

## Report on Research Compliance Volume 15, Number 9. September 30, 2018

### Former ORI Deputy: 'Reckless' Ruling Disappointing, Troubling; Impact Unclear

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By Theresa Defino

Before he retired in 2015 as deputy director, John Dahlberg was one of the longest serving members of the HHS Office of Research Integrity (ORI), which makes findings of misconduct in Public Health Service-funded research. In 2006, Dahlberg was named director of ORI's Division of Investigative Oversight (DIO), capping 14 years since he first began conducting research misconduct investigations. He became the deputy director of ORI in 2013.

Research misconduct findings ORI makes against investigators generally carry sanctions ranging from required supervision of several years to governmentwide debarment of up to 10 years. Until last month, findings have been made on the collective basis of three criteria that the fabrication, falsification or plagiarism was "committed intentionally, or knowingly, or recklessly." (Other specifications also apply.)

In a decision announced in July, an administrative law judge (ALJ) found Christian Kreipke, formerly with Wayne State University, guilty of 23 instances of misconduct and imposed a five-year debarment. The case is precedent-setting because the judge made misconduct findings based solely on the grounds the actions were committed recklessly, forgoing the intentional and knowing aspects of the definition.

In 2016, ORI had sought a 10-year debarment based on what it said were 64 instances of misconduct. Kreipke appealed and the case proceeded to an in-person hearing, called a de novo review. ORI announced Judge Keith Sickendick's ruling on July 31 (*RRC 8/2/18*). Kreipke has appealed the debarment.

*RRC* spoke to Dahlberg for a better understanding of the case and possible implications of the ruling. He said ORI had been pondering how to make a reckless-only finding, and he discussed the role of the HHS Office of General Counsel (OGC), which functions as in-house attorneys to ORI. Dahlberg offered his support for Alex Runko, the former DIO investigator who handled the case and testified during the appeal hearing, but was less than complimentary of how the HHS attorney from OGC handled the case. HHS stood behind the attorney and the outcome of the case (see story, p. 1).

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