaker did not have XDR TB after all, but the easier-to-treat MDR TB. On July 26, sooner than expected but after undergoing surgery to remove part of his right lung, Speaker was released from Denver Jewish, and flew on an air ambulance back home to Georgia. There he underwent two years of directly observed therapy, eventually making a complete recovery.

Speaker filed a lawsuit against the CDC on April 28, 2009, alleging it had violated his privacy by not protecting his identity. Thus began a legal back-and-forth that lasted for several years, until March 2012 when a district judge granted the CDC's motion for summary judgment in the case, finding that not only did Speaker not have sufficient evidence to prove the CDC had revealed his identity, but that he may well have been responsible for the disclosure of his own identity through the press interviews he gave.<sup>13</sup> Speaker had the right the appeal.

In his lawsuit Speaker claimed that revealing his identity had led to extreme emotional and economic harm, including the breakup of his relationship with Sarah Cooksey.<sup>14</sup> Neither she, nor anyone else Speaker came into contact with during his travels, was ever found to have been infected by him.<sup>15</sup> Speaker became a freelance life coach.<sup>16</sup>

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<sup>13</sup> U.S. District Court For the Northern District of Georgia, "Andrew Harley Speaker V. United States Department of Health and Human Services Centers for Disease Control and Prevention," March 14, 2012; For a concise summary of the Speaker/CDC legal battle see: Denise Chrysler, "Andrew Speaker Vs. CDC: Speaker's Lawsuit Dismissed...Again," *The Network for Public Health Law Blog*, March 22, 2012. See: [http://www.networkforphl.org/the\\_network\\_blog/2012/03/22/95/andrew\\_speaker\\_vs\\_cdc\\_speakers\\_lawsuit\\_dismissed\\_again/](http://www.networkforphl.org/the_network_blog/2012/03/22/95/andrew_speaker_vs_cdc_speakers_lawsuit_dismissed_again/).

<sup>14</sup> They had not yet filed for a marriage certificate in the US, so were never legally married.

<sup>15</sup> "No one got TB on flight with infected American: Officials," CBC News, November 28, 2008. See: <http://www.cbc.ca/news/health/story/2007/11/28/tb-speaker.html>

<sup>16</sup> See: <http://andrewspeaker.com>