

NATIONAL RADIO ASTRONOMY OBSERVATORY
Charlottesville, Virginia

February 3, 1992

M E M O R A N D U M

To: Scientific Staff
From: P. A. Vanden Bout . PVB
Subject: Observatory Policy Regarding Scientific Misconduct

I am sure everyone on the scientific staff is aware of the intense concern in Washington with issues of scientific misconduct.

Instances of scientific fraud in medical research, most notably the so-called Baltimore Case which received considerable publicity, and the keen interest of some members of Congress in uncovering misuse of federal funds by the science establishment have led the funding agencies to impose new requirements. Specifically, all grantees and contractors must have policies for the investigation of allegations of scientific misconduct.

The AUI Board of Trustees adopted such a policy for NRAO at their meeting of January 22, 1992. I have placed copies in the site libraries. The policy may have to change from time to time; site directors will always have the latest version.

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PROCEDURES FOR THE INVESTIGATION OF ALLEGATIONS OF MISCONDUCT IN RESEARCH OR SCHOLARSHIP AT THE NATIONAL RADIO ASTRONOMY OBSERVATORY

Scientific and other scholarly activity must be conducted and reported in an ethical manner. Incidents of willful and knowing dishonesty are inconsistent with the goals and missions of the Observatory.

The Assistant Director directly responsible for the area of the activity in question will be the focus of the Observatory's response to allegations of misconduct in research or scholarship. The Assistant Director will through the Associate Director for Operations keep the Director informed of all such allegations and of the progress made in resolving the matter in question.

The following procedures will be implemented at NRAO in response to allegations of scientific or other misconduct.

1. DEFINITIONS

1. "Misconduct" in the context of these procedures means: fabrication, falsification, plagiarism, theft of ideas, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting results from research or other scholarly activity. In the absence of evidence of willful intent to deceive, it does not include errors of fact, errors in interpretation of data or judgment of the significance of results.

2. An "inquiry" is an informal, but clearly defined, process of information-gathering and initial fact-finding to determine whether an allegation or possible instance of misconduct warrants an investigation.

3. An "investigation" is a formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

2. THE CONDUCT OF INQUIRY AND INVESTIGATION

A. Notification Process

Prerequisite to any action, informal or formal, all allegations of misconduct in research or scholarship must be made in writing to the Assistant Director. The author(s) of the allegations must identify themselves and be available for discussion with the Assistant Director. Anonymous allegations will not be considered. Allegations of scientific misconduct involving any person at or above the rank of Assistant Director should be made to the Director or to the President of AUI, who will appoint appropriate persons to carry out the procedure described below.

The written statement should include a description of the alleged misconduct and the names of all individuals deemed to be involved. Accompanying this statement should be all documents in the possession of the person(s) making the allegations that are relevant to the possible pursuit of an inquiry. Upon request, notarized copies of all such documents will be provided to the person(s) making the allegations.

Every effort shall be made to protect the interests of those who make good-faith reports of alleged wrong-doing.

Every effort shall be made to protect the interests of persons accused of misconduct throughout the period of inquiry or possible subsequent investigation.

The identifies of all parties involved will be kept confidential to the maximum extent consistent with an effective inquiry into the alleged misconduct. In addition, every precaution will be taken to ensure that real or apparent conflicts of interest are avoided during all stages of the following procedure.

B. Informal Resolution

The Assistant Director, in consultation with the Associate Director for Operations and with the cognizance of the Director, will make an initial determination as to whether or not the allegations, if proven to be true, would conform with the definition of misconduct given above.

If it is judged that the allegations do not encompass acts of scientific misconduct, the reasons for this decision should be made part of the file and explained to the person(s) making the allegations. If this judgment is accepted, a signed statement by the author(s) of the allegations to this effect should be made part of the file.

If this judgment is not accepted or, if it is deemed that the allegations would indeed encompass scientific misconduct if they were to be fully substantiated, the Assistant Director shall initiate the following procedures.

C. Inquiry

1. The Assistant Director will within 5 working days begin a discreet, preliminary inquiry while simultaneously making every effort to safeguard individual reputations of all concerned.
2. The staff member(s) or other investigator(s) whose research is the subject of the complaint shall be notified immediately in writing that a formal complaint has been lodged and informed of the detailed nature of the complaint. The procedures to be followed should be explained, including the opportunity for response or rebuttal.
3. The Assistant Director may call upon appropriate experts for consultation in technical and scientific aspects of the inquiry, on a confidential basis.

4. All materials deemed to be pertinent to the resolution of the issue shall be made secure.
5. The inquiry shall be completed within 45 days of the initial receipt of the allegation(s), unless the Director grants an extension or written evidence that circumstances warrant a longer period. At the completion of the inquiry, a written report shall be filed in the Director's office.

Response by the Assistant Director

1. The Assistant Director, after consultation with the Associate Director for Operations, and the Director, shall determine on the basis of the conclusions of the inquiry and any other consultation deemed necessary, whether the allegations require a formal investigation. The basis for the decision will be fully documented and included with the record of inquiry.
2. If it is determined, as a result of the informal inquiry, that the charges are without merit or that appropriate accommodations can be agreed on, the Assistant Director shall accordingly notify the complainant, the individual(s) who are respondents to the allegation(s), the Director, AUI, and all other parties involved, in writing.
3. If it is decided that further investigation is necessary, the Director and AUI shall be so informed and a formal investigation initiated.
4. These actions by the Assistant Director shall be completed within 5 working days of completion of the inquiry.

D. Investigation

1. Upon deciding that further investigation is necessary the Associate Director for Operations shall, within 30 days of the completion of the inquiry:
 - a) Inform in writing the Staff members in question of the accusations and that a formal investigation will be conducted and invite the Staff member(s) to submit a written response to the accusations. The staff members will be informed that they have the right to be accompanied by an advisor at all meetings with an Investigating Committee and that all allegations and copies of material supporting those allegations will be made available to them.
 - b) After administrative and legal consultation, the Director shall inform AUI, NSF, the granting agency, if any, and any other parties potentially impacted by the investigation.

- c) Constitute an Investigating Committee chaired by the Associate Director for Operations and composed of the Assistant Director, legal counsel, and one or two additional Staff members who can bring needed scientific and technical expertise to the Committee. If deemed appropriate, special expertise may be solicited from outside the Observatory.
 - d) Inform all collaborators in the research project who are not named in the allegation about the investigation and give them the opportunity to comment.
 - e) Proceed immediately to collect and secure any remaining materials deemed pertinent to the investigation.
2. During the course of the investigation, the Investigating Committee, adhering to the principles of due process during all proceedings, will:
- a) Receive and review relevant documents.
 - b) Interview involved Staff members and employees and other relevant individuals as far as their collaboration can be elicited.
 - c) Seek additional information as deemed necessary.
 - d) Consult, when appropriate, with expert(s) from outside the institution.
 - e) Record and document all relevant information obtained in the course of the investigation.
 - f) Analyze and summarize results of the investigation in a report to the Assistant Director.
 - g) Complete the investigation within 90 days.
3. Following the completion of the investigation, the Associate Director for Operations shall:
- a) Prepare within 5 working days a written report to the Director. Included in this report shall be:
 1. The findings of the Committee.
 2. An evaluation of the seriousness of any misconduct found.
 3. Recommendation for further action and the basis for such action.

- b) Submit a copy of the final report to the accused. The accused shall have 15 working days to submit a rebuttal or appeal which shall be appended to the report.
 - c) Submit the report and appendix to the Director.
4. The Observatory shall generally take no more than 120 days for the completion of an investigation, including preparing of a final report of findings, obtaining comments from the subject(s) of the investigation, and making a decision on the final disposition of the case. If the Observatory determines, at the end of 90 days, that it cannot complete its investigation and related activities within the 120 day period, it must submit to NSF, and any other funding agency involved, an interim report on progress to date and an estimated timetable for completion of the necessary activities. Thereafter, a report must be submitted every 60 days until such time that the investigation and all attendant actions are completed.
5. The Director, upon receiving the report of the Associate Director for Operations, and any statement of rebuttal or appeal by the accused, shall make a final determination regarding what action shall be taken and formally notify all parties, including NSF, and any other funding agency involved, and AUI of that decision.

E. Liability Coverage

The involvement of Staff in inquiries or investigations pursuant to these Guidelines is considered part of their employment duties and responsibilities for which they will be indemnified and held harmless in accordance with AUI's policies and procedures.

F. Urgent Notification

There may be instances where NSF, and any other funding agency involved, should be notified by the Observatory Director prior to the latter's decision to initiate an investigation. The following factors will be considered in deciding when to notify NSF, and any other funding agency involved.

- a) the potential seriousness of the alleged misconduct;
- b) whether an immediate health hazard is involved;
- c) the need to protect the interests of NSF, and any other funding agency involved;
- d) the Observatory's responsibility to the scientific community and the public at large;

- e) whether there are allegation(s) of criminal or civil law violation. At any point where there is a reasonable indication of possible criminal violations, AUI, the NSF and funding agency, if any, will be informed within 24 hours.

G. Actions

Observatory or AUI actions following an investigation of one or more of its staff members shall be based on AUI/NRAO policy as specified in the AUI Policy Manual, Employee Handbook, and the Supervisors' Personnel Manual. If scientific fraud has been found the editors of the journals in which the work was described shall be asked to withdraw the article(s) or parts thereof or notify the readership of the journal. Every effort shall be made to set the scientific record straight.

If the results of the process establish that the allegations were unfounded, the Observatory shall cooperate in efforts to protect and maintain the reputation and interests of the accused. Parallel efforts will also be taken to protect the standing of the individuals who raised the questions regarding possible misconduct. If, however, the inquiry or investigation indicates that the action was brought in bad faith, appropriate Observatory policies will be implemented.