

## CLOSEOUT FOR M97100042

On 31 October 1997, OIG received an allegation from an officer of an institution<sup>1</sup> that the subject<sup>2</sup> may have committed misconduct in science. It was alleged that the subject had, without permission, taken potentially hazardous materials from a controlled environment facility, and spoken disparagingly of the quality of those materials in public settings, so as to discredit the director<sup>3</sup> of the facility from which the materials were taken. The subject, an employee of another federal agency, was listed as a "cooperator" on the director's NSF grant.<sup>4</sup> Letters of cooperation attached to the grant indicate a reciprocal arrangement—the subject planned to make her facilities available to the project, as well as carry out work in the director's facility.

The transfer of the materials took place after the subject inquired about conducting an experiment with the materials in the director's facility. The director recalls telling the subject that the materials were contaminated and had lost potency, and that it would be necessary for the subject to repeat any experiments on pure, potent materials. Nonetheless, the subject conducted the experiment on the materials, and called the director to inform her that she had taken some of the materials with her to study. At that time the director did not make an issue of the subject's transfer of materials. However, she believed the subject should have obtained permission as a matter of trust and professional courtesy.

The issue did not resurface until nearly a year and a half later, when the subject made public statements that were quoted in the press, regarding the quality of the materials. The director believed that the subject's characterization of the materials was unfair, and a deliberate attempt to discredit the director and her laboratory. Initially, the director complained about the matter to the subject's supervisor. However, the subject's supervisor responded that the entire matter was a misunderstanding stemming from misquotations in the press. Thereafter, the director stated that she wished to pursue the matter as a misconduct-in-science issue, unless the subject issued a formal, public apology. We assessed the matter and concluded that however unpleasant or even unfair the subject's public statements may have been, this controversy was a scientific disagreement, not misconduct in science.

Our analysis of whether the removal of the materials was misconduct in science focuses on three points: whether removal of the materials was hazardous, whether the subject failed to obtain required permission to remove the materials, and whether removal of the materials violated any regulations.

As discussed above, the director of the facility recalls telling the subject that the materials were not very potent and rapidly lose potency when removed from a stimulating environment. Accordingly, we conclude that the hazard posed by the

<sup>1</sup> Dr. [REDACTED]  
University. Neither the officer nor the institution took any position on the allegations referred to OIG.

<sup>2</sup> Dr. [REDACTED]

<sup>3</sup> Dr. [REDACTED]

<sup>4</sup> [REDACTED]

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materials was much less than that of the pure materials that the facility was designed to accommodate.

Under the laboratory's protocols, permission to remove materials and a record of the transfer were required for potent materials, but not for materials that had lost their potency, for which no records were kept. There was no logbook entry by the subject during the time period in question. The subject admits taking the materials, but asserts that no permission was required because removal of the materials was part of a series of exchanges between the laboratories. While the director characterizes these exchanges as infrequent, she acknowledges that there had been exchanges between the laboratories of materials that had lost their potency.

We note that the subject was a cooperator on the project. A letter from the subject that was included in the appendix to the director's NSF proposal states that many of the experiments, especially those involving materials that had lost their potency, would be conducted in the subject's laboratory. In our view, the letter contemplates the transfer of materials, and does not rule out the transfer of potent materials. Certainly, the prudent, collegial practice would have been to obtain permission to remove the materials and to enter any transfer into the log kept for that purpose. However, under the circumstances discussed above, we conclude that the subject's failure to obtain permission and record the transfer of materials, while uncollegial and demonstrating poor judgment, was not misconduct in science.

Furthermore, the transport of the materials did not violate any regulations governing the transport of such materials.

In sum, we conclude that the subject's removal of the materials without entering the removal in the log or obtaining permission was not the best practice, but broke no regulations nor unequivocally violated the laboratory's protocols. We conclude that the removal of the materials did not rise to the level of misconduct in science. Accordingly, this case is closed and no further action will be taken.

cc: Integrity, IG