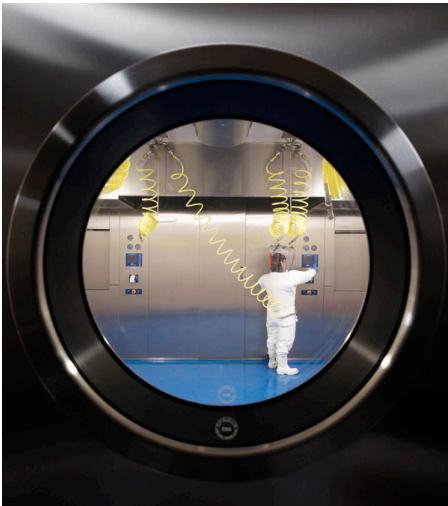


Weapons and the UTMB Galveston National Laboratory



- **Galveston National Lab is a heavily secured National Biocontainment Lab on UTMB campus that houses research on the most dangerous microbes, including select agents: ebola, SARS, West Nile, anthrax, etc.** (Select agents: biological agents and toxins with potential to pose severe threat to public health and safety and could be used in terrorism. Access and use strictly regulated by federal agencies, including HHS, CDC, Dept of Justice. See Federal Select Agent Program www.selectagents.gov.) Houses labs at each levels of biosafety authorization, BSL 1, 2, 3, and 4-- BSL 4 is highest, most secure.
- Federal designation and funding awarded in 2003 by National Institute of Health and National Institute of Allergy and Infectious Disease. GNL currently in the process of applying for 5 year renewal.
- \$172M building completed in August 2008: \$115M federal, \$57M state TRB passed in 2006. Has extensive and specialized engineering, air-handling, decontamination, and security systems designed specifically for safe handling and containment of dangerous pathogens. Undamaged by September 2008 Hurricane Ike.
- Research began in 2010, after extensive safety and security inspections and approval and registration processes from multiple federal agencies. **Approval and funding for working with select agents is based on very extensive biosafety and security requirements** addressing personnel, physical and cyber security, to ensure safety of people inside and outside the lab and to ensure against theft, misuse, and unlawful use of dangerous pathogens. **Monitored regularly by various federal agencies. See 42 CFR 73.**
- The approved GNL security plan's physical security measures include: multiple layers of perimeter barriers, armed security personnel, metal detectors and screening at the entrance, multiple key coded and lock systems at entrances to each lab within the building, ongoing monitoring of all areas of the lab, perimeter patrols by a trained police dog. Personnel security: all people entering the facility vetted and physically screened; increasingly stringent standards and background checks required for approved entry into the increasingly secure biosafety levels of the lab; card entrance and other measures allow entrance to lab areas only according to specific individual's biosafety level clearance. Access to the BSL 4 portion of the lab is the most limited, has the most stringent physical and access barriers. **Weapons are not allowed in the facility other than those of the armed laboratory police.**
- **Allowing weapons in GNL would substantially change the security environment that has been operated successfully without incident and that has been federally approved and closely monitored for years. Section 73.8 of the federal regulations authorizes denial, revocation or suspension of a certificate of registration to work with select agents for a number of reasons, including if "(4) it is determined that such action is necessary for public health or safety."**

Given the extensive federal security measure requirements, the extreme dangerousness of the microbes studied in the lab, and possibility of their use in criminal or terroristic activities, it is highly unlikely that the federal government would find any security plan that allowed weapons inside the facility to be sufficient to protect public health and safety.

Consequences of loss of GNL's designation as a National Biocontainment Lab with select agent authority:

- Immediate loss of \$14M per year federal funding for operating the facility
- Immediate loss of \$40-50M per year in federal research grants
- Underutilization of this highly specialized and technologically complex \$172M facility (incl. \$57M state) built specifically to support safe handling of select agents
- Loss of the lab's infectious disease experts that also provide expertise to UTMB clinicians for safe treatment of ebola and other dangerous infectious conditions in UTMB's hospital, the state's only designated adult ebola treatment facility

Appendix – Select Federal Law, Executive Orders and Regulations

- **Public Health Security and Bioterrorism Preparedness and Response Act of 2002**
(P.L. 107-188)

Section 201 (the Act) requires the Secretary of the Department of Health and Human Services (HHS) to, by regulation, provide for “the appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to public health and safety (including the risk of use in domestic or international terrorism).”¹ Section 212 of the Act requires the Secretary of the Department of Agriculture (USDA) to, by regulation, provide for “the appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin pose to animal and plant health, and animal and plant products (including the risk of use in domestic or international terrorism).”

- **Code of Federal Regulations : 42 CFR 73 SELECT AGENTS AND TOXINS**
- **Regulations implementing the provisions of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 setting forth the requirements for possession, use, and transfer of select agents and toxins.**

For Full regulation, See Link under Regulations at www.selectagents.gov.

73.11 Security

(a) An individual or entity required to register under this part must develop and implement a written security plan. The security plan must be sufficient to safeguard the select agent or toxin against unauthorized access, theft, loss, or release.

(b) The security plan must be designed according to a site-specific risk assessment and must provide graded protection in accordance with the risk of the select agent or toxin, given its intended use. The security plan must be submitted upon request.

(c) The security plan must:

- (1) Describe procedures for physical security, inventory control, and information systems control,
- (2) Contain provisions for the control of access to select agents and toxins,
- (3) Contain provisions for routine cleaning, maintenance, and repairs,
- (4) Establish procedures for removing unauthorized or suspicious persons,
- (5) Describe procedures for addressing loss or compromise of keys, passwords, combinations, etc. and protocols for changing access numbers or locks following staff changes,
- (6) Contain procedures for reporting unauthorized or suspicious persons or activities, loss or theft of select agents or toxins, release of select agents or toxins, or alteration of inventory records, and
- (7) Contain provisions for ensuring that all individuals with access approval from the HHS Secretary or Administrator understand and comply with the security procedures.

- **Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001**

P.L. 107-56 (H.R. 2975/H.R. 3162)

Public Law (P.L.) 107-56 amends a number of titles of the United States Code (USC) in an effort to expand the Nation’s ability to intercept and thwart terrorist threats. Of particular interest are amendments to Title 18 regarding possession, use, and transport of biological agents. These amendments seek to ensure that only those persons who have a lawful purpose for possessing, using, and/or transporting such agents are

permitted to work with these agents, and that penalties are established for certain “restricted” individuals who are in possession of such agents.

Section 175, Chapter 10, Title 18, United States Code

(a) In General. — Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) Additional Offense. — Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both. In this subsection, the terms “biological agent” and “toxin” do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(c) Definition. — For purposes of this section, the term “for use as a weapon” includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, bona fide research, or other peaceful purposes.

<http://olpa.od.nih.gov/legislation/107/publicclaws/patriotact.asp>

- **Executive Order 13486 of January 9, 2009 - Strengthening Laboratory Biosecurity in the United States**

It is the policy of the United States that facilities that possess biological select agents and toxins have appropriate security and personnel assurance practices to protect against theft, misuse, or diversion to unlawful activity of such agents and toxins.

Sec. 2. Establishment and Operation of the Working Group. (a) There is hereby established, within the Department of Defense for administrative purposes only, the Working Group on Strengthening the Biosecurity of the United States (Working Group).

<http://georgewbush-whitehouse.archives.gov/news/releases/2009/01/20090109-6.html>

- **Executive Order 13546 of July 10, 2010 -- Optimizing the Security of Biological Select Agents and Toxins in the United States**

Section 1. Policy. It is the policy of the United States that:

(a) A robust and productive scientific enterprise that utilizes biological select agents and toxins (BSAT) is essential to national security;

(b) BSAT shall be secured in a manner appropriate to their risk of misuse, theft, loss, and accidental release; and

(c) Security measures shall be taken in a coordinated manner that balances their efficacy with the need to minimize the adverse impact on the legitimate use of BSAT.

<http://www.whitehouse.gov/the-press-office/executive-order-optimizing-security-biological-select-agents-and-toxins-united-stat>

<https://www.fas.org/irp/offdocs/eo/eo-13486.htm>