SCIENTIFIC MISCONDUCT

ORI's Self-Assessment: A Batting Average of .920?

The Office of Research Integrity (ORI) has an unenviable reputation in the scientific community. After seeing some of its highest profile cases overturned on appeal and having chased others fruitlessly for a decade, this small office within the Department of Health and Human Services (HHS) has been accused of overzealousness, myopia, and obfuscation. The criticism has hit home, and ORI is now trying to improve its image, in part, by letting the world know that the bad publicity it has been getting belies a good, and improving, record.

Earlier this month, ORI issued a statistical report indicating that it has overcome its most serious troubles of the past. ORI says that it is processing cases much faster, and since 1992, it has achieved an eye-popping 92% success rate in sustaining guilty findings. The report also reveals the crushing work load of apparently trivial cases that get referred to ORI, the vast majority of which it decides not to pursue.

Several outside observers take exception to the way ORI uses statistics to prop up its image. But at least one of ORI's claims is widely acknowledged to be correct: This 39-person fraud squad with a budget of $3.8 million has nearly cleared away a debilitating backlog. Scientific misconduct allegations began accumulating when the office was under the aegis of its predecessor, the Office of Scientific Integrity, and reached a peak of 600 unreviewed allegations in 1992. But now, says Chris Pascal, the lawyer who currently heads ORI, the pile in the in-box is way down: "I wouldn't say we're all caught up, but I would say we are substantially caught up."

ORI reports that, at the beginning of this year, it had only 13 allegations yet to assess. And the number of inquiries or investigations that were still open was just 48, a record low. There are still some slow-moving cases, though: Pascal says he has three open investigations that began before 1993 and eight that began before 1994. But he adds that every case that ORI inherited from its predecessor office has been concluded.

University officials seem pleased by the speedup. "In the past year or so, I'm hearing much sooner what their decisions are," says Margaret Dale, associate dean for faculty affairs at Harvard Medical School, which has had more misconduct issues pending before ORI than any other institution. For a while, Dale notes, "we hadn't heard from them, and all of a sudden [verdicts] were coming out of a chute."

Joseph Onek, a Washington defense lawyer, says that ORI seems to have learned lessons from a series of scathing reversals of ORI misconduct findings by the Departmental Appeals Board at HHS. After Onek won the reversal last summer of a verdict against his client Thereza Imanishi-Kari—whose immunology research was at the center of the famous David Baltimore affair—ORI dropped charges against three other Onek clients.

Barbara Mishkin, another Washington attorney who specializes in scientific misconduct, applauds the changes at ORI but is still troubled by its pace. "Their current cases are open an average of 10 to 12 months, counting from the time an institution has completed its investigation," she remarks. This is true, she says, "even where all they're doing is reviewing an institutional report." She perceives a lingering "black-hole effect" that causes cases to disappear from sight.

The ORI's claim of a 92% success rate has also raised some eyebrows. Pascal says the number represents the ratio of findings of misconduct that have not been reversed (68) to all final misconduct findings issued by ORI, regardless of outcome (74). Not included in this calculation are 10 cases in which ORI has reversed university misconduct findings or scores of cases in which years of university and ORI investigations have come to naught.

ORI MISCONDUCT CASE BOX SCORE

Allegations received	>1500
Cases closed (ORI + institutions)	234
Misconduct findings	74
Findings upheld or not challenged	68

Duration (days) of longest investigation

1992	543
1993	1032
1994	1140
1995	2120

ORI

"If I were in [ORI's] shoes, I would not be talking about their great success," comments Howard Schachman, a University of California, Berkeley, biochemist who speaks for the Federation of American Societies for Experimental Biology. On "the major cases," like the one involving Imanishi-Kari, says Schachman, "they've been clobbered."

Schachman and other academics express concern that many misconduct investigations typically target junior scientists and relatively minor wrongdoing, and that, in most cases, the allegations prove incorrect. Data compiled by *Science* from various ORI reports indicate that small fry make up the minority of those who are investigated but the majority of those who are punished. More than half the misconduct charges affirmed by ORI are filed against students or technicians, yet only about a third of inquiries and investigations are directed at such junior researchers. ORI offers no explanation for these disproportionate results. But they represent a drastic winnowing down of initial charges filed. To achieve the 68 successful misconduct findings in its record, ORI had to wade through at least 1500 misconduct allegations. And much of this effort was not directed at work that appeared in print. Only 28% of misconduct findings—or about four per year—involved falsified or fabricated data that had been published.

Schachman is troubled by the imbalance between the resources going into these investigations and the payoff: "The cost the American society is paying for a technician [in which] an agreement was reached that he or she will not serve on an advisory committee of the United States government ... is just preposterous," he says.

Pascal responds that many ORI benefits are intangible. "What is it worth," he asks rhetorically, "to preserve the confidence of the public, the scientific community, the Congress, and the interested parties in the research enterprise, when you have a multibillion-dollar research portfolio?"

Perhaps the most telling lesson that emerges from ORI's public reports, though, is how often the agency loses when it contradicts a university's not-guilty finding. In all but one such reversal by ORI, it has had to concede defeat on appeal. And in its lone decision of this type that wasn't reversed, the accused, neurophysiologist James Abbs of the University of Wisconsin, vigorously disputed the misconduct findings publicly, saying ORI's report failed to address uncontradicted testimony and medical records that exonerated him. Abbs didn't appeal, he said, because he was too exhausted after a decade of battling the charges.

Pascal declines to comment on the Abbs case. But he concedes the general point that ORI must rely heavily on local officials as front-line barriers against fraud. "If you're going to go in behind somebody and second-guess them," Pascal says, "I think you have an extra burden to convince yourself—as well as a third party—that something really went wrong."

–Jock Friedly

Jock Friedly is a free-lance writer based in Arlington, Virginia.