BREAKOUT C: WRITING THE REPORT

Julia L. Behnfeldt, PhD
Associate Director & Research Integrity Officer

Daniel H. Wainstock, PhD
Associate Director for Research Integrity

Pam Bounelis, PhD
Assistant VP for Research Integrity
ELEMENTS OF THE REPORT

Julia Behnfeldt

- Federal requirements
- Differences in Inquiry vs Investigation reports
- Examples of templates that work for ORI
**Meets Institutional Policy requirements**

+ Meets Federal Policy requirements (ORI, NSF, VA, DoD, DoE, USDA, NASA) if the RM involved federal funding

**Example:**

At OSU, everything in the Institutional Policy is included in the ORI Inquiry requirements (42 CFR. § 93.309) plus the following elements:

+ Names of Committee Members
+ Names of any non-voting consultants
FEDERAL REPORT REQUIREMENTS

• **ORI:** Report elements are defined in the regulations (42 § 93.309, § 93.313)
  
  RIO’S ROLE: Provide Inquiry Report **IF** deciding to go to Investigation

• **NSF:** Report elements are **NOT** defined in the regulations
  
  “Provide OIG with the final report from any investigation” (45 § 689.4b5)
  
  RIO’S ROLE: Provide Inquiry Report **IF** deciding to go to Investigation

• **VA:** Report elements are defined in the handbook (VHA Handbook 1058.02)
  
  RIO’S ROLE: Contact VA with **ANY** VA-funded allegations
## INQUIRY REPORTS VERSUS INVESTIGATION REPORTS

<table>
<thead>
<tr>
<th>INQUIRY</th>
<th>INVESTIGATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Determine if an allegation does or does not warrant an investigation</td>
<td>• Whether the evidence supports a finding of research misconduct</td>
</tr>
<tr>
<td>• Provide the basis for recommending that the allegations warrant an investigation</td>
<td>• Summarize the facts and the analyses that supports those findings</td>
</tr>
<tr>
<td></td>
<td>• Include recommended actions</td>
</tr>
</tbody>
</table>
EXAMPLE ELEMENTS OF AN INQUIRY REPORT

1. Executive Summary
2. Allegations Summary (list of manuscripts with funding noted /allegations)
3. Initial Allegations (when/how/who reported the allegations)
4. Preliminary Assessment Summary/Subsequent Use Summary
5. Notification to Respondent/Sequestration
6. Committee of Initial Inquiry (CII) (members names & meeting dates/descriptions)
7. Interviews
8. CII Analysis for Each Allegation - Provides the basis of recommending that the allegations warrant an investigation
9. CII Summary (broader views/statements of allegations)
10. Retractions/Corrections
11. Appendix
EXAMPLE OF BASIS OF RECOMMENDING THAT THE ALLEGATIONS WARRANT AN INVESTIGATION

**Allegation #1** - {Respondent} fabricated, falsified and/or plagiarized {FIGURE #/TEXT} by {REUSE/RELABELING/COPYING} in {JOURNAL/GRANT/RECORD}.

<table>
<thead>
<tr>
<th>Element</th>
<th>Example Phrasing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Forensic Analysis</td>
<td>Adobe Photoshop {gradient mapping/overlay} analysis….</td>
</tr>
<tr>
<td>2. Interviews and Written Responses</td>
<td>During the interview, and/or in the written response, {RESPONDENT} described…</td>
</tr>
<tr>
<td>3. Committee Review of Respondent’s Comments</td>
<td>The Inquiry Committee reviewed {RESPONDENT}’s refutation of Allegation #1 and found the following…</td>
</tr>
<tr>
<td>4. Conclusions</td>
<td>The conclusions for Allegation #1 are based on the following facts and observations…</td>
</tr>
<tr>
<td>5. Summary</td>
<td>Therefore, the Inquiry Committee finds by X-Y vote, that Allegation #1 of possible Research Misconduct against {RESPONDENT} does/does not** have sufficient substance to warrant Investigation under the Policy. **If DOES NOT add and should be dismissed.</td>
</tr>
</tbody>
</table>
Example of CII Analysis

Manuscript #, Allegation # - [redacted] falsified Figure by reusing the same data in lanes and lane in 2002.

Forensic analysis demonstrated:
1. Using Adobe Photoshop overlay analysis, the CII determined that significant overlap exists between lanes and indicating that the same data had been used to represent two different experimental conditions.\(^1\)
2. Lanes and are purported to represent controls from different nuclear extracts (liver vs hepatoma) but have the same unique artifacts present within the bands (highlighted by the green arrows on [redacted]).

Based on the interview, and/or in the written response:
1. In her interview on [redacted] Dr. states that there appears to be "erroneous duplication of these lanes."\(^2\)
2. Dr. [redacted] also admitted interview that the bands looked similar and suggested the error may have been inadvertent, since this was not the only evidence that drove the conclusions of the paper.
3. In his interview on [redacted] Dr. [redacted] asked if the CII had talked to the person who had performed the experiment because he "won't be able to throw any light on this."\(^3\)
4. Dr. [redacted] made statements in his interview regarding the "key emphasis" of this figure, which were not the lanes in question. He did state that a "pre-immune sera (which lanes and are labeled as) could give you identical pattern."\(^4\)
5. In his interview, Dr. [redacted] also stated he would never have allowed a lab member to make an intentional duplication.\(^5\)
Example of CII Analysis

The CII reviewed [redacted] refutation of the allegations and found the following:

1. [redacted] did not dispute this allegation but instead stated it was an erroneous duplication.

The conclusions for this allegation are based on the following facts and observations:

1. [redacted] did not dispute the evidence from the figure forensics demonstrating that a single lane had been reused and instead stated that "it looks duplicated to me".

2. Without original data, the CII cannot determine if the reuse of the data was performed as an honest error or performed so that the published figure no longer represented the experimental outcome from the original data.

Therefore, the Committee of Initial Inquiry finds, under the preponderance of evidence standard, by unanimous 3-0 vote, that the allegation #1 of possible Research Misconduct against [redacted] does have sufficient substance to warrant Investigation under the Policy.
EXAMPLE ELEMENTS OF AN INVESTIGATION REPORT

1. Executive Summary
2. Allegations Summary (list of manuscripts with funding noted / allegations)
3. Initial Allegations (when/how/who reported the allegations)
4. Preliminary Assessment Summary/Sequestration
5. Inquiry Summary
6. Investigation Committee (members names & meeting dates/descriptions)
7. Interviews
8. Committee Analysis for Each Allegation - summarizes the facts and the analysis which supports findings of if RM occurred or not
9. Investigation Committee Summary (broader views/statements of allegations)
10. Recommended Actions
11. Retractions/Corrections
12. Appendices
### Example of Statement of Findings in an Investigation Report

#### Allegation #1 - {Respondent} fabricated, falsified and/or plagiarized {FIGURE #/TEXT} by {REUSE/RELABELING/COPYING} in {JOURNAL/GRANT/RECORD}.

<table>
<thead>
<tr>
<th>Element</th>
<th>Example Phrasing or Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Finding of fact</td>
<td>• Adobe Photoshop {gradient mapping/overlay} analysis….”</td>
</tr>
<tr>
<td></td>
<td>• List exhibits, files, earlier versions of figures and how they changed.</td>
</tr>
<tr>
<td>2. Knowledge and Intent</td>
<td>• List if images were flipped, rotated, manipulated.</td>
</tr>
<tr>
<td></td>
<td>• Explain how it could be/could not be an honest error</td>
</tr>
<tr>
<td>3. Respondent’s Response</td>
<td>• Dr. X provided the following credible explanation….</td>
</tr>
<tr>
<td></td>
<td>• Dr. X’s explanation was not credible as it contradicted evidence/statements…</td>
</tr>
<tr>
<td>4. Significance</td>
<td>• The Committee has determined that the F/F/P in Allegation X was performed by XX as &lt;explanation of why Respondent is/is not responsible&gt;</td>
</tr>
<tr>
<td></td>
<td>• The F/F/P data substantially changed the reported results by…..</td>
</tr>
<tr>
<td></td>
<td>• The F/F/P figure was used in Paper Y to support the hypothesis that..</td>
</tr>
<tr>
<td>5. Conclusion</td>
<td>By a preponderance of the evidence, the Committee finds by a vote of X to Y, that</td>
</tr>
<tr>
<td></td>
<td>the Respondent &lt;intentionally/knowingly/recklessly&gt; &lt;fabricated/falsified/plagiarized&gt; the XXX and this act constitutes as &lt;F/F/P&gt; as described in the Policy III.A and 42 C.F.R. § 93.103 (b)</td>
</tr>
</tbody>
</table>
Example of Investigation Committee Analysis

Manuscript #[] - Allegation #[]: Western blot data were falsified by falsely labeling the experiment conditions of the entire composite figure, falsely labeling the[BLANK] and[BLANK] blots and splicing together single bands from different experimental conditions to generate the[BLANK] and[BLANK] blots of Figure[BLANK] of[BLANK] et al., 2014. [BLANK] when compared to the original research record.

Finding of Fact: Allegation #[], Fig[BLANK] et al., [BLANK] 2014
1. A figure found on the Respondent’s hard drive in a file labeled [BLANK] date created[BLANK] shows the same experimental conditions as published Figure[BLANK].
2. A figure found on the Respondent’s hard drive in a file labelled[BLANK] date created[BLANK] shows the same figure listed above except there are additional lanes cropped together and lined up next to the blot for[BLANK] (i.e. [BLANK]). The[BLANK] blot now shows a white bar over its entirety.
3. Through Adobe Photoshop analysis, a forensic overlay shows that the published[BLANK] blot in Figure[BLANK] is identical to the additional lanes cropped together and lines up in the “[BLANK]” file created on[BLANK] and show an increasing expression of[BLANK] with higher doses of[BLANK] while the actual original research record shows[BLANK] varying expression with higher doses of[BLANK].
4. Through Adobe Photoshop analysis, a forensic overlay shows that the published[BLANK] blot in Figure[BLANK] was created by cropping and flipping and pasting four bands from the original research record for[BLANK] in order to falsely represent that[BLANK] expression decreases upon[BLANK] treatment. The original research record shows varying expression for[BLANK] upon[BLANK] treatment.
5. The[BLANK] blot from the original research record was labeled as[BLANK] in the published Figure[BLANK], while the[BLANK] blot from the original research record was labeled as[BLANK].

Knowledge and Intent: Allegation #[] Fig[BLANK] et al., [BLANK] 2014
1. The Respondent testified that he was the person responsible for creating the figure manipulations in Figure[BLANK] and he did it because he was frustrated with how long it was taking the student to produce the data.
2. Conversely, in his Response to the Final Report of the CII, sent on[BLANK], specifically in response to the CII conclusion that it appears there are splice lines in Figure[BLANK] between lanes[BLANK] the Respondent includes his own Adobe Photoshop forensic gradient map of Figure[BLANK] and highlights a portion in the figure (by a yellow bracket) where the straight cropping line does not continue. He writes:
3. “The yellow bracket and arrow indicate a discontinuity in the straight edge (i.e. the edge does not extend the entire width of the blot) that would not be expected if splicing had been done.”
4. Since Adobe Photoshop analysis using forensic overlay shows that every band has been cropped and pasted in the published Figure[BLANK] and the Respondent has testified that he was responsible for the manipulation and falsification, the question of why he originally wrote a response trying to discredit the falsification allegations based on the discontinuity of splice lines is hard to understand and raises serious concerns as to the credibility of Dr.[BLANK] statements.
Example of Investigation Committee Analysis

Respondent’s Response: Allegation #1, Fig 12, et al., 2014

Yes, I falsified the data. And you may ask me why? I think frustration took a better part of me.

CHAIRPERSON: I’m sorry, can you say that again?

Frustration took a better of me. That -- you know, I was confident in that this data could be reproduced. And indeed, you know, in the corrigendum we sent, this data was reproduced exactly. We were in a hurry to send the paper out. And we -- I -- we couldn't get the data from the first author quick enough. I made a mistake. And in this case, I admit my mistake. But in other cases, you know, I would attribute this to human errors.

Significance: Allegation #1, Fig 12, et al., 2014

The committee has determined that the Respondent intentionally falsified data in Figure 12. Out of frustration due to the rush to reproduce and publish highly significant data for cancer research, the Respondent admits to intentionally falsifying data on a compound (redacted) for which the specific end goal is to provide therapeutic strategies for pancreatic cancer in patients. Intentionally falsifying data on compounds (redacted) for which the specific end goal is to provide to patients is highly significant and incredibly dangerous.

Committee Conclusion: Allegation #1, Fig 12, et al., 2014

By a preponderance of the evidence, the Committee finds by a vote of 3 in favor and 0 against, that the Respondent intentionally falsified the data in Figure 12 and this act constitutes Research Misconduct as described in the Policy III. A and 42 C.F.R. § 93.103 (b).

By clear and convincing evidence, the Committee finds by a vote of 3 in favor and 0 against, that the Respondent intentionally falsified the data in Figure 12 and this act constitutes Research Misconduct as described in the Policy III. A and 42 C.F.R. § 93.103 (b).
THE MECHANICS

Dan Wainstock

(a) Allegations
(b) PHS support
(c) Institutional charge
(d) Policies and procedures
(e) Research records and evidence
(f) Statement of findings
  • Type of misconduct (F/F/P)
  • Evidence that supports the finding
  • Level of intent (Intentional to honest error)
  • Corrective action (retractions, corrections)
  • Responsible person(s)
  • PHS or Other support
PLAN THE REPORT AT THE BEGINNING

- Review governing policies to determine requirements and structure
- Decide on the Terms
  
  Allegations, Publications, Evidence, Abbreviations, etc.
- Find and collect the information that you need
- Draft and update the first part of your report
  
  Allegations, PHS support, Charge, Policies, Research Records and Evidence
- Analyze materials, write statement of findings
- Develop appendices
- Draft the executive summary and table of contents
- Send draft out for review and response
- Finalize report
### MAINTAIN LISTS

- **Timeline**
- Allegations
- Documents of concern
- Evidence collected and/or reviewed
- PHS Funding
- Summary of Findings

### SAMPLE (CONTINUOUSLY UPDATED) TABLE OF EVENTS

#### Case-Number: 2018-07-14-01-Timeline-of-Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018-07-14</td>
<td>Statements of concern brought forward by email from an anonymous complainant. The concerns were hyperlinks to PubPeer</td>
</tr>
<tr>
<td>2018-07-15</td>
<td>PubPeer hyperlinks were evaluated</td>
</tr>
<tr>
<td>2018-07-20</td>
<td>An assessment report, submitted by RIO-Outstanding, was received by Provost Smart. The concerns will move forward to inquiry</td>
</tr>
<tr>
<td>2018-08-15</td>
<td>Computers and laboratory records were sequestered and forensically imaged</td>
</tr>
<tr>
<td>2018-09-01</td>
<td>Names for an ad-hoc inquiry committee were provided by the School of Science</td>
</tr>
<tr>
<td>2018-09-04</td>
<td>Potential committee members were evaluated for conflicts</td>
</tr>
<tr>
<td>2018-09-11</td>
<td>Statements of no-conflicts were signed, confidentiality agreements were signed, Inquiry Committee was charged by RIO-Outstanding</td>
</tr>
</tbody>
</table>
**MAINTAIN LISTS**

- Timeline
- Allegations
- Documents of concern
- Evidence collected and/or reviewed
- PHS Funding
- Summary of Findings

**REGULARLY UPDATED – ONE PER RESPONDENT**

<table>
<thead>
<tr>
<th>No.</th>
<th>Allegation</th>
<th>Publication</th>
<th>Project Support (P)</th>
<th>Spons.</th>
<th>Respondent Role</th>
<th>Resp. Party</th>
<th>F/F/P Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1</td>
<td>Dr. A and/or his co-author(s) may have misrepresented the cell line used in Figure 1A (P01). The article states that the data represents the Corn cell line. However, the figure appears to be very similar to, or the same as, Figure 1A in P05 that is referred to as the Bean line.</td>
<td>Sunshine, A., et al., Corn isn't worth as much as beans. Rotation now, 2012. 7(1): p. e31093.</td>
<td>VA Merit Review Award (Dr. A)</td>
<td>VA</td>
<td>Corresp. Author, P01 lists VA Affiliation</td>
<td>Dr. A</td>
<td>Fabrication and/or Falsification</td>
</tr>
<tr>
<td>A1</td>
<td>Dr. A and/or his co-author(s) may have misrepresented the cell line used in Figure 1A (P01). The article states that the data represents the Corn cell line. However, the figure appears to be very similar to, or the same as, Figure 1A in P05 that is referred to as the Bean line.</td>
<td>Sunshine, A., et al., Beans aren't worth as much as corn. Crops anonymous, 2011. 11: p. 134</td>
<td>VA Merit Review Award (Dr. A), R01 EY123456 (Dr. A, Dr. B), R21 AG12345 (Dr. A)</td>
<td>VA and PHS</td>
<td>Corresp. Author, P05 lists VA Affiliation</td>
<td>Dr. A</td>
<td>Fabrication and/or Falsification</td>
</tr>
<tr>
<td>A2</td>
<td>Figure 7, P01 seems to be a modification of Figure 6, P05; however, P01 has not been cited or mentioned as the origin of the figure.</td>
<td>Sunshine, A., et al., Corn isn't worth as much as beans. Rotation now, 2012. 7(1): p. e31093.</td>
<td>VA Merit Review Award (Dr. A)</td>
<td>VA</td>
<td>Corresp. Author, P01 lists VA Affiliation</td>
<td>Dr. A</td>
<td>DISMISSED</td>
</tr>
</tbody>
</table>
KEEPING UP WITH THE DETAILS

**MAINTAIN LISTS**
- Timeline
- Allegations
- Documents of concern
- **Evidence collected and/or reviewed**
  - PHS Funding
  - Summary of Findings

**EXAMPLES, IDENTIFIED VIA MEETING MINUTES, DEDICATED SERVER, EMAIL FOLDER/ARCHIVE...**
- Subjects of investigation (journal articles, grant applications, conference posters/abstracts/presentations, lab meeting presentations, any research record – see also next 3 points)
- Emails (date ranges, senders/recipients, attachments)
- Laboratory notebooks (Bates Stamp Nos.)
- Computer files*
- Interview recordings and transcripts
- PowerPoints or other materials presented at interviews
- Respondent submissions
- Forensic reports (internal, ORI, and/or external vendor)
- Inquiry Report with attachments
- Respondent comments on the draft report

* The specific files relied upon by the investigative panel for their finding(s)
(Complete forensic images of lab computer, server, and/or instrument hard drives are stored and accessed separately. ORI’s best practices for such materials can be found here: [https://ori.hhs.gov/submitting-electronic-records-ori](https://ori.hhs.gov/submitting-electronic-records-ori)).
### KEEPING UP WITH THE DETAILS

<table>
<thead>
<tr>
<th>MAINTAIN LISTS</th>
<th>CAPTURING THE LOGIC OF A FINDING: BREAKING IT DOWN</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Timeline</td>
<td>- At each step: Which specific evidence catalogued elsewhere in the report supports the panel’s conclusion and why is it more compelling than any evidence or arguments supporting the opposite view?</td>
</tr>
<tr>
<td>- Allegations</td>
<td>- Does a defect in the research record exist and does it meet the definition of research misconduct (falsification, fabrication, or plagiarism, <strong>NOT</strong> honest error or a difference of scientific opinion)?</td>
</tr>
<tr>
<td>- Documents of concern</td>
<td>- If yes, did a certain action or inaction on the part of the respondent (that initiated or propagated this defect in the research record) represent a significant departure from the accepted practices of the relevant research community?</td>
</tr>
<tr>
<td>- Evidence collected and/or reviewed</td>
<td>- If yes, was that action or inaction intentional, knowing, or reckless?</td>
</tr>
<tr>
<td>- PHS Funding</td>
<td></td>
</tr>
<tr>
<td>- <strong>Summary of Findings</strong></td>
<td></td>
</tr>
</tbody>
</table>
TIPS & TRICKS
MANAGING AND FINDING THE EMAILS

ADOBE PORTFOLIO

• Converts emails to a single, sortable, searchable file
• Allows new emails to be appended
• Multiple users can append their emails
• Maintains attachments (also searchable)

TIPS & TRICKS
DOCUMENT FORMATTING TECHNOLOGY

MICROSOFT WORD FEATURES

• Choose/Create a Text Style in the Home Menu to highlight report sections
• Generate an automatic TOC from the Reference Menu - can be updated
• Headers can be linked to section names and text styles
• Page Numbers
• Footnotes

TIPS & TRICKS
REFERENCE LIBRARIES FOR EACH REPORT

- Import directly from PubMed
- Add your term for publication in the Label field
- Sort by Author, Year, Journal, Label, etc.
- Attach a copy of the Publication
- Includes hyperlinks to source and other identifiers
- Details support for each paper

ENDNOTE

Add your own Label
TIPS & TRICKS
REFERENCE FORMATTING TECHNOLOGY

ENDNOTE AND WORD

- Endnote “Cite While You Write” updates Word documents automatically
- Consistent citations in your report
- Different outputs for different purposes
- Your scientists use this routinely – ask them to show you how
- Also compatible with Excel

Endnote “Cite While You Write” updates Word documents automatically:

- I am using Endnote to add a citation to the reference that I have labeled as P01.
- I copied and pasted the reference from EndNote into this text and it appears only as the label: P01.
- The in-text citation can be formatted in any way that makes sense and the references in the document will be updated.
- After the citation is added, a full reference list can be generated (below) and updated as the report is written using the CITE WHILE YOU WRITE feature.

PUBLICATIONS OF ABSOLUTELY NO CONCERN

P01·Dessem, D; Ambalavanar, R; Evancho, M; Moutanni, A; Yallampalli, C and Bai, G (2010). "Eccentric muscle contraction and stretching evoke mechanical hyperalgesia and modulate CGRP and P2X(3) expression in a functionally relevant manner." Pain 149(2): 284-295.

SUPPORT CITED IN PUBLICATIONS

P01
R01·DE015386-04/DE/NIDCR·NIH·HHS
R01·DE010132/DE/NIDCR·NIH·HHS
R01·DE015386/DE/NIDCR·NIH·HHS
R01·DE010132-16/DE/NIDCR·NIH·HHS
R01·HL058144/HL/NHLBI·NIH·HHS

Complete Reference

Funding cited in the publication
1. Identify all stakeholder inputs that would be useful
   a) Forensic review
   b) RIO/administrative review
   c) Office of the General Counsel (OGC)
   d) Partner institutions, if any (with or without OGC of their own)
   e) The Panel of course!
2. Respondent comments
3. Revision, re-review, and finalization of investigative report
4. Separate process for consideration of sanctions
   a) Harvard Medical School has a Standing Committee on Faculty Conduct
   b) Standing Committee review of investigation
   c) Standing Committee memo (incl. respondent submissions and comments)
   d) Standing Committee process provides Deciding Official(s) with precedents
5. Deciding Official(s) receive both the report and the memo
PREPARING FOR THE AFTERMATH

Pam Bounelis

• Precautions prior to final report
• Need to know notifications
• Leadership reminders
• Aftermath considerations & activities
  • Submittals to governments and agencies
  • Retractions and Publicity
  • FOIA requests
  • Public review of report
WHEN FINDINGS ARE VERY LIKELY, DOUBLE CHECK AWARD AND OTHER ACTIVITIES

• Review award activity of respondent
  • Are there any active or pending awards?
  • Does award spending need to be stopped?
  • Are any awards being relinquished for transfer?
  • Does the respondent have a role on anyone else’s awards?
• Is there a link to any clinical trials?
• Are there any flawed materials that may have been distributed via MTA?
• Does your media group need to embargo any good news stories?
NEED TO KNOW NOTIFICATIONS

• Institutional Officials - leadership, human resources, physical security, threat assessment team
• Government Agencies and Sponsors – submit required materials
• Committee - collect and document collection of all materials
• Journal Editors - requests to correct/retract
• Co-authors – as needed
LEADERSHIP REMINDERS

• A federal agency may make different findings than the institution.
• ORI might
  • Close without findings
  • Make findings and recommend HHS actions
  • Close and recommend HHS settle
• The federal framework for review is independent from the institution’s
  • Different standards
  • Different procedures
• The federal process takes time
• There is no process for the federal government to overturn institutional findings
IF ORI DECIDES TO CLOSE WITHOUT FINDINGS, IT DOESN'T INVALIDATE INSTITUTIONAL FINDINGS

42 § 93.408 - Factors in HHS actions
- Intent
- Pattern
- Impact
- Acceptance of responsibility
  - Admitting the conduct
  - Cooperating
  - Demonstrating remorse
  - Taking corrective step
- Failure to accept responsibility
- Retaliation
- Present responsibility
- Other factors

RECOMMENDED READING
CLEANUP AND STORAGE

• If no findings – restoration of reputation
• The cleanup of labs, personnel placement, science correction etc. takes time and money
• Consider re-employment cautions added to personnel files
• The respondent is a person – do they need mental health services?
• Identify long-term document and evidence storage – at least 7 more years, probably much longer

“an institution must maintain records of research misconduct proceedings in a secure manner for 7 years after completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation under subparts D and E of this part, whichever is later.“ 42 CFR 93.317
42 CFR § 93.315:

“At the conclusion of the institutional investigation process, covered institutions must submit four items to ORI”

1) the investigation report (with attachments and appeals)
2) final institutional actions
3) the institutional finding
4) any institutional administrative actions.

RETRACEMENTS AND CORRECTIONS

• Determine who is responsible for completing this –
  • respondent, RIO, corresponding author

• Contact co-authors to seek their agreement or not

• Multiple step process with journals
  • Contact the journal to find out who receives the request
  • Send the simple request to the journal
  • Follow-up with details as allowed
  • Review/edit/write their retraction notice
Identify Your Spokesperson
- RIO
- Media
- VP Research
- Legal Counsel

Decide What Will or Won’t be Disclosed
- Findings
- Names
- Timing
- Deadlines

Review Institutional Web Pages
- Department
- News stories
- Magazines
- Presentations

Review Policies & Procedures
- Know rules
- Timing
- Confidentiality

Prepare Statements
- Anticipate questions
- Coordinate with others

Retraction Watch, local media, commenters, science and ethics bloggers, activists, attention seekers

There’s no such thing as bad publicity
- P.T. Barnum
CONSIDER OPEN RECORD & FOIA REQUESTS
<= > (LESS IS MORE)

Before report is finalized
• What information can be referenced or moved to attachments?
• Is all information in report needed or required?

After submission
• Work with your Legal Counsel or FOIA office to redact report (names of committee members, people interviewed, officials)
• If joint investigation (e.g. University & VA), stay coordinated
• *Retraction Watch* is collecting reports
  https://retractionwatch.com/2018/07/02/reports-of-misconduct-investigations-can-tell-us-a-lot-here-are-more-than-a-dozen-of-them/

• Your report might be graded relative to “the checklist”, but remember
  • The “grade” only reflects a subset of the information
  • You are responsible to yourself, your institution, and your government

“Represented were a wide range of individuals who deal with scientific misconduct, including a former university provost and president, other institutional leaders, federal officials, researchers, a journal editor, journalists, NASEM panel participants, and attorneys representing respondents, whistleblowers, and institutions.”

“Whether a specific institutional investigation plan or report is generated that identifies appropriate questions to pursue and proposes a meaningful approach to securing the answers;

Whether the correct individuals are interviewed;

Whether the relevant data are secured and reviewed by appropriate experts;

Whether the report provides factual basis and data; and

Whether the report supports its conclusions.”