Managing Cases of Research Misconduct

The Office of Research Integrity (ORI) Experience

Chris B. Pascal, J.D., Director ORI
Managing Cases of Misconduct

- ORI jurisdiction is based on statutory and regulatory authority: 42 USC 289b and 42 CFR Part 93
- ORI jurisdiction is generally limited to research misconduct that is funded by the Public Health Service (PHS) or applications for grants or contracts from the PHS
- In addition, ORI may occasionally pursue misconduct cases through the HHS debarment authority even though the research is not funded by PHS, e.g., an investigator from a private foundation or a foreign institution commits serious and repetitive misconduct and then wants to apply for a PHS grant.
The Public Health Service also provides funding overseas and occasionally makes findings of misconduct against foreign investigators.

These individuals would also be subject to administrative actions such as debarment, correction of the literature, and public notice of the misconduct finding.
Managing Cases (cont)

- Most cases of misconduct are reported to ORI by the research institution that receives an allegation of misconduct from a scientist who works in a lab or department and suspects misconduct based on his or her knowledge of the research.

- Then the allegation should go to the institutional official who handles misconduct cases, generally referred to as the research integrity officer (RIO).
Managing Cases (cont)

- The RIO then should conduct an inquiry (a preliminary investigation)
- If the inquiry finds sufficient evidence of misconduct, the institution should conduct a full investigation that looks at all the evidence, examines the research data in detail, and reaches conclusions about whether misconduct occurred or not
Managing Cases (cont)

- When the institution completes its investigation, it reports to ORI.
- The institution prepares a thorough written report that addresses whether misconduct occurred and if so what administrative actions should be taken against the accused individual (the respondent).
Managing Cases (cont)

- When ORI receives the institution’s investigation report, it typically does a thorough oversight review of the report.
- This could include an analysis of all the data, digital images, tables and graphs, and all other relevant evidence.
- ORI will also determine whether abstracts, journal articles or other representations are fabricated, falsified, or otherwise incorrect.
Managing Cases (cont)

- If corrections or retractions are needed, ORI will contact the appropriate journals and provide information about the misconduct so that the literature can be corrected.

- Over the years, ORI has developed a very good relationship with the journals in removing incorrect or falsified information from the literature.
Managing Cases (cont)

- When ORI agrees with the institution that misconduct occurred, it will generally take administrative actions against the respondent.
- For serious misconduct, a typical action may be a 3 year debarment from receiving public funds, an exclusion from advisory service to PHS, and an agreement to retract or correct false or incorrect journal articles.
Managing Cases (cont)

- Research institutions have broad authority to take actions against individuals that commit misconduct.
- They may fire an individual, place restrictions on the scientist, suspend privileges, block the investigator from submitting grant applications, and require withdrawal or correction of journal articles.
- Institutions can generally carry out these actions whether or not the ORI makes misconduct findings.
Managing Cases (cont)

- When ORI makes a finding of misconduct, it will announce the finding publicly on our website, newsletter, and the Federal Register, and directly inform the institution involved.

- If restrictions are placed on the respondent, e.g., debarment for 3 years, ORI will request that the relevant institution and funding agency, usually NIH, enforce those restrictions.
Managing Cases (cont)

- When misconduct is not found, ORI maintains the confidentiality of the accused individual indefinitely.
- This is done for reasons of fairness and legality (the Federal Privacy Act) and to ensure that the scientific community has confidence in the misconduct process.
Managing Cases (cont)

- In conclusion, responding to misconduct cases requires professional and dedicated staff, a robust regulatory and legal framework, and a commitment to pursue wrong-doing.

- It is also essential that the institution establish policies and procedures that give the complainant (whistleblower) and the respondent (the accused individual) a fair opportunity to protect their interests.

- ORI also provides the respondent an opportunity to defend him or her self through the HHS Departmental Appeals Board which provides a trial type hearing with witnesses and evidence.