

Closeout of M90050022

The case began with the receipt on 5/15/90 of a letter to Philip Sunshine, Counsel to the IG, from [REDACTED] dated 5/8/90. He had "several complaints of scientific misconduct regarding" the work of [REDACTED] and [REDACTED], under NSF grant [REDACTED], as reported in their book [REDACTED]. His letter alleged that the authors "obfuscated issues of their originality and priority by not citing the works of others", "made false claims to originality and priority", "ignored evidence of different findings", and used "misleading" statistics; he also said the authors "will not give access to the identifying records of their raw data." He enclosed a copy of a review he had written of the book, as well as copies of correspondence he had received from [REDACTED]. He subsequently sent a copy of a letter he mailed to [REDACTED] (Div of Soc & Econ Sci) and her response, regarding his allegation that the authors would not provide him with the raw data from their research.

[REDACTED] sent a substantively identical letter, also dated 5/8/90, to Dr. Price at OSI, regarding two "NICHD" grants. After Dr. Zwolenik discussed the agencies' relative funding with [REDACTED] and Dr. Offen at OSI, it was agreed that NSF/OIG would handle this case.

In a telephone conversation with Dr. Zwolenik, Ass't IG for Oversight, [REDACTED] agreed to send a more direct statement of his allegations of misconduct. He sent a letter listing three of "what I think are false claims": (1) that the "book is based on ... the largest study of [REDACTED] ever undertaken"; (2) that they "discovered how misleading [the Administrative Office's] gross statistics are"; and (3) the reasons they gave for selecting the three states sampled in their study. Dr. Zwolenik confirmed with him that no more elaboration of his allegations would be forthcoming.

My examination of [REDACTED] review (which was published at [REDACTED] (1990)) and letters made it clear that the allegations regarding the substance in the book do not meet the NSF definition of misconduct. Rather, [REDACTED] objection to the work reported in the book is the type of scholarly dispute that is well handled in the academic/scientific community by the publication of substantive book review articles such as his and [REDACTED] ([REDACTED] (1989)). There was no allegation of affirmative misrepresentation; just differences -- albeit extreme differences -- of opinion regarding the interpretation of data.

The NSF has an explicit policy on "Openness of Scientific Communication" (see publication No. NSB 88-215), and has informed all grantee institutions that NSF "expects investigators to share with other researchers, at no more than incremental cost and within a reasonable time, the primary data, samples, physical

collections, and other supporting materials created or gathered in the course of research" (NSF Notice No. 106). I talked to [REDACTED] and [REDACTED] regarding the allegation of withheld raw data, and found that this allegation was based upon misunderstandings.

In her letters, [REDACTED] had given the impression that the identifiers for the database, which would allow one to check each record in the database against the [REDACTED] file it had been coded from, existed but that she could not provide the database to [REDACTED] with those identifiers included, because of HHS's Human Subjects Regulation (45 CFR part 46). This would obviously be bogus, because (A) on the cover sheet of the proposal, the PIs had stated the proposal was exempt from the HSR under 45 CFR section 46.101(b)(3), and (B) it was in fact exempt under 45 CFR section 46.101(b)(5). When I talked to [REDACTED], however, she said that the identifiers were excluded from the database from the start, because of the interpretation of the HSR by [REDACTED] Institutional Review Board. Thus, they were not refusing to provide the database with the identifiers: they couldn't, because the identifiers weren't put in to begin with. They were willing, however, to provide to [REDACTED] a complete list of the cases they sampled, should he desire to verify each datum.

[REDACTED] said that they had offered to provide Prof. [REDACTED] with a machine-readable copy of the raw data file; they were not, however, interested in providing the additional analyses of the data that he was effectively requesting. This seemed entirely reasonable, since he is as able as they to generate whatever manner of printouts, and further statistical analyses, that he desires. In these circumstances, I believe Profs. [REDACTED] and [REDACTED] have demonstrated sufficient willingness to comply with NSF's policy in favor of openness of scientific communication. It is unfortunate that their IRB erroneously compelled them to omit useful information from the database, rendering verification of their data exceedingly difficult.

I wrote to [REDACTED] and informed him that his substantive allegations regarding the book were not misconduct under our regulation. I also informed him of the result of my discussion with [REDACTED] regarding the raw data. In an effort to minimize future misunderstanding, I wrote to [REDACTED] also, telling her what I told [REDACTED] about our conversation. This case should be closed.

[REDACTED]