

CLOSEOUT FOR M92090036

This case originated in an August 24, 1992, telephone call from [REDACTED] (the complainant) to [REDACTED], a Deputy Division Director in the Division of [REDACTED] (the division director). The complainant alleged that two researchers at the [REDACTED] (the Center) had used the complainant's data in a presentation and a publication without permission. The researchers are [REDACTED] (the first subject) and [REDACTED] (the second subject). The division director referred this complaint to the OIG the following day. In subsequent correspondence and telephone conversations with OIG, the complainant clarified and elaborated on her allegations.

The complainant was a graduate student at another institution who came to the Center to use its facilities. While she was at the Center, she worked on her research with the first subject, and, during the course of their work, they enlisted the help of the second subject. Their work involved analysis of data that the complainant brought to the Center and that was central to her dissertation research.

The complainant's first allegation was that the first subject, without the complainant's knowledge or consent, submitted an abstract to a professional meeting that listed the complainant as first author and used the complainant's data. At the time of the submission, the first subject and the complainant were working together to put the complainant's data into publishable form. The first subject explained that he submitted the abstract without obtaining the complainant's consent because he did not wish to disturb the complainant while she was completing her dissertation. After the submission, the complainant sent the first subject a message thanking him for his action, but expressing her desire to herself "mak[e] this poster presentation featuring my work."

OIG believes that the first subject should have consulted with the complainant before submitting an abstract to a meeting and should have come to agreement with her on the text of the abstract before it was submitted. In this case, however, failure to do so cannot be considered a serious deviation from accepted practice

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because the first subject was himself engaged in preparing the work for publication and because he provided the complainant with authorship credit for the work involved. In an ongoing collaboration, the first subject's action would likely, in the absence of other aggravating factors, be interpreted as, at worst, a misguided favor and not as misconduct in science.

After the professional relationship between the complainant and the first subject ended, the complainant alleged that she had granted the first subject authorship credit for the work only out of friendship, and not for his scientific contributions. At the time of this incident, however, the complainant, while expressing reservations about the first subject's conduct, did not allege that the first subject misappropriated credit for their work or in any way dispute the first subject's claim of authorship credit for the abstract. OIG believes that in this case the complainant's response to the first subject's submission of the abstract forecloses any possibility that the first subject's claim of credit could later be found to be misconduct in science.

The complainant's second allegation was that the first subject publicly humiliated her after she made a presentation of her research at another professional meeting. According to the complainant, the first subject allegedly told other attendees that the complainant did not know what she was talking about and made other unflattering remarks. If the complainant's account of this incident is accurate, OIG believes that the first subject violated professional norms governing the relations between senior and junior colleagues. OIG believes that professional norms governing the open discussion and evaluation of ideas, however, make it inappropriate to take action against the first subject for violating norms of collegiality or making unflattering public remarks about the work of a junior colleague. However rude and unacceptable such behavior may be, it cannot be considered misconduct in science.

The complainant's third allegation concerns the first subject's allegedly unauthorized sharing and copying of her data. In the course of the complainant's work with the subjects, the first subject offered to proofread the complainant's dissertation. The complainant sent him the draft, including, at the first subject's request, positive prints of certain data. The first subject made copies of the data without the complainant's authorization to do so. These data were an integral part of a paper that the complainant and the subjects planned to publish, and OIG believes that the subjects would have had reason to consider themselves entitled to copies. The complainant presented no evidence that the first subject's action in this instance significantly deprived the complainant of credit for her work. Likewise, the complainant presented no evidence (and made no

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allegation) that the first subject subsequently misused these data. In the absence of evidence that the first subject had deprived the complainant of credit or made unauthorized use of the data, OIG concluded that this allegation should not be pursued further.

The complainant's fourth allegation is that the second subject used results from the complainant's dissertation in a presentation at a professional meeting without the complainant's permission. According to the complainant, the second subject's oral discussion of this material was similar to that in a draft manuscript written by the complainant and entrusted to the second subject for proof reading. At the time the second subject used these materials, he was listed as a co-author on the draft manuscript. The second subject allegedly acknowledged the complainant as a source of data for his presentation, but did not fully describe her contribution and did not include her as a co-author of the presentation. When the complainant confronted him, he allegedly explained that he simply forgot to mention one aspect of her contribution. OIG does not believe that in this case this alleged partial failure to acknowledge a collaborator in an oral presentation can be considered misconduct.

Although the complainant alleged that the second subject misappropriated her analysis in his oral presentation, she acknowledged that the analysis in the written version of the second subject's paper was his own and was not substantially the same as hers. OIG decided that it would not be practicable to pursue a claim that an oral presentation misappropriates an analysis from the complainant's paper when (1) the only written record of that presentation presents a substantially different analysis and (2) the allegedly misappropriated analysis comes from a paper of which the second subject was a co-author.

This inquiry is closed and no further action will be taken on this case.

cc: IG, AIG-O