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The Scientific Misconduct Definition and Falsification of Credentials

By Deborah Parrish

The debate regarding the definition of "scientific misconduct" is being revisited by the scientific community in response to the Commission on Research Integrity's (CRI) recommendation for a new definition. An underlying issue in that debate is whether scientific misconduct should include acts that are not unique to the scientific community and do not affect the underlying research, e.g., sexual harassment and falsification of credentials.

The Office of Research Integrity (ORI)[1] and the National Science Foundation (NSF), the two federal agencies primarily responsible for developing policies related to scientific misconduct, have struggled to define the term "scientific misconduct" and decide which forms of professional misconduct fall within the definition. Although falsification of credentials is not unique to the scientific community, ORI and NSF hold that when researchers lie about their credentials, such conduct constitutes scientific misconduct.

Using falsification of credentials as an example of conduct not unique to researchers, this essay explores the incidence of falsified credentials among the scientific community, how the falsified credentials cases fit within the federal definitions of scientific misconduct, cases involving an allegation of falsified credentials, and the sanctions imposed by the relevant federal agencies, the judicial system and the institution employing the individual proffering falsified credentials. Finally, the article queries whether such conduct should be deemed to fit within the definition of scientific misconduct.

The Incidence of Falsified Credentials

Padded resumes are common in the corporate world. By one estimate, approximately 20 to 25 percent of all resumes have at least one major fabrication. Recent articles[2] describing academics and scientists at various stages of their careers who have falsified their credentials have shown that the research community is plagued by the same problem of resume padding that plagues the commercial community and that a surprising number of scientists falsify credentials, including those applying for medical positions.[3]

For example, a 1994 study revealed that 70 percent of those claiming to have a Ph.D. in nutrition had phoney degrees or gave false information about their qualifications.[4] Further, many claimed to have degrees from diploma mills or conferred on themselves meaningless titles such as "doctor of nutrimedicine," "certified nutritionalist" or "nutrition counselor." In 1994, four of ORI's 11 scientific misconduct findings involved falsified credentials, and in 1995, ORI made an additional three findings of scientific misconduct based on falsified credentials. NSF has had several findings of scientific misconduct based on falsified credentials.[5]

Thus, it appears that resume padding among the scientific and academic medical communities exists in a proportion relatively consistent with the general population.

The Definition of Scientific Misconduct and Falsified Credentials

Cases Several commentaries on scientific misconduct have opined that scientific misconduct should only be used to

label conduct that impacts the underlying research. The National Academy of Sciences (NAS) stated in its report *Responsible Science* that, "Certain forms of unacceptable behavior are clearly not unique to the conduct of science, although they may occur in a laboratory or research environment."[6] The NAS and other scientific professional organizations have argued that only misconduct that affects the integrity of the "research process" should be given the scientific misconduct moniker.[7]

The CRI, in its proposed definition, distinguishes scientific misconduct from other forms of professional misconduct. CRI's definition of research misconduct includes "significant misbehavior that impedes the progress of research, or that risks compromising the integrity of scientific practices" and includes a "material or significant falsehood" as an example of such conduct. It is unclear whether falsified credentials would be subsumed by the CRI's definition of research misconduct or professional misconduct. Although ORI and NSF define scientific misconduct differently and have asserted different bases for jurisdiction over the cases involving falsified credentials, both agencies deem falsification of credentials scientific misconduct when it occurs in the research setting. The Public Health Service (PHS), which includes ORI, defines misconduct in science to include "fabrication, falsification, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research."[8]

ORI holds the falsification of scientific credentials in grant applications as falsification in proposing research and falsification of credentials in a publication as falsification in reporting research. Thus, both activities fit within ORI's definition of scientific misconduct. The NSF definition states in relevant part, "'Misconduct' means [] fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, carrying out, or reporting results from activities funded by NSF..."[9] Thus, in contrast to ORI, NSF deems the falsification of credentials a "serious deviation" from accepted practices within the scientific community and thus, scientific misconduct. Using their different definitional bases for asserting jurisdiction, ORI and NSF have deemed this form of professional misconduct to be scientific misconduct when it occurs in the research context. Again, perhaps because credentials may play an important role in determining who receives limited federal funding, ORI and NSF have chosen to include such conduct within their definitions of scientific misconduct. Nonetheless, confusion still persists regarding whether falsification of credentials is properly labeled scientific misconduct. Institutions have investigated allegations of falsification of credentials of a scientist as academic/employee misconduct, not scientific misconduct. The falsified credentials cases handled by ORI and NSF have included individuals who falsified their degrees (both in terms of rank and source), memberships, faculty status, employment history, recommendations, collaborations, accomplishments (including publications and patents) and minority status.

Cases of Falsified Credentials

Under federal regulations, institutions that receive federal funds for research have primary responsibility for investigating allegations of scientific misconduct and reporting their investigations to the relevant federal agency. When ORI and NSF review the institutional investigation report, they can accept, reject or modify the institutional findings with respect to scientific misconduct. ORI and NSF may also decide to conduct their own investigations of the allegations. The excuses proffered in defense of the misrepresented credentials are many and varied. Many claim ignorance of how the falsified credential appeared. Others claim that a secretary committed the error or simply that they committed an inadvertent error. In one case, the individual accused of scientific misconduct, hereinafter the "Respondent," offered ten explanations/justifications for the misrepresentation. Critically, it must be shown that the individual was responsible for the inclusion of the falsified credential in the PHS or NSF application or publication. For example, in one case, the institution found two individuals misrepresented their credentials. Both claimed a Ph.D. from Northwestern University when they had a degree from a diploma mill, both claimed they did not know that their falsified credentials had been included in grant applications, and both claimed that a secretary had elevated the degree from the diploma mill to one from Northwestern University. However, individual A left the institution and later returned, filling out an employment application indicating that he had a degree from Northwestern University. Based on his clear knowledge of and perpetuation of the false credential, ORI found misconduct. In contrast, because it could not be shown that individual B knew his degree had been elevated or that he had been responsible for the inclusion of the falsified credential in grant applications, ORI declined to find misconduct against individual B. NSF has conducted a broad search of other materials submitted by the Respondent to determine if the misrepresentation of credentials is part of a pattern of conduct. In one case, NSF determined that the Respondent had misrepresented his

credentials a total of 40 times in various fora. Similarly, ORI has found the falsified credential in biographical sketches, employment applications, personnel files, and PHS applications. NSF and ORI have both stated that the application in which the falsified credential appeared need not have been funded to support a finding of scientific misconduct, although both agencies examine whether the falsified credentials affected the award of grant monies during the investigation. Thus, ORI and NSF have asserted the materiality of and reliance on the falsified credentials as a matter of policy. Query, however, whether the misrepresented status of a single publication in a long list of publications can really affect a funding decision.

Sanctions

If an individual has been found to have committed scientific misconduct by falsifying credentials, sanctions can be imposed by the relevant agency, the legal process, the institution, and professional society. Federal agencies finding scientific misconduct have subjected researchers to a variety sanctions from a letter of reprimand to debarment from receiving federal funding for a number of years. Thus far, ORI has encouraged researchers who have been found to have falsified their credentials to enter voluntary exclusion agreements under which the researchers agree not to serve on advisory boards or peer review groups and not to seek federal funding for a set number of years, typically three years. NSF usually has required a letter of reprimand and an assurance for future grant proposals submitted by the Respondent, submitted for a period of years after the finding, signed by a supervisor and the Respondent stating the proposal does not contain any false representations. Federal funds have been recovered from the institution that employed the researcher who presented false credentials and a researcher falsifying his credentials may be prosecuted under other federal and state laws. The researcher can be sued for fraud and misrepresentation and may be prosecuted criminally for embezzlement, theft by deception, false pretenses or impersonation. Some states have statutes making it a misdemeanor to claim to have a degree that one does not possess. Further, if the falsified credentials resulted in the funding of a grant application that would not otherwise have been funded, the researcher may be prosecuted under 18 U.S.C. § 1001 or the False Claims Act, 18 U.S.C. § 287, which prohibit falsification in documents or claims submitted to the United States government. Companies and institutions who discover an employee has falsified a credential have taken a variety of actions against the individual, from issuing a reprimand to terminating the employee.

Should Falsification of Credentials be Scientific Misconduct?

As discussed above, falsification of credentials is not unique to the scientific community and does not affect directly the underlying research. Further, such conduct may subject the impostor to a host of administrative, civil and professional actions. Should conduct be labeled scientific misconduct because it may affect who gets limited research funds? If the concern for the scientific community is as articulated by the CRI, i.e., scientific misconduct is that which undermines the "integrity of scientific practices," then other forms of conduct are more worthy of the scientific misconduct moniker than falsification of credentials, e.g., withholding unique research reagents when such research reagents were developed with public funds. The scientific community must decide which scientific practices and principles are so sacred to the scientific community that a breach of them warrants a finding of scientific/research misconduct and oversight by the federal government, and which should be left to be addressed solely by the research community. [Deborah Parrish served as an attorney for the Office of Research Integrity from 1992-1994 and now practices intellectual property law with the firm Titus & McConomy in Pittsburgh, Pennsylvania - Ed.]

Endnotes

1. ORI is part of the Department of Health and Human Services ("DHHS") and is concerned with scientific misconduct in Public Health Service ("PHS") applications.

2. See, e.g., "Not Everything From the Mill is Good for Your Health; National Council Against Health Fraud's Task Force for Nutrition Diploma Mills Investigates Phony Credentials in the Nutrition Field," *Medical Update*, 18(3), 1994, p. 3; R. Harrist, "Jackson State, Professor Ignored Failure at Degree", *The New Orleans Times-Picayune*, June 12, 1994 at B3 (scientist falsely claimed to have a doctorate in biology when seeking federal funds); J. Queenan, "A Contract Is Out on a Vancouver Financial Reporter," *Barron's*, Oct. 26, 1992 (scientist heading a proprietary venture falsely claimed to have three academic degrees).

3. See S.V. Gurudevan and W.R. Mower, "Misrepresentation of Research Publications Among Emergency Medicine

Residency Applicants," *Annals of Emergency Medicine*, 27(3), 1996, pp. 327-330, in which one in five applicants to UCLA's emergency medicine residency program who listed publications had misrepresented the authorship; G. Sekas & W.R. Hutson, "Misrepresentation of Academic Accomplishments by Applicants for Gastroenterology Fellowships," *Annals of Internal Medicine*, 123(1) 1995, pp. 38-41; Shaffer, Rollo & Holt, "Falsification of Clinical Credentials by Physicians Applying for Ambulatory-staff Privileges," *The New England Journal of Medicine*, 318(6), 1988, p. 356(3).

4. See note 2.

5. See, e.g., Office of Inspector General for the National Science Foundation Semiannual Report to the Congress (hereinafter "OIG Report") 12 at 32 (the principal investigator claimed to have a bachelor of science degree); NSF 93-61, n13, p. 37 (claimed to have a masters degree); NSF 91-18 (claimed to have a Ph.D. while had an Ed.D.; and NSF 93-35 and NSF 93-20 (investigators falsely claimed minority status).

6. "Responsible Science; Ensuring the Integrity of the Research Process," National Academy of Sciences, Institute of Medicine, National Research Council, Panel on Scientific Responsibility and the Conduct of Research, 1 (1992), p. 29.

7. For example, many scientific organizations took exception to NSF's labeling behavior that constituted sexual harassment as scientific misconduct.

8. 42 C.F.R. § 50.102 (1993).

9. 45 C.F.R. § 689.1 (1991).

10. See *Surprenant*, 59 Fed. Reg. 39366 (1994) and ORI, Case #92-29. Throughout this article, if ORI found the individual committed scientific misconduct, the individual's name will be used to identify the case. If there was not a finding of misconduct, the case number will be used. Because NSF does not report the individual's name, all NSF cases will be referred to herein by number.

11. Cases in which ORI found misconduct based on falsified credentials include *Chagnon*, 59 Fed. Reg. 38979 (1994); *Surprenant*, *supra* note 10; *Constantoulakis*, 59 Fed. Reg. 45679 (1994); *Leisman*, 59 Fed. Reg. 64667 (1994); *Tomasula*, 60 Fed. Reg. 38352-3 (1995); *June*, 60 Fed. Reg. 64444 (1995); and *Lupu*, 60 Fed. Reg. 66276 (1995).

12. See, e.g., NSF 93-17. See also, OIG Report 12, pp. 31-32.

13. See Tomasula, *supra* note 11.

14. See, e.g., ORI 1994 Annual Report, pp.12-13.

15. See, e.g., NSF 93-17.

16. See note 12.

IN THE NEWS

Bioethics Advisory Commission Inaugural Meeting

The first meeting of the presidentially-appointed National Bioethics Advisory Commission (See *PER*, IX (3), Summer 1996) was held October 4 in Bethesda, MD. The Commission spent the first part of its inaugural session discussing its charge, about which President Clinton's science advisor, Dr. John Gibbons, noted that the Commission is encouraged to "go where the important issues take you." Among the many topics that the Commission was urged to pursue by those invited to make presentations or by members of the Commission were the following: an analysis of human subjects research that does not fall under the purview of federal regulations; the rights and responsibilities associated with research on distinct communities or groups; access to and uses of archived tissue samples for genetic analysis; discriminatory practices related to genetic information; privacy protections for genetic health information; and an

assessment of the adequacy of the breadth and scope of current protections for human research subjects. The meeting concluded with a period of public comment. The second meeting of the Commission is scheduled for January 9-10, 1997 in Washington, DC. Between meetings, two Commission subcommittees will meet: Human Genetics on December 13 and Human Subjects on December 16, both on the campus of the National Institutes of Health. [Transcripts of the Commission's first meeting can be found on the Internet at http://www.nih.gov/nbac/nbac.htm]

New Intellectual Property Protections for Databases

Databases are integral to scientific research and with the growing use of the Internet as a major vehicle for providing access to scientists around the world, they are finding new and exciting applications in research ranging from the Human Genome Project to global climate studies. However, legislation that was proposed during the last session of Congress and an international treaty being negotiated in Geneva this past December may infringe on the full and free flow of information so vital to the success of these databases. The two initiatives are: the *Draft Treaty on Intellectual Property in Respect to Databases*, negotiated at the World Intellectual Property Organization (WIPO) Diplomatic Conference in Geneva; and the "Database Investment and Intellectual Property Antipiracy Act of 1996 (HR 3531)," which was introduced by the chair of the House Judiciary Subcommittee on Courts and Intellectual Property. Both are intended to extend intellectual property protections to "databases" that are comprehensive collections of facts arranged in conventional formats that currently fall outside current copyright law, yet are still expensive to compile. Several scientific and educational organizations have expressed their concerns that possible implications for scientific research and communication have not been considered in developing either initiative. Specifically, neither initiative included adequate provisions for fair use or other public-good exemptions that have constituted indispensable legal doctrines for promoting the dissemination of knowledge, while ensuring authors, publishers and copyright owners appropriate protection of their works and economic investments. Other facets of the treaty that critics found troubling included the ambiguities with regard to how key terms have been defined. For instance, what constitutes a "database," "extraction," "use," and "substantial parts" of the database are all so vague that they could be applied to a wide range of scholarly products that are already subjected to copyright law, including bibliographies, catalogues, and archives of books and journals. Also, the seemingly perpetual protection granted to databases under the treaty was viewed as extreme given the time limits conferred by traditional intellectual property laws. These and other concerns were the focus of two recent meetings hosted by leading scientific organizations: the AAAS organized its November 6 meeting of the Professional Society Ethics Group to explore the topic, while the National Research Council hosted a meeting on November 27.

FDA Sets Xenotransplantation Guidelines

On September 23, the Food and Drug Administration issued draft guidelines on xenotransplantation, the controversial field of transplanting animal tissues and organs into humans. The guidelines were informed by suggestions made at a conference on June 25-27 sponsored by the National Academy of Sciences (see *PER*, VIII(3), Spring 1995). Proponents of xenotransplantation applauded the introduction of the guidelines into a field with intense demand due to lack of suitable human donors. Dissenters contend that the FDA should not encourage a practice that creates the risk of transmitting animal diseases to humans, possibly creating new diseases that could spread as epidemics. The draft guidelines, developed by the Centers for Disease Control and the National Institutes of Health, were created to answer some of those concerns and recommend procedures to diminish the risk of transmission of infectious agents. Written comments were due by December 23. The guidelines call for researchers to screen carefully potential animal donors for diseases that might be transmissible to humans. Researchers would also have to preserve blood and tissue samples from both the donor and the recipient. Lastly, researchers would have to monitor both the donor and the recipient for diseases that might arise. Researchers are not bound by the guidelines if they can show that their precautions are equivalently rigorous. Xenotransplantation has already been used successfully to treat a wide variety of diseases, from diabetes to neurological disorders. Xenograft products have also been developed under the oversight of the Department of Health and Human Services under the authority of the National Organ Transplant Act of 1984. As with human transplantation, rejection of the foreign tissue and failure to engraft still remain significant technical challenges. Opponents of xenotransplantation claim that the risk of disease cannot be adequately covered by the guidelines since diseases from transplants are unpredictable, and could take years to develop.

FDA Relaxes Informed Consent Requirement

The Food and Drug Administration issued regulations on November 1 that allow doctors to use experimental treatments of illness on patients who, because of their condition, may not be able to give their informed consent. These regulations are the first relaxation of informed consent requirements since the first principle of the Nuremberg Code was created at the trials of Nazi doctors after World War II. The first step towards this change was taken when a group of researchers, physicians, and ethicists published a statement in *The Journal of the American Medical Association* in April 1995, expressing frustration with the difficulties associated with assessing certain therapies when patients were unable to give consent. Under the new regulations, an investigator may obtain an "Emergency Research Consent Waiver" only if the researcher can prove that the patient has a life threatening illness, that available treatments are unproven or unsatisfactory, and that a clinical trial is necessary to determine the effectiveness of the treatment. The researcher must demonstrate that the treatment must be administered before consent from patients can be obtained and that preclinical studies demonstrate that the treatment has enough potential to help the patient to warrant any risks associated with it. Opponents believe the regulations give researchers too much control, and that the pressures on medical researchers to obtain sufficient numbers of subjects to perform statistically valid analyses will make unconscious patients easy targets.

ETHICS, LAW & PUBLIC POLICY

Justice Department Supports Baylor In Scientific Misconduct Litigation

The Department of Justice has filed an amicus (friend of the court) brief supporting Baylor College of Medicine in a law suit brought by a former faculty member, dismissed following a finding of scientific misconduct.1 Kimon Angelides, a neuroscientist, was found to have fabricated or falsified data in several publications supported by NIH grants. Following a formal investigation, and on the recommendation of Baylor's investigating committee, Angelides was discharged from the faculty.2 In addition, Baylor reported to the HHS Office of Research Integrity (ORI) the findings of the investigative committee and subsequent administrative action. Angelides, who is now at the University of Durham (England), sued Baylor alleging breach of contract, wrongful termination, libel and slander, interference with business relations, and blacklisting. The individual members of the investigative committee were named defendants, along with Baylor's president and vice president for research.

Angelides brought suit in Texas state court and Baylor removed the case to U.S. District Court, because the activities complained of were in response to federal regulations. The district court nevertheless sent the case back to state court and Baylor is appealing that remand. Baylor is also appealing the district court's rejection of the argument that it is immune from suit because it was performing a governmental function when it investigated the allegations of scientific misconduct and reported the results to ORI. Under that theory, Baylor's administrators and faculty also would be immune.

The U.S. Department of Justice, prodded by ORI, has filed a brief supporting Baylor in several respects. It argues that the federal court does have jurisdiction to hear the case because the defendants "presented a colorable federal defense arising out of the requirements of federal law."3 More importantly, the brief argues that Baylor officials, investigative committee members, and witnesses all enjoy a privilege, based upon federal law, that protects them from liability in this situation. Excerpts from the brief follow.

By Barbara Mishkin

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"The Department of Health & Human Services (HHS), through the National Institutes of Health (NIH) and other components, provides billions of dollars annually to fund scientific and biomedical research at institutions around the country, including the Baylor College of Medicine (Baylor). As a result of this extensive federal investment, Congress created the Office of Research Integrity (ORI) to deal with issues of scientific misconduct in NIH-funded research. By statute and regulations, recipients of NIH funding, such as Baylor, are required to take certain actions in response to substantial allegations of scientific misconduct. The United States is vitally interested in the extent to which private parties carrying out these federally-mandated duties are subject to state tort liability."

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"As a condition on government funding, Congress required each institution seeking to conduct NIH-supported "biomedical or behavioral research" to fulfill certain requirements. Specifically, "each entity" that applies for "financial assistance" for the conduct of such research must submit with its application: (1) assurances satisfactory to the Secretary that such entity has established and has in effect * * * an administrative process to review reports of research misconduct in connection with biomedical and behavioral research conducted or sponsored by such entity; (2) an agreement that the entity will report to the [ORI] Director any investigation of alleged research misconduct in connection with projects for which funds have been made available * * * that appears substantial; (3) an agreement that the entity will comply with regulations issued under this section. Id. § 289b(b)."

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"Institutions which uncover substantial claims of scientific misconduct should not be chilled from fully and frankly reporting cases of scientific misconduct to the ORI by fear of lawsuits. Nor should individuals reporting on such matters, either as "whistleblowers" or as witnesses in the investigation, be similarly deterred."

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". . . to the extent that plaintiff's claims arise out of the manner by which the investigation in this case was conducted, defendants are not entitled to immunity from such claims (although the guidelines for investigations contained in federal regulations would certainly inform any decision as to the reasonableness of defendants' conduct, see 42 C.F.R. § 50.103(d)).4 On the other hand, to the extent that federal regulations mandate defendants' actions, those requirements also protect defendants from potentially inconsistent liability under state law. We prefer to view this protection as a absolute privilege rather than as a governmental immunity, when the state claims (as here) arise directly from defendants' compliance with mandatory federal requirements. To that extent, these federal requirements preempt inconsistent state requirements. In this case, the claims to which such an absolute privilege applies are the defamation and blacklisting claims."

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"...In this case, the imposition of state tort liability on defendants based on plaintiff's defamation and "blacklisting"5 claims is preempted by the mandatory notification requirements of the ORI statute and regulations and provides defendant with an absolute privilege from those claims."

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As reflected in the regulations, substantial claims of scientific misconduct raise concerns about the misuse of federal funds, which would contravene the public interest. Contrary to the district court's view, there is a strong federal interest, embodied in the ORI statute and regulations, in insuring that institutions which uncover substantial claims of scientific misconduct are free to notify ORI of such claims and to fully report the results of their investigations without fear of civil lawsuits for defamation. This federal interest in full and frank reporting of matters of scientific misconduct also serves to shield from defamation claims individuals who either bring matters of scientific misconduct to the attention of the institution as "whistleblowers" or who testify as witnesses as part of the investigation. The ORI regulations stress the "importance of compliance" by an institution's "scientific and administrative staff" with ORI "policies and procedures," 42 C.F.R. § 50.103(c)(2), and make clear that testimony from person(s) who allege scientific misconduct as well as from person(s) who have information regarding such allegations is central to the ORI notification regime. 42 C.F.R. § 50.103(d)(7). See also, Id. §§ 50.103(d)(2), (13). The effectiveness of that regime would be significantly impaired were such testimony "chilled" by the potential of civil lawsuits. Consequently, both "whistleblowers" and witnesses to scientific misconduct investigations share in the privilege to report which results from the mandatory ORI notification regime."6

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"In our view, compliance with the requirements of both state and federal law by defendants in this case is a practical impossibility. The potential of state defamation or blacklisting liability would lead institutions and individuals to be less than frank in reporting matters of scientific misconduct, an approach which is inimical to the goal of full disclosure contemplated by the federal regulatory regime. Similarly, the imposition of defamation and blacklisting liability on defendants "'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress'" in enacting the ORI statutes, which is to protect the public and to assure that substantial claims of scientific misconduct are promptly reported to federal authorities for possible action to protect the public interest."

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"As a result of the preemptive requirements of the ORI statute and regulations, defendants are absolutely privileged to

report on matters of scientific misconduct within the ORI notification regime and that conduct provides no basis for state tort liability."

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"...In our view, information pertaining to scientific misconduct in NIH-funded science affects a significant public interest. Further, that interest requires communication of such information either to the institution (which is privileged to forward it to ORI) or to ORI itself. Consequently, the individual defendants have a qualified privilege under federal law from plaintiff's defamation claims arising from the ORI regulatory regime."

Endnotes

1. Department of Justice, Brief Amicus Curiae in *Angelides v. Baylor College of Medicine*, No. 96-20618, U.S. Court of Appeals for the 5th Circuit (October 1996) (hereinafter, "DOJ Brief").

2. ORI Newsletter (September 1996) at 3; R. Dalton, "International Recruitment Highlights Need to Track Scientific Behavior," *Nature*, Vol. 383 (September 1996) at 107-108.

3. DOJ Brief at 6.

4. We also do not believe that plaintiff can base a claim of tortious interference with contractual and business relations on receipt of NIH grants. Supp. R. 15-16. The NIH grants were made to Baylor as grantee, not plaintiff as principal investigator (PI). It is Baylor, not plaintiff, that has "legal and financial accountability for the awarded funds and for the performance of the supported activities." 42 C.F.R. § 50.102; D. Burk, *Research Misconduct: Deviance, Due Process and the Disestablishment of Science*, 3 Geo. Mason Indep. L. Rev. 305, 320-21 (1995) (hereinafter Research Misconduct). *See also*, Rubinstein v. Mayor & City Council of Baltimore, 295 F. Supp. 108, 111 (D. Md. 1969).

5. The blacklisting claim is somewhat odd in that plaintiff is complaining of the placement of his name in the PHS ALERT system. *See* Supp. R. 9-10. The defendants, however, have absolutely no responsibility for that system; the PHS ALERT system is entirely under the direction and control of PHS officials, including the ORI Director. *See* 56 *Fed. Reg.* at 27385-86, 27387. Plaintiff's complaint on this point could alternatively be viewed as a claim that the defendants notified ORI of the results of their investigation, knowing that, as a consequence, plaintiff's name would be placed on the ALERT system. If so, plaintiff's blacklisting claim would appear to merge with his defamation claims (libel, etc.), *e.g.*, the notification of ORI by the Baylor defendants is the basis for the claim. In our view, such notification is federally protected and may not be made basis for state tort liability.

6. On the other hand, the mandatory ORI notification requirements do not shield either the institution or individuals from liability to the federal government itself, such as in criminal proceedings, in civil damages and penalty proceedings under the False Claims Act (31 U.S.C. §§ 3729-33) or under the Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-12) or in other civil or administrative proceedings for recovery of misspent federal funds, for restriction on future use of federal funds, or for suspension or disbarment. 42 C.F.R. § 50.101; Research Misconduct, at 323-27.

RESOURCES

In Print

Ethics of Computing: Codes, Spaces for Discussion and Law, edited by Jacques Berleur and Klaus Brunnstein (London; Chapman and Hall, 1996, $49.00). To order, contact International Thomson Publishing Services, Ltd., Cheriton House, North Way, Andover, Hampshire, UK SP10 5BE or Chapman and Hall, USA, 115 Fifth Avenue, New York, NY 10003.

This volume is the product of an Ethics Task Force established by the International Federation for Information Processing (IFIP) in 1992. It includes several contributions that reflect the international context in which codes of ethics for information processing have evolved as well as the codes of ethics of 21 national society members of the

IFIP and others, all of which are reproduced in the book. The codes are analyzed from several different perspectives, including how they intersect with fundamental ethical principles and the law. A detailed Annex, which presents in tabular form the full range of content covered by all the codes, enables the reader to link matters of content to exact places where they appear in the individual codes. The editors stress the importance of creating "spaces for discussion" within a professional society or federation of societies in order that "experiences may be shared and from which some principles could progressively emerge and be derived about specific computer-related issues." They note that the IFIP has created such a "space for discussion" through a Special Interest Group - "Framework on Ethics," which will "especially analyze issues and conflicts that may arise in the cooperation between ... IFIP members of societies with different Codes of Ethics."

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Computerization and Controversy: Value Conflicts and Social Choices, Second Edition, Edited by Rob Kling (San Diego: Academic Press, Phone (800) 321-5068, Fax (800) 235-0256, E-mail ap@acad.com, Web http://www.apnet.com, 1996, $44.95). This critical anthology includes 64 articles that examine some of the major social controversies about the computerization of society. It focuses on the social processes that drive and shape computerization, and to understand the paradoxes and ironies of computerization. The authors include scholars and professionals in computer science, information systems, management, journalism, psychology, law, library science, and sociology. Some of the controversies covered in this collection include: whether computerization demonstrably improves the productivity of organizations; how computerized systems can be designed with social principles; whether electronic mail facilitates the formation of new communities or undermines intimate interaction; whether computerization is likely to reduce privacy and personal freedom; and the extent to which applied computer science researchers who work in industrial labs examine the social consequences of the technologies that they develop. See http:// www.ics.uci.edu/~kling/cc2.html for the table of contents.

ANNOUNCEMENTS

Colleges and universities are invited to enter teams of undergraduates students in the **Ethics Bowl**, which will take place in conjunction with the **Annual Meeting of the Association for Practical and Professional Ethics**. Ethics Bowl is a team quiz game that combines the excitement and fun of a competitive game with an innovative approach to education in practical and professional ethics. A moderator poses questions to teams of three to five students; questions explore ethical problems on topics ranging from the classroom (cheating or plagiarism) to personal relationships (dating or friendship) and professional ethics. The answers are evaluated by a panel of judges, who rate them on a scale of zero to ten based upon the answers' soundness of reasoning, clarity, focus and depth. The public is invited to attend the Third Intercollegiate Ethics Bowl, which will take place from 8:00 am to 12:00 noon on March 6, 1997 at the National Airport Hilton Hotel, 2399 Jefferson Davis Hwy, Arlington, VA. To enter a team or to receive more information, contact Robert Ladenson, Center for the Study of Ethics in the Professions, Illinois Institute of Technology, Chicago, IL 60616; phone (312) 567-3474; Fax (312) 567-3016; E-mail ladenson@charlie.cns.iit.edu; WWW http://www.iit. edu/~csep. Deadline for team applications is **January 15, 1997**.

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The Center for Biomedical Ethics at the University of Minnesota will have a **one year post-doctoral fellowship** available July 1997, for which it is requesting applications by February 15, 1997. The goal of the fellowship is to foster scholarship and career advancement in the field of biomedical ethics. Contact the Center for Biomedical Ethics, University Office Plaza, Suite 110, 2221 University Avenue, SE, Minneapolis, MN, 55414; (612) 626-9756; Fax (612) 626-9786; E-mail olson209@gold.tc.umn.edu.

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Two programs at the **National Science Foundation - Ethics and Values Studies**, and **Research on Science and Technology**, in the Division of Social, Behavioral and Economic Research - are issuing a **call for proposals** for their February 1, 1997 target date. These programs have approximately $2 million to support awards from the proposals

submitted. Contact program directors Rachelle Hollander or John Perhonis, NSF, Room 995, 4201 Wilson Blvd., Arlington, VA 22230; (703) 306-1743; Fax (703) 306-0485 or 0486; E-mail rholland@nsf.gov or jperhoni@nsf.gov.

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The Loyola University Center for Ethics has issued a **call for papers** for its **Second Annual Ethics and Technology Conference**, to be held on June 6-7, 1997, in Chicago. The Conference theme this year is "Ethics in the Computer Society" and will focus on how our social relationships and other matters of ethical significance have been impacted by technology and especially the computer. Any papers on topics related to ethics and computer technology, or technology more generally, especially in academic/professional setting are welcomed. Abstracts and proposals are due by **February 28, 1997**. Additional conference information is available at http://www. math.luc.edu/ethics97. Contact Mary Malliaris, Program Committee Chair, Ethics and Technology Conference, Department of Management Science, School of Business, Loyola University Chicago, 820 N. Michigan Avenue, Chicago, IL 60611; (312) 915-7064; Fax (312) 915-6118; E-mail mmallia@luc.edu.

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Science And Its Critics, a meeting to promote dialogue between the "two cultures," will be hosted by the University of Kansas on February 28-March 1, 1997. The meeting will explore such issues as: The scientific method: How is it really practiced? Does it yield "the truth"? Science and religion: Are they ever incompatible? Science and postmodernism: If it is postmodern, can it be science? Science and politics: Is science mainly a tool for white males to retain power? Science and education: Are we a nation of scientific illiterates? The keynote speaker will be Professor Alan D. Sokal, New York University, who sparked a major battle in the "science wars" with his publication of "Toward a Transformative Hermeneutics of Quantum Gravity" in the cultural studies journal *Social Text*. For registration information see the meeting's Web site kuhep4.phsx.ukans.edu/~baringer/scicrit.html or contact, John Pattinson, University of Kansas, Division of Continuing Education, Academic and Professional Programs, Continuing Education Building, Lawrence, Kansas, 66045; (913) 864-3284.

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A **call for papers** has been issued for the **Society for Social Studies of Science Annual Meeting**, which will be held at the University of Arizona, Tucson, on October 22-26, 1997. The theme of the conference is "Sites and Boundaries: Location and Process in the Production of Knowledge," reflecting timely intellectual and social changes, and the unique resources of Tucson and the University of Arizona. Those interested in presenting a paper at the 1997 Annual Meeting of 4S should submit 150-200 word abstracts to the Program Chair no later than March 1, 1997. Those considering organizing sessions should please submit abstracts of all papers together, in an approximate order. An electronic abstract submission form can be found at http://www.u.arizona.edu/~jlc. Contact: Jennifer L. Croissant, Program on Culture, Science, Technology, and Society, 16c Harshbarger/MSE, Bldg. 12, University of Arizona, Tucson, AZ 85721; (520) 626-7110; Fax (520) 621-8059; E-mail jlc@u.arizona.edu.

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"Community Space and Cyberspace: What's the Connection?" is the title for the next **Directions and Implications of Advanced Computing (DIAC-97)** sponsored by Computer Professionals for Social Responsibility (CPSR), Seattle, March 1-2, 1997. Activists, practitioners, and thinkers will discuss the significance of the new communication technology on children, education, the economy and jobs, social action, civic and cultural values, and many other topics. Contact Doug Schuler; (206) 634-0752; E-mail douglas@scn.org.

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Teaching the Ethical, Legal, and Social Implications of the Human Genome Project: A Model College Course, A Summer Faculty Institute will be held next Summer at the Ethics Institute of Dartmouth College. The Institute will offer a model multidisciplinary undergraduate course on the ethical, legal, and social issues of the Human Genome Project. The course will be the centerpiece of an independent Faculty Summer Institute for selected multidisciplinary pairs* of faculty from other liberal arts colleges and universities interested in developing courses for their home

institution on the ethical, legal, and social implications of the Human Genome Project. (*Under special circumstances, individual participants will also be considered.) Each participant will receive $2,500 in support towards travel, room, and meals. Additional support from participants' home institution will be needed. Contact Barbara J. Hillinger, (603) 646-1263; Fax (603) 646-2652; E-mail barbara.hillinger@dartmouth.edu.