

**CLOSEOUT FOR M90070025**

This case was brought to OIG on July 5, 1990, by Dr. [REDACTED], then Deputy Director of the Division of [REDACTED] in NSF's Directorate of Engineering (the deputy division director). He had received information concerning allegations of misconduct in science from Dr. [REDACTED] of the [REDACTED], then a former NSF program officer in his division. Dr. [REDACTED] (the complainant), a researcher at the [REDACTED], had made allegations of misconduct to the former program officer. The subject of the allegations was Dr. [REDACTED] of [REDACTED], who was PI on NSF grants [REDACTED], entitled [REDACTED], [REDACTED], and [REDACTED] entitled [REDACTED] [REDACTED] (the second award).

The subject and the complainant initiated a research collaboration in 1987 that ended less than a year after it began when the two researchers disagreed over the appropriate authorship order on a paper they were preparing for publication. Their dispute included disagreement as to who had made the crucial experimental advances in their joint work. The subject mentioned his collaboration with the complainant in the proposal that resulted in the second award, but did not ask for NSF funds to support the complainant's activities or include documentation in his proposal indicating that the complainant had agreed to work on the project. The collaboration dissolved after the proposal was submitted but before the award was made.

In an April 26, 1990, conversation with the former program officer, the complainant learned that the subject had received the second award. In that conversation, the complainant alleged that the subject had claimed credit for experimental results first produced in the complainant's laboratory. The former program officer advised the complainant to make his allegations known to the subject's department chair [REDACTED], and the complainant says that he did so. After further consultations with the former program officer, the complainant sent the subject a letter explaining the complainant's allegations. The subject wrote a statement to rebut the allegations against him and allegedly sent it to the complainant, the complainant's supervisor, the subject's department chair, and the former program officer. The matter was brought to OIG after the former program officer learned of the subject's rebuttal, and when it had become apparent that his attempt to mediate the dispute between the subject and the complainant had failed and that the department chair would not take steps to resolve the matter to the complainant's satisfaction.

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OIG considered four allegations of misconduct arising from the information the complainant provided. These were (1) that the subject, in an article that acknowledges support from NSF,<sup>1</sup> misappropriated the complainant's work and represented it as his own; (2) that the subject prevented the complainant from publishing the work in dispute under the complainant's own name; (3) that the subject did not inform the complainant that he was proposing a project to NSF that included the complainant's participation, seek the complainant's permission to discuss their collaboration in the NSF proposal that resulted in the second award, or inform NSF that the collaboration had ended; and (4) that the subject misappropriated the complainant's ideas and incorporated them in the proposal that resulted in the second award.

OIG determined that resolving the first two allegations would require examining the laboratory records of the two researchers for evidence of when and whether each achieved certain experimental results. We asked the complainant to supply laboratory records that supported his priority claims and suggested that the subject had misappropriated the complainant's research findings. The complainant informed us that his laboratory had been repeatedly relocated. He said he was unsure what records had survived the relocations and whether the surviving records would persuasively document his priority claims. Despite OIG's repeated requests, the complainant did not provide us with evidence from his laboratory records to support his allegations, and OIG determined it was not practicable to visit the complainant's laboratory and make an extensive search for relevant surviving records. OIG was also concerned that the attempts to mediate the priority dispute without first securing the subject's laboratory records made the integrity of any surviving records questionable and might make it impossible to accurately resolve the allegations. Because the subject's institution is no longer under an obligation to retain the relevant award records, OIG concluded that the passage of time had rendered both the documentary and testimonial evidence bearing on these two allegations unreliable and that the allegations were impossible to pursue at this time.

With regard to allegation #3, OIG noted that the representations in the proposal that resulted in the subject's second award were accurate at the time the proposal was submitted. NSF was not asked to fund the complainant's activities, nor did it make the complainant's participation a condition of the award. OIG does not believe it would be practicable to ascertain-- nearly a decade after the events in question-- whether or why the subject failed to inform the complainant that he was to be mentioned in the NSF proposal and failed to notify NSF that the collaboration had ended. We did not reach the issue of whether the actions that comprise allegation #3, if performed without good reason, might rise to the level of misconduct in science.

With regard to allegation #4, OIG determined that the two researchers were clearly working together on the ideas discussed in the subject's proposal. When the collaboration dissolved, each of them was entitled to pursue the ideas independently. The ideas in the proposal follow naturally from the subject's earlier work and from the distinctive strengths he brought to the collaboration. The complainant provided no evidence, beyond his own disputed

<sup>1</sup> The article is

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recollections, to substantiate this allegation, and the text of the proposal tends to disconfirm it. We concluded that there was insufficient substance to pursue this allegation.

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

cc: Deputy Assistant Inspector General, Oversight; Assistant Inspector General, Oversight; IG