

contract with an affected individual or institution". The commenters believed that this routine use was inconsistent with the current PHS ALERT which was modified to preclude disclosure to other Agencies until there was a finding of misconduct. In response to these concerns and without compromising the ability of the ORI to conduct thorough oversight and investigation activities ORI has modified routine use 4 by adding "after there is an institutional or agency finding of misconduct."

ORI modified the fifth routine use which allows ORI to disclose information to "any person able to provide information in an inquiry, investigation or related proceeding, including the relevant PHS-supported institution(s), Federal, State and local agencies, and the person(s) making the allegation, provided however, that in each case HHS determines that such disclosure is necessary." ORI still retains the discretion to disclose information to persons making the allegations. This routine use is necessary for ORI to effectively interview witnesses in order to learn necessary information for the purpose of conducting a fair and objective inquiry and investigation. This routine use is similar to those used by other investigative units within the Federal Government. For example, routine use 5 is similar to the routine use in the National Science Foundation Privacy Act system of records, NSF-52, "Office of Inspector General Investigative Files", which allows the NSF to disclose information to nongovernmental parties where those parties may have information that the Office of the Inspector General (OIG) seeks to obtain in connection with an OIG investigation.

A commenter was concerned that there was the potential for premature disclosure of information to "State licensing boards or certifying bodies." In response to this comment, ORI revised routine use 6 by adding a phrase that limits any disclosure until after there is a final agency finding of misconduct, thereby, eliminating any premature release. In addition, ORI added "Upon request" to routine use 6 which authorizes the release of information only after there is a request from the licensing board or certifying body for the information.

In response to the general concern that ORI was able to release information prematurely, ORI revised routine use 10. Routine use 10 now allows disclosure to professional journals, news media, other publications and to the public concerning misconduct findings and the need to correct falsified, fabricated,

plagiarized, or otherwise misrepresented research results or reports only after there is a final agency finding of scientific misconduct or remedial actions have been imposed.

ORI modified routine use 7. Routine use 7 gives the ORI the discretion to disclose information to "Institutional Review Boards, research-sponsoring institutions, individuals research subjects, and the public regarding information obtained or developed through the investigation that, in the PHS's judgment, may have implications for individual's health or for their participation in a research study." In addition, for the purpose of ensuring fairness to the parties, the same information that is released to the parties named above will be disclosed to the subject of the investigation.

We revised routine use 9 to address the concern that contractors were not held to the same standard as Federal employees regarding safeguards to be afforded the records.

Finally, a routine use that allowed public disclosure of records filed with or generated by the Departmental Appeals Board (DAB), HHS has been deleted as unnecessary since DAB records are open to the public.

In addition to revising the routine uses, ORI added the following introductory statement: "Any disclosure pursuant to these routine uses will be limited to the minimum necessary to accomplish the purpose of the disclosure." This statement reinforces the ORI policy that ORI does not disclose any information that is not necessary in order to accomplish a fair and thorough inquiry and investigation or as a means to protect the public interest.

The ORI Privacy Act system notice is consistent with established ORI practice to protect the confidentiality of the ORI records where investigations are underway or individuals have been exonerated. ORI will continue to protect the privacy of individuals and defend the maintenance of confidentiality in its inquiries and investigations.

These revisions respond to the concerns about the release of information from the system while permitting the ORI to use that information to fulfill its responsibilities.

Dated: December 22, 1994.

Ellen Wormser,

Director, Office of Organization and Management Systems.

09-37-0021

SYSTEM NAME:

Public Health Service Records Related to Inquiries and Investigations of Scientific Misconduct, HHS/OASH/ORI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION(S):

For Intramural and Extramural Research Programs: Office of Research Integrity, Rockwall II, Suite 700, 5515 Security Lane, Rockville, Maryland 20852, and at offices for (1) each of the Agency Extramural Research Integrity Officers (AERIOs), (2) each of the Agency Research Integrity Liaison Officers (ARILOs), (3) each of the Agency Intramural Research Integrity Officers (AIRIOs) for those agencies covered by this notice; (4) each of the NIH Misconduct Program Offices and (5) the Federal Records Centers for inactive records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of allegation(s) of scientific misconduct or related matters. These categories include: (1) Researchers currently or formerly employed by the Federal Government, (2) guest researchers, (3) Advisory Committee members, and (4) investigators or applicants for research grants, research training grants, fellowships, cooperative agreements or contracts. Investigators may include principal investigators, co-investigators, program directors, trainees, recipients of career awards or fellowships, or other individuals who conduct or are responsible for research or research training funded by the PHS or who are the subject of applications for PHS funding.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records related to allegations, inquiries, investigations, findings of misconduct in science, or actions that PHS has taken in connection with such allegations, inquiries, investigations or findings. Scientific misconduct is defined as fabrication, falsification, plagiarism or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting or reporting research. It does not include honest error or honest differences in interpretations or judgements of data.