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October 12, 2005

Mr. Clay Johnson, III  
Chairman  
President's Council on Integrity & Efficiency  
c/o United States Office of Management and Budget  
Eisenhower Executive Office Building  
17<sup>th</sup> Street & Pennsylvania Ave., N.W.  
Room 113  
Washington, D.C. 20503

RE: Complaint Against Scott J. Bloch, Special Counsel,  
Office of Special Counsel (OSC)

Dear Mr. Johnson:

I am writing to you for the second time to urge that you direct an immediate investigation of a Complaint of Prohibited Personnel Practices Against U.S. Special Counsel Scott J. Bloch ("OSC Complaint") that was filed over seven months ago, on March 3, 2005, on behalf of a group of career OSC employees, and four public interest organizations. In the enclosed June 22, 2005, letter I requested that you assign an Inspector General to conduct an investigation of the Complaint as was suggested to you by White House Counsel Harriet Miers in a letter she sent to you in early May (and as, in fact, the complainants originally requested). It is now almost five months since Ms. Miers referred the Complaint to you. Nonetheless, neither I, nor any of my clients, nor any of OSC's employees, past or current, has heard from your office or from the PCIE.

The OSC Complaint raises extremely serious charges. As summarized by Chris Swecker, the Chair of the Integrity Committee, it alleges, among other things, that Mr. Bloch:

- created a hostile work environment with a series of retaliatory acts against career OSC staff members, culminating in the involuntary reassignment of twelve career employees for actual or perceived whistle blowing;

- imposed non-disclosure policies on career staff in violation of the Anti-Gag statute and in violation of the Lloyd LaFollette Act, 5 U.S.C. Sec. 7211, which guarantees all federal employees the right to communicate with Congress;
- abandoned merit-based competitive hiring for career positions and misused special hiring authorities; and
- refused to enforce existing statutory prohibitions against sexual orientation discrimination in the federal workforce, and in some instances, provided misleading statements to Congress.

In an amended complaint, filed on March 31, 2005, the complainants further alleged that Mr. Bloch:

- hastened the termination date of the employees who refused the geographic reassignments in retaliation for perceived whistleblowing, First Amendment activity, and/or the assertion of their legal rights to hire counsel and challenge the illegal reassignments
- declined to permit employees to remain on at OSC headquarters in positions they were qualified to hold, in retaliation for perceived whistleblowing, First Amendment activity, and/or the assertion of their legal rights to hire counsel and challenge the illegal reassignments.
- abused his authority by affording disparate treatment to two high-profile Hatch Act complaints based on partisan political considerations (one concerning a visit by Senator John Kerry to the Kennedy Space Center, and the other a complaint filed by Representative Conyers against then-National Security Advisor Condoleezza Rice for using government funds to travel around the country in the weeks before the election making speeches, which were alleged to be political).

As you know, OSC is charged with serving as the guardian of the merit-based civil service. OSC is responsible for protecting federal employee whistleblowers against retaliation, for enforcing the laws that prohibit the politicization of the federal workforce, and for promoting the values of open government. The serious charges that have been lodged against Mr. Bloch—the political appointee who heads that agency—allege that he has violated the very laws and principles that OSC is responsible for enforcing. Nonetheless, despite being on notice for many months, to date, no action has been taken to investigate those charges or to hold Mr. Bloch to account for his abuses.

This continued inaction has disheartened and demoralized those few experienced members of OSC's career staff who still remain at the agency. It has also emboldened Mr. Bloch to engage in additional improper conduct. In my June letter, I advised you that Mr. Bloch had provided inaccurate and even untruthful testimony to Congress during an oversight hearing that was held on May 24, 2005, before the Senate Subcommittee on Government Reform. Since then, Mr. Bloch provided further misleading, untruthful, and evasive testimony in response to written post-hearing questions from the Subcommittee.

Among other things, Complainants believe that if Mr. Bloch had fully and truthfully responded to detailed questions, his answers would have revealed his partisan handling of a Hatch Act complaint filed in October 2004 against then-National Security Advisor Condoleezza Rice. Indeed, in an earlier effort to cover-up his partisan handling of the complaint, Mr. Bloch and/or his political staff directed that OSC's case tracking system be altered to delete references to the assignment of the case to his political staff. Mr. Bloch again provided misleading responses when the Senate Subcommittee inquired about this cover-up.

Similarly, Mr. Bloch provided misleading and incomplete information to Congress concerning his policies for reducing the backlog of overage disclosure and prohibited personnel practice cases at the agency. Indeed, Mr. Bloch has continued to withhold relevant information from Congress on these matters. He has also failed to comply with 5 U.S.C. §1218, which requires OSC to file an annual report containing the relevant information. To date, OSC has not issued an annual report for FY 2004.

Mr. Bloch also continues to use his official authority and government resources to promote pet causes that are unrelated to OSC's mission. As has been widely reported in the press, last August, Mr. Bloch's Principal Legal Advisor, James McVay, issued eleven single-spaced pages of detailed "findings" on behalf of Dr. Richard Sternberg, a research associate at the Smithsonian who claimed he had suffered retaliation for publishing an article questioning evolutionary theory and supporting the concept of "intelligent design." (A copy of the letter, downloaded from Dr. Sternberg's personal website, is enclosed). OSC issued its eleven pages of findings notwithstanding its admission that it lacked jurisdiction over the entire matter because, as a research associate, Dr. Sternberg was not even an employee of the Smithsonian.

Equally outrageous, Mr. McVay issued these "findings" notwithstanding that OSC never even investigated Dr. Sternberg's complaint. The findings appear to be based entirely upon OSC's reading of email traffic and upon the documents Dr. Sternberg provided. OSC did not interview anyone at the Smithsonian, including the individuals whose emails it cited in support of its "findings."

It is a patent abuse of government authority for an investigatory agency to issue findings, on its official letterhead, concerning a matter over which it lacks any jurisdiction. OSC's

standard procedure where complaints are beyond the agency's jurisdiction is to send a brief letter proposing to close the complaint, with an explanation why OSC lacks jurisdiction, and giving the complainant an opportunity to respond. The fact that Mr. Bloch authorized Mr. McVay to go on and provide eleven pages of commentary on the merits of the complaint was a clear deviation from established procedure. Further, it was grossly unfair to the Smithsonian and its staff for OSC to purport to make findings of retaliation without having any real sense of the Smithsonian's side of the controversy. And finally, Mr. Bloch's decision to issue findings in a case over which OSC lacks jurisdiction is especially ironic given Mr. Bloch's insistence in other contexts (i.e. involving OSC's power to enforce legal prohibitions on sexual orientation discrimination) that he is a "strict constructionist" of the statutes governing OSC's jurisdiction.

On the contrary, Mr. Bloch's interpretation of his jurisdictional authority is obviously governed by something other than a "strict construction" of the statutes OSC is charged with enforcing. Mr. Bloch must have known that Mr. McVay's letter would be used as a weapon by proponents of the controversial "intelligent design" theory. Indeed, the OSC letter was widely publicized on the internet, and in the print and television media. It was first publicized in a piece highly critical of the Smithsonian's supposed acts of retaliation written by David Klinghoffer for the National Review Online. That piece (a copy of which is enclosed), as well as the many others that followed it, characterized Mr. McVay's letter as providing the results of a "government investigation" finding retaliation. See also M. Powell, "Editor Explains Reasons for Intelligent Design Article", Washington Post, A 19 (August 19, 2005)(enclosed). The "Discovery Institute" a prominent advocate of the theory of intelligent design, issued a press release (enclosed) entitled "Office of Special Counsel Concludes Smithsonian Created a 'Hostile Work Environment' in Effort to Oust Biologist Skeptical of Darwinism." That press release and the Washington Post story was picked up by numerous publications, both nationally and internationally. Dr. Sternberg appeared on the popular television show "The O'Reilly Factor" and cited OSC's "findings" on his behalf.

No effort has ever been made by Mr. Bloch to correct the public record in any way regarding this matter. OSC's findings continue to this day to be cited and published by critics of Darwinian theory.

The Sternberg case was handled exclusively by Mr. Bloch's political staff, with no involvement by OSC's career employees. Senior career managers never saw a copy of the Sternberg findings until they appeared in the press. Indeed, many members of the career staff, including some of the anonymous complainants, were appalled by the blatant abuse of OSC's authority to take sides in a matter that implicates hotly-contested issues of faith and science. They concluded that OSC's involvement in the Smithsonian controversy was a gross abuse of authority by Mr. Bloch to promote a controversial personal agenda.

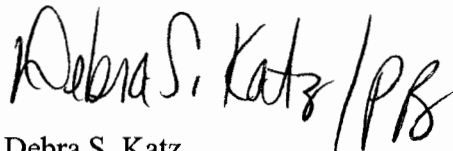
Clay Johnson, III  
October 12, 2005  
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Notably, this is not the first time that Mr. Bloch has had OSC make substantive pronouncements on matters over which the agency lacked jurisdiction. On May 20, 2004, Mr. Bloch issued a press release and sent a letter to Congress (enclosed) offering OSC's views on another controversial matter over which it lacked jurisdiction, not to mention any expertise—whether there is a causal relationship between the use of childhood vaccines containing mercury, and the incidence of autism. Again, this issue was handled by political, rather than career staff. And again, Mr. Bloch's letter concerning the issue was publicly touted by interest groups as an authoritative government opinion to support their argument that there is a connection between the vaccines and autism, notwithstanding scientific opinion to the contrary. Indeed, the advocacy group "SAFEMINDS" issued its press release on Mr. Bloch's letter on May 19, 2004, the day before OSC publicly announced it. See enclosed press release entitled "Collusion Seen After Release of Flawed Vaccine Autism Report."

The specific circumstances under which this matter was brought to OSC are unclear. Mr. Bloch refers to having received "hundreds of disclosures from private citizens" on the issue. In fact, what Mr. Bloch received were not "disclosures" but form letters, obviously orchestrated by an interest group. In response, Mr. Bloch weighed in on behalf of OSC expressing an opinion based upon his personal review of "publicly available information" which he stated appeared to show "a substantial likelihood of a substantial and specific danger to the public health and safety caused by the use of thimersoral/mercury in vaccines because of its inherent toxicity." He also gave credence to claims that the Centers for Disease Control, the FDA, and other agencies, had engaged in a cover-up concerning the dangers. An investigation is warranted to determine whether some personal agenda led to this abuse of OSC's official authority as well.

As you are aware, in recent weeks, there has been renewed public attention paid to charges of cronyism, incompetence, and the politicization of government functions by political appointees. The allegations against Mr. Bloch implicate all of these concerns. We hope that the Administration will not allow the abuses and problems at OSC to continue to fester until they become public embarrassments, as has been the case elsewhere. I once again urge you to move this matter forward without further delay, and to add the items identified above to be considered in your investigation.

Sincerely,

A handwritten signature in black ink that reads "Debra S. Katz / PB". The signature is written in a cursive, flowing style.

Debra S. Katz  
Attorney for the Complainants

Clay Johnson, III  
October 12, 2005  
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cc: Chris Swecker, Chair Integrity Committee  
Senator Daniel Akaka  
Senator Susan Collins  
Senator Charles Grassley  
Senator Carl Levin  
Senator Joseph Lieberman  
Senator George Voinovich  
Harriet Miers, White House Counsel  
Linda Springer, OPM Director

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By Telecopier  
June 22, 2005

Mr. Clay Johnson, III  
Chairman, President & Executive Councils on Integrity & Efficiency  
c/o United States Office of Management and Budget  
Eisenhower Executive Office Building  
17<sup>th</sup> Street & Pennsylvania Ave., N.W.  
Room 113  
Washington, D.C. 20503

RE: Complaint Against Scott J. Bloch, Special Counsel,  
Office of Special Counsel (OSC) to White House Counsel

Dear Mr. Johnson:

Almost four months ago, by letter dated March 3, 2005, I filed a Complaint of Prohibited Personnel Practices Against U.S. Special Counsel Scott J. Bloch ("OSC Complaint") on behalf of a group of career OSC employees, and four public interest organizations. Due to the serious nature of the charges, and Mr. Bloch's obvious conflict of interest, I requested that he refer the Complaint to the President's Council on Integrity and Efficiency ("PCIE") for an independent investigation. Despite public statements by OSC spokespersons that he had done so, Mr. Bloch referred the matter to the Integrity Committee ("IC") of PCIE, which Mr. Bloch (as a member of the IC) knows only has jurisdiction to investigate charges of misconduct against Inspectors General and not the Special Counsel. Indeed, on April 14, 2005, Chris Swecker, the Chair of the Integrity Committee, referred the Complaint to the Office of White House Counsel because of the IC's lack of jurisdiction. The White House Counsel then referred the complaint back to the PCIE, at the beginning of May, suggesting that it assign an Inspector General to conduct an investigation of the complaint. Apparently, therefore, the ball is in your court.

I am writing to you now to urge that you direct an immediate investigation of this Complaint. It is simply unacceptable that—despite the serious charges lodged against Mr. Bloch (who is, after all, supposed to be the guardian of the merit system) four months have now passed since the Complaint was filed, and no action has been taken to investigate it. In the meantime,

Mr. Clay Johnson, III  
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OSC's credibility has been destroyed, and career staff are fleeing in unprecedented numbers, convinced that nothing will be done to address Mr. Bloch's violations of law and abuses of authority. Further, Mr. Bloch has engaged in additional improper conduct, including presenting inaccurate and even untruthful testimony about his actions to a Senate Committee, before which he testified last month. With no independent investigation in sight, Mr. Bloch considers himself completely unaccountable and continues to conduct himself accordingly.

Again, I urge you to move this matter forward without further delay. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink that reads "Debra Katz" followed by a circular stamp or mark.

Debra S. Katz

cc: Chris Swecker, Chair Integrity Committee  
Senator Daniel Akaka  
Senator Susan Collins  
Senator Charles Grassley  
Senator Carl Levin  
Senator Joseph Lieberman  
Senator George Voinovich  
Acting Director of the Office of Personnel Management Dan Blair  
Harriet Miers, White House Counsel





**U.S. OFFICE OF SPECIAL COUNSEL**  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4808  
202-254-3600

August 5, 2005

Dr. Richard von Sternberg  
702 Manor Road #102  
Alexandria, VA 22305

Re: OSC File No. MA-05-0371 and MA-05-0015

Dear Dr. Sternberg:

I have received and reviewed the file material and complaints that you filed with this agency. The U.S. Office of Special Counsel (OSC) is authorized to investigate allegations of prohibited personnel practices and activities prohibited by civil service law, rule, or regulation. 5 U.S.C. §§ 1214(a)(1)(A), 1216(a) and 2302(b). The Special Counsel presents allegations of reprisal for whistleblowing and other prohibited personnel practices to the Merit Systems Protection Board (the Board), which has the authority to hear and adjudicate such matters.

I have carefully considered the information you provided. Based upon my evaluation of the facts and law applicable to your claim, I have made a preliminary determination to close our investigation into your allegations. My decision is not based upon the substance of your allegations; in fact, our preliminary investigation supports your complaint. My decision is founded upon a complicated jurisdictional puzzle and your position as a Research Associate (RA).

The Smithsonian Institution (SI) has taken legal steps to ensure that RAs are not employees of the SI. Our investigation revealed that you are a Title 42 Scientist, employed by the National Institute of Health (NIH). Pursuant to your agreement with the NIH, you are allowed to work 50% of your time at NIH and the other 50% with the SI. This is a common arrangement with both NIH and the SI. While your case was pending the Board decided the *Fishbein v. D.H.H.S.* case. This case exempts Title 42 Scientists from Title 5 protections, which would effectively remove you from the protections granted under the auspices of OSC. OSC's initial investigation supports the SI's contention that you are not an employee, and therefore are not covered under the jurisdictional statutes imposed upon OSC. Further the attorney for the SI has made it clear that the SI will not voluntarily participate in any additional investigation into your complaint. They will legally challenge our jurisdictional authority.

Your complaint alleges that senior members of the SI and the National Museum of Natural History (NMNH) retaliated against you for publishing an article that questioned the validity of evolutionary theory. You claim that your first amendment rights, freedoms of religion and political affiliation, and protection granted for off-duty conduct were violated by very senior members of the SI and NMNH. You further claim they created a hostile work environment in an attempt to pressure you into leaving your position with the SI. The article in question was written by Dr. Steven Meyer, entitled "The Origin of Biological Information and the Higher

**Taxonomic Categories."** The article summarizes multiple sources from scientists around the world and concludes that conventional evolutionary theory does not adequately explain the change in cellular systems and body plans during the "Cambrian Explosion," and therefore science should consider the possibility of "intelligent design" (ID). Henceforth this will be referred to as the Meyer article. The Meyer article was published in the *Proceedings of the Biological Society of Washington (Proceedings)*, which is a publication of a small non-profit organization called the Biologic Society of Washington (Society). You were the editor of the *Proceedings* at the time of the Meyer article. The Society and the *Proceedings* are not officially affiliated with the SI or the NMNH, yet they maintain a close symbiotic relationship through its leadership and payments made for publications. In fact, the Society for some reason maintains the same business address as the NMNH, and occasionally will use the same letter head.

During our initial investigation, OSC has been able to find support for many of your allegations. However, the SI is now refusing to cooperate with our investigation. OSC is not able to take statements and receive further paper discovery that would allow for final conclusions. The SI may in fact maintain documents that place our current information in a different context. As a consequence, I will detail only our preliminary findings below.

I will also preface my comments by stating that it is clear that the underlying issues and the motivation for much of the actions taken against you involve the political debate between creationism (a belief in a god as creator) and evolution (neo-Darwinism), and more particularly the perception that ID as set forth in the Meyer article is nothing more than a stalking horse for religion or creationism. OSC will not enter this debate or make decisions based upon the substance of this debate. However, if the debate inspires actions that seem to be in violation of the law, OSC will comment on this problem.

#### **Off-Duty Conduct**

Our preliminary investigation was able to confirm that your participation in the *Proceedings* was off-duty activity and not affiliated with your work as a RA with the SI. A talking points memo from the SI public affairs office that was drafted after the publication of the Meyer article admits that the *Proceedings* is a "non-Smithsonian" journal and that your activities as the editor of the *Proceedings* were "non-SI activities." The talking points memo also claims that the Society is not affiliated with the SI or the NMNH. This point was further developed in an email from Nell Payne, an SI public affairs official, written to other SI and NMNH employees. Her email states, "But isn't the Society private and isn't their journal private ????? I don't think we're allowed to control what our people do on their own time, as long as it's legal." Her email was written on 10-05-04, in response to actions against you following publication of the Meyer article. She also summarized her observations by saying, "This is tricky. This looks to me like precisely the sort of management pressure Sternberg is complaining about." She made this observation after reviewing only a small sampling of the emails.

Section 2302(b)(10) prohibits an official with personnel action authority from discriminating for or against any employee or applicant for employment on the basis of conduct

which does not adversely affect the performance of the employee or applicant or the performance of others. The intent of 5 U.S.C. § 2302(b)(10) is to prohibit reprisal for non-job related, off-duty conduct. *Merritt v. Dep't of Justice*, 6 M.S.P.B. 493, 506-08 (1981); *OSC v. Harvey*, 802 F.2d 537 at 551 (D.C. Cir. 1986).

Additional evidence of discrimination and retaliation will be developed below. However, since you are a RA, this section does not grant you protections.

### **First Amendment Violations, Religious and Political Affiliation Discrimination**

Our investigation also shows that there is a strong religious and political component to the actions taken after the publication of the Meyer article. Much of the e-mail traffic after the publication of the Meyer article documented a personal investigation of you and tabbed you as a "creationist." One senior SI employee, when discussing the Meyer article stated, "The paper is a sheer disaster ... We are evolutionary biologist, and I am sorry to see us made into the laughing stock of the world, even if this kind of rubbish sells well in backwoods USA... Under no circumstances should the Institution support the journal with page-charges, which up to this point has been a mainstay of the Society." After the publication when many in the SI were investigating your background, one of the e-mails raised concerns that you had "extensive training as an orthodox priest." Another e-mail stated, "Scientists have been perfectly willing to let these people alone in their churches. But now it looks like these people are coming out and invading our schools, biology classes, museums, and now our professional journals. These people to my mind are only a scale up on the fundies of a more destructive kind in other parts of the world. Depressing. Oh, if we only still had Steve Gould to lead the counter-attack."

An e-mail by a NMNH scientist that was sent to your supervisor sums up the sentiment of the e-mails, as it relates to this issue. It reads, "The whole situation sounds like a pain in the ...neck. Hopefully, the ID folks will get distracted with something else soon. After spending 4.5 years in the Bible Belt, I have learned how to carefully phrase things in order to avoid the least amount of negative repercussions for the kids. And I have heard many amazing things!! The most fun we had by far was when my son refused to say the Pledge of Allegiance because of the "under dog" part..." The e-mail concludes by lamenting that the school teacher was "religious" and it was unfortunate that there was "anti-evolution education" in the schools.

Of great import is the fact that these same SI and NMNH employees immediately aligned themselves with the National Center for Science Education (NCSE). Our investigation shows that NCSE is a political advocacy organization dedicated to defeating any introduction of ID, creationism or religion into the American education system. In fact, members of NCSE worked closely with SI and NMNH members in outlining a strategy to have you investigated and discredited within the SI. Members of NCSE, furthermore, e-mailed detailed statements of repudiation of the Meyer article to high level NMNH officials. In turn they sent them to the Society. There are e-mails that are several pages in length that map out their strategy. NCSE recommendations were circulated within the SI and eventually became part of the official public response of the SI to the Meyer article.

OSC is not making a statement on whether the SI or NMNH was wrong or right in aligning with the NCSE, although OSC questions the use of appropriated funds to work with an outside advocacy group for this purpose. This is only discussed to show that the actions taken on the part of SI employees clearly had a political and religious component. Therefore, it may lend credence to your allegations that your religious and political affiliations were investigated and made a part of the actions taken against you.

You allege in your complaint that SI managers questioned people that they thought to be your friends at the SI, regarding your religion and your political affiliations. According to your complaint, this occurred on at least two occasions. You learned this through direct statements made to you by the individuals that were questioned. As stated above, our investigation has not been allowed to proceed through the interview process. We have not been able to question the individuals involved in the alleged conversations to determine if the facts would support a specified legal conclusion.

Nevertheless, the current investigative file reflects support for your allegations. First, the e-mail traffic does show that there were meetings between the individuals in question during the time frame that you allege in the complaint. For some reason there was no official record kept by the SI of what was stated in the meetings, at least based on what has been provided to OSC to date. Further, a second e-mail drafted by this same manager several months later admits that one of these meetings took place and, more importantly, these issues were discussed. To put this in context, at the same time many other actions were taken during the uproar over the Meyer article your supervisor was questioning your friends about your personal political and religious background.

### **Retaliation**

Our preliminary investigation indicates that retaliation came in many forms. It came in the form of attempts to change your working conditions and even proposals to change how the SI retains and deals with future RAs. During the process you were personally investigated and your professional competence was attacked. Misinformation was disseminated throughout the SI and to outside sources. The allegations against you were later determined to be false. It is also clear that a hostile work environment was created with the ultimate goal of forcing you out of the SI.

The first actions taken against you after the Meyer article were to research your scientific education and writings. This was in conjunction with researching your off-duty professional associations. There are several e-mails that recount the findings regarding your prior work and your professional memberships. Within each are comments that label you as an advocate for ID, or as a creationist, or as one e-mail states a "Young Earth Creationist." The rumor mill became so infected that one of your colleagues had to circulate your Curriculum Vitae simply to dispel the rumor that you were not a scientist.

At this same time, many e-mails from within the management of the SI and from outside sources stated that the only way the Meyer article was published was through "serious editorial oversight." Other managers called it an "egregious instance of editorial incompetence..." They could not fathom that the Meyer article had been peer reviewed and, if it was, it could only have been reviewed by "like minded individuals." In fact, there was a serious effort by some to take the drastic step of piercing the veil of peer review, an unprecedented and unethical act within your field. They also assumed that you violated editorial regulations of the *Proceedings* because you were the primary editor of the article. These comments were made to and by SI and NMNH managers and were published to several outside organizations. It was later revealed that you complied with all editorial requirements of the *Proceedings* and that the Meyer article was properly peer reviewed by renowned scientists. As an aside, the information received by OSC does not indicate that any effort was made to recall or correct these comments once the truth was made known.

During the impromptu background investigation allegations were also made that you mishandled specimens and collections during your scientific research. You have clearly explained how damaging this is for a scientist in your position. This information was also shared outside of the SI. And once again managers later had to admit that the allegations were false. And as with the editorial issue there was no effort, as far as we can tell, to correct this misconception. This allegation may have played into a larger strategy to deny you access to the range and collections at the SI.

There was a strategy by several managers to force you out of the SI. The first thing they did was check your official status with the SI to see if you could be let go for cause for the Meyer article and the information found in your unofficial background investigation. They then tried a more sophisticated strategy by arguing that since your sponsor died shortly before the Meyer article was published that you could be denied access on that basis. Within two weeks of receiving the Meyer article in the *Proceedings*, four managers at the SI and NMNH expressed their desire to have your access to the SI denied. A typical email reads, "...I am almost blown away by this Meyer BS but Sternberg seems to have generated a legion of questionable editorial activities. In my case he was just plain sloppy in letting mss lie without action. I hope we are not even considering extending his access to space. I assume he has no sponsor. As is, I feel like I want my office re-keyed." This was one of several e-mails attempting to deny you space. Unfortunately, instead of correcting this type of e-mail, the response from your supervisor only states, "Aha, Well, this is why I want the space meeting. Need to know what the consensus is ..." In an earlier e-mail he stated, "At present I am not tossing him out because we have the space to accommodate him,..."

Eventually, they determined that they could not terminate you for cause and they were not going to make you a "martyr" by firing you for publishing a paper on ID. They came to the conclusion that you had not violated SI directives and that you could not be denied access for off-duty conduct. This was actually part of the strategy advocated by the NCSE. Undeterred, these same managers then embarked on a new strategy to change your working conditions and create a hostile working environment. Several e-mails complained that you should not be

allowed to "live" on the same working floor with other scientists. Two very senior scientists wanted your supervisor to let you know that "you are welcome to leave or resign."

These are typical e-mails:

"From: [REDACTED]  
To: [REDACTED]  
Date: 9/1/04 8:28AM  
Subject: Re: Life on West Wing 1st floor

It is up to Zoology to sort out this mess. Your RAs obviously receive a lot more privileges than those in other departments (e.g., Paleontology - speaking from my personal experience). These privileges are not based on Smithsonian Directive 205 "Research Associates" (June 7, 2001), and, as a consequence the access and office privileges of a certain RA can be reconsidered with due consideration of [REDACTED] concerns. Why does the RA in question have a master key rather than more restricted access? Why does he have an office when there is space shortage for regular SI staff and visiting researchers? Why does he have unrestricted collection access? You could restrict access to 8:45 AM to 5:15 PM Monday through Friday - the established core hours for Museum staff. [REDACTED] as the senior crustacean expert, has every right to determine the scope of collection access.

One important thing to keep in mind, however, is the equal treatment of all RAs in the section. You must not impose more onerous restrictions on one particular RA than on other RAs in the section

From: [REDACTED]  
To: [REDACTED]  
Date: 9/1/2004 11:46:24 AM  
Subject: Re: Life on West Wing 1st floor

I believe [REDACTED] could have answered most of his questions by asking around IZ--there was no need to bother you as you no doubt appreciate. As you see, he is presuming most of this rather than asking...there is no space shortage, except insofar as [REDACTED] wants to deny him space. Anyway, on the core point, I obviously am not going to be able to find a sponsor for Sternberg, yet his official status is as a research associate for the next three years. If you don't want to make a martyr of him, I'll sponsor him.

As he hasn't (yet) been discovered to have done anything wrong, particularly compared to his peers, the sole reason to terminate his appt seems to be that the host unit has suddenly changed its mind. If that's OKw NMNH, let me know and I'll send him a letter stating so. However, as you decided originally, the political downside of that is costly.

Outside of pique, [REDACTED]'s main legitimate concern seems to be a fear of guilt by association. In any case [REDACTED] isn't going to shut up about this until he wins (i.e. banishes Sternberg) or gets told to.

I'm not going to get bit to death by daily emails. The access and key issues are trivial and can be fixed, if out of line.

The only grounds I see is [REDACTED]'s lack of support. If that isn't sufficient, then I basically have to tell [REDACTED] (again) to shut up (which I am also willing to do).

Which do you prefer?

In these e-mails they are concerned about the access given to you prior to the Meyer article. As you can see, they are suggesting several changes. The e-mail traffic that we received indicates that this was all in response to your off-duty activity publishing the Meyer article.

Also, these indicate they are still attempting to find a reason to terminate you. You had not "yet" been found to have committed a terminable offense. They were still looking for a pretext.

"> [REDACTED] 08/31/04 12:09PM >>>

Thanks to both of you for your efforts in dealing with the current situation. Unfortunately the panorama of my work environment continues to be rather blurred. So, in an effort to try to understand what might be going on here in the Crustacea floor at east for the next 2.5 years, let me ask some questions to see if you can supply some answers.

1. We have an SI Research Associate (RA) who was appointed with the support of a curator that is now deceased. Which SI scientist now serves as support staff for this RA now? Can an RA continue to operate without a proper staff support person? If one is needed, who should this RA answer or report to?
2. The RA has access to collections, but SI Directive 205 states: "Access to and use of collections must be approved in advance by the appropriate unit staff member in accordance with established policy and procedures". Who is this staff member? Has any curator been consulted on the research being conducted, or how the collections are being used?
3. I presume this RA has a key to most rooms in the floor (including mine), and the stacks, to allow entry at out of the ordinary business hours, i.e. when no SI staff is here. If true, who authorized this key, and is it at all legal for RAs to have keys on a permanent basis?
4. The recent events are fastly precipitating serious personnel issues as it is clear that tensions are at a high level on the floor. Is this a proper working environment for all the staff that lives on this floor? Does the admin really expect us to live normally in this environment for 2.5 years, and will things really change after that?

CC: [REDACTED]

From: [REDACTED]  
To: [REDACTED]  
Date: 9/9/04 10:45AM  
Subject: Re: Reply [2]

Excuse me, [REDACTED] but I thought we were addressing the issue of the integrity of this museum's scientific research. In that respect, you are responsible for the actions of your researchers, as well as those scientists who use the name of this museum in any way related to research or collections [which includes research associates and those of the, euphemistically named, affiliated agencies]. Given the Meyer fiasco, how Sternberg represents himself to the world of science is of some consequence to you. I strongly suggest that you call [REDACTED] and start asking questions rather than waiting until the crisis becomes unmanageable. [REDACTED]

>>> [REDACTED] 09/09/04 10:33AM >>> Thank you, [REDACTED]

As the BSW is, legally speaking, an external activity, we cannot use Sternberg's mishandling of the Meyer paper to revoke his status as Research Associate. The SI Directive lists only a few points that are deemed sufficient cause for that purpose, and none applies to Sternberg.

Like you, I would like to know who the alleged reviewers were, but [REDACTED] has not told me anything. People at the NCSE suspect that some or all of them may have been co-authors on a previous paper by Meyer, which was substantially copied into the PBSW paper.



>> [REDACTED] 09/09/04 10:12AM >>>

I would be glad to pop over at a convenient time.

But certainly it is not unreasonable to ask [REDACTED] or [REDACTED] to pull the file and determine whether the manuscript was rigorously reviewed, in effect who reviewed it? After all, Meyer [and now Sternberg] are establishing their bona fides based on the fact that for 15 years prior to Sternberg, PBSW manuscripts were rigorously reviewed by international taxonomists [I led that movement!].

So, were the reviewers people who could provide a balanced assessment of the manuscript and people who were cited in the manuscript, especially those whose ideas were opined to be wrong? Or were the reviewers people who a priori support ID or structuralism, nuanced names for creationism?

After all, the manuscript does nothing except poke holes in evolutionary processes that attempt to explain major changes in body architecture, and then gratuitously concludes that because evolution cannot explain major architectural changes, intelligent design must be the process involved.

Two traps not to get caught in:

Number of reviewers. If two or even three reviewers were used, that was not enough for a paper of this broad a reach; four to six reviewers should have been consulted.

Reviewer Anonymity. Don't let [REDACTED] or Sternberg tell you that reviewers names must remain a secret. Reviewer anonymity is a request by a reviewer to an editor that the reviewer not be directly and immediately identified to the author of a manuscript under review. In fact, during the 15 years I was associate editor, we published a list of reviewers of manuscripts for the year at the end of each year as a way of advertizing our interest in a rigorous review process.

[REDACTED]

In these e-mails they are continuing to explain why you should not be given access to the SI for the next "2.5 years." This information also seems to indicate that your managers were not concerned about the SI Directive 205 until after the Meyer article. Also troubling is that these e-mails and others show that they were not concerned with these issues until after the Meyer "fiasco." Lastly, as you can see they were very interested in piercing the veil of peer review. Again, there is no information to indicate that this was done before the Meyer article.

From: [REDACTED]  
To: [REDACTED]  
Date: 9/9/04 11:13AM  
Subject: Re: Reply [3]

Please read my e-mails more carefully. I am not suggesting martyrdom for anyone. I am concerned about how and by whom the Meyer manuscript was reviewed.

As an aside: in general then, who is responsible for the scientific behavior of a Research Associate of the National Museum of Natural History?

>>> [REDACTED] 09/09/04 10:57AM >>>



Legally, unless you can present me with evidence that Sternberg has represented himself as an employee of NMNH, my hands are tied. I have extensively researched and consulted on this issue as I fully share your point of view. Indeed, I was strongly advised that we do not make a "martyr" out of Sternberg; you may be aware that there are powerful members of Congress who would rush to his defense.

This whole embarrassment can be credited to the late [REDACTED] who nominated this man and to the BSW who entrusted him with the editorship of the Proceedings. Sternberg is a well-established figure in anti-evolution circles, and a simple Google search would have exposed these connections. Please place the blame where it squarely belongs. I immediately resigned from the BSW.

>>> [REDACTED] 09/09/04 10:46AM >>>

Excuse me [REDACTED] but I thought we were addressing the issue of the integrity of this museum's scientific research. In that respect, you are responsible for the actions of your researchers, as well as those scientists who use the name of this museum in any way related to research or collections [which includes research associates and those of the, euphemistically named, affiliated agencies]. Given the Meyer fiasco, how Sternberg represents himself to the world of science is of some consequence to you. I strongly suggest that you call [REDACTED] and start asking questions rather than waiting until the crisis becomes unmanageable. [REDACTED]

>>> [REDACTED] 09/09/04 10:33AM >>> Thank you, [REDACTED]

As the BSW is, legally speaking, an external activity, we cannot use Sternberg's mishandling of the Meyer paper to revoke his status as Research Associate. The SI Directive lists only a few points that are deemed sufficient cause for that purpose, and none applies to Sternberg.

Like you, I would like to know who the alleged reviewers were, but [REDACTED] has not told me anything. People at the NCSE suspect that some or all of them may have been co-authors on a previous paper by Meyer, which was substantially copied into the PBSW paper.

>>> [REDACTED] 09/09/04 09 11AM >>>

I think there is, but the heat may have to increase a bit.

From: [REDACTED]

To: [REDACTED]

Date: 9/13/04 1:46PM

Subject: Re: Upcoming in Helsinki

Well, if you ask me, a face to face meeting or at least a "you are welcome to leave or resign" call with this individual, is in order. Of course, that is easy for me to say, and as bosses it is you who have to decide what to do. I will always respect your decision. All I can say is that this is plain embarrassing for us all in NMNH. What will we do when a book on ID comes out with our name on it? Believe me, it will come. The BSW made a crucial error a year ago, and it seems to me we don't want to do the same.

If you have not yet seen the summary update, see:

[http://M-w.ncseweb.org/resources/news12flo4lr133~id paper continues to attract 9 10 2004.asD](http://M-w.ncseweb.org/resources/news12flo4lr133~id%20paper%20continues%20to%20attract%209%2010%202004.asD)

A key to all this is whether the infamous PBSW article was really peer-reviewed or not. Since the museum funds a lot of papers in that journal, it seems to me a reasonable thing for NMNH to ask BSW to demonstrate what really happened by opening the files to you. They certainly should have a vested interest in clarifying this. The ex-editor had already demonstrated a pattern of disregard for the well-

established peer-review process in that journal, and that alone does not "follow prevailing standards for conducting research in the discipline" (SI D 205, page 4), as far as I can tell. That, taken with the AAAS resolution, should be enough to justify a "you are welcome to leave or resign" call or meeting to say so.

Finally, whether or not SI D 205 needs to be revisited is perhaps something the admin may wish to pursue. I for one, find it deficient in many respects. How does it deal, for example, with the current situation; the SI staff that supported the RA passes away, so who should the RA report to? Here are some eye-openers, juts FYI (and pardon me for sounding repetitive). Said RA

- \* is not known who he reports to, or what decapod groups he is waiting on and for what projects/manuscripts;
- \* comes to work "after hours only" but nobody knows when, yet we will extend him long-term space privileges (meaning in the daytime his assigned space could be tied up);
- \* keeps an unusual number of catalogued specimens in NMNH office, and for unusual lengths of time, ignoring requests from curator in charge to place them back in stacks;
- \* keeps in NMNH office what appear to be specimens that have not been registered through the required TM procedures;
- \* has currently 50 books checked out from SI library (I checked this with the library);
- \* an SI staff from another NMNH department has been seen entering HA office and apparently handles specimens without authorization from IZ CM head or curator in charge.

If I were to do this in any other museum I'd be run out of that town.

>>> [REDACTED] 09/13/04 10:51AM>>>

I just reread 205, but I don't see any basis for terminating his appt based on this sort of activity, suppose we could call him on the phone and verbally ask him to do the right thing and resign?"

These e-mails are consistent with many others at this time. Your managers are still attempting to find a way to terminate your access. However, they have decided the politics aren't right for them to let you go. They wanted to make it clear that you should "do the right thing and resign." This supports your allegation that you were subjected to a hostile work environment. Finally, the last e-mail cited sets forth a troubling summary of events where people had to be investigating your work activities beyond that which is done for other RAs. They are even inspecting what you have been checking out from the library. We are very concerned where this type of scrutiny can lead. Your job as a scientist is to ask the hard questions and make other scientists think about their positions. This type of scrutiny does not engender the correct atmosphere. From the information received by OSC, not a single e-mail shows that a manager attempted to halt this type of retaliatory investigation or admonish those that had already taken place.

Eventually the changes in your working conditions were watered down significantly. You are now required to give your supervisor an outline of your research. This may seem innocuous, but as you explain, this can be used as a method of controlling any controversial study. Also, you make the point that others in your position were not asked to do the same. Second, they denied your access by taking your master key. Lastly, they have prevented you from having the same access to the research specimens. Again, this may seem minor until considering the advantage given to others that do not have the same hindrances.

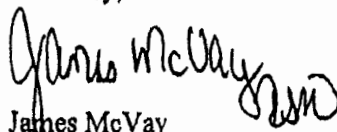
There are many retaliatory comments made by senior scientists of the SI and NMNH noted in the documents and e-mails that we have received. Some are suggestions about how to handle the situation with you and some are directed at changes they want made to prevent scientist like you from being RAs. Many have not been cited in this letter. However, they do support the contention that the managers have created a hostile work environment. The most telling of these off-handed comments came after they realized that you could not be discharged for cause and that they could only make, what they consider, minor changes to your work environment. They make the point that you only have a little more than two years left on your RA position with the SI and being that all RAs are required to have a sponsor, your RA will lapse, forcing you to leave. These emails make it clear that nobody would be willing to sponsor you two years from now. In fact, your supervisor made this point.

There are disturbing conclusions that can be drawn from this comment. First, it is insightful that it is openly stated between senior managers more than two years before you will be considered for reappointment. Keep in mind that there are scientists who are RAs at the SI for decades. You could theoretically win many scientific accolades between now and then, and to these managers it may not matter. It seems that the merit of your work may have nothing to do with your position at the SI. It could mean that they will ensure that no one would dare sponsor you for fear that they will receive the same treatment. This may ultimately mean that, as far as they know, others in the SI who would be in a position to sponsor you are "like minded."

At this point I would normally discuss the legal standards for First Amendment violations and for religious and political affiliation discrimination. Because it seems clear that we now lack jurisdiction, it is not necessary. Other than to say, aside from the jurisdictional argument, there is nothing in our preliminary investigation that would rule out the merit of your claims.

As indicated above, I have made a preliminary determination to close my inquiry into your 5 U.S.C. § 2302(b)(10), allegation. However, before we actually close our inquiry into this allegation, we will give you an opportunity to submit any comments or additional documents you may wish to provide concerning our determination. Your response must be *in writing* and should address each of the reasons cited in reaching my preliminary determination to close your complaint. You have *16 days* from the date of this letter to submit your written response. If we do not receive any written comments by the end of the sixteen-day period, we anticipate closing the file. We will then send you a letter terminating the investigation into those allegations and advising you of any additional rights you may have.

Sincerely,



James McVay  
Attorney

washingtonpost.com

## Editor Explains Reasons for 'Intelligent Design' Article

By Michael Powell  
Washington Post Staff Writer  
Friday, August 19, 2005; A19

Evolutionary biologist Richard Sternberg made a fateful decision a year ago.

As editor of the hitherto obscure Proceedings of the Biological Society of Washington, Sternberg decided to publish a paper making the case for "intelligent design," a controversial theory that holds that the machinery of life is so complex as to require the hand -- subtle or not -- of an intelligent creator.

Within hours of publication, senior scientists at the Smithsonian Institution -- which has helped fund and run the journal -- lashed out at Sternberg as a shoddy scientist and a closet Bible thumper.

"They were saying I accepted money under the table, that I was a crypto-priest, that I was a sleeper cell operative for the creationists," said Sternberg, 42, who is a Smithsonian research associate. "I was basically run out of there."

An independent agency has come to the same conclusion, accusing top scientists at the Smithsonian's National Museum of Natural History of retaliating against Sternberg by investigating his religion and smearing him as a "creationist."

The U.S. Office of Special Counsel, which was established to protect federal employees from reprisals, examined e-mail traffic from these scientists and noted that "retaliation came in many forms . . . misinformation was disseminated through the Smithsonian Institution and to outside sources. The allegations against you were later determined to be false."

"The rumor mill became so infected," James McVay, the principal legal adviser in the Office of Special Counsel, wrote to Sternberg, "that one of your colleagues had to circulate [your résumé] simply to dispel the rumor that you were not a scientist."

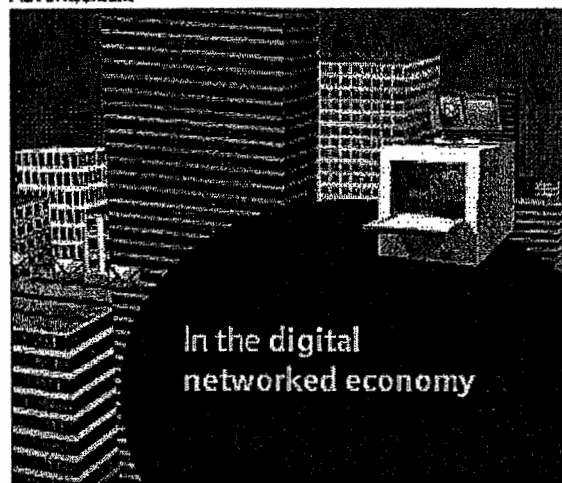
The Washington Post and two other media outlets obtained a copy of the still-private report.

McVay, who is a political appointee of the Bush administration, acknowledged in the report that a fuller response from the Smithsonian might have tempered his conclusions. As Sternberg is not a Smithsonian employee -- the National Institutes of Health pays his salary -- the special counsel lacks the power to impose a legal remedy.

A spokeswoman for the Smithsonian Institution declined comment, noting that it has not received McVay's report.

"We do stand by evolution -- we are a scientific organization," said Linda St. Thomas, the spokeswoman. An official privately suggested that McVay might want to embarrass the institution.

Advertisement



It is hard to overstate the passions fired by the debate over intelligent design. President Bush recently said that schoolchildren should learn about the theory alongside Darwin's theory of evolution -- a view that goes beyond even the stance of intelligent design advocates. Dozens of state school boards have attempted to mandate the teaching of anti-Darwinian theories.

A small band of scientists argue for intelligent design, saying evolutionary theory's path is littered with too many gaps and mysteries, and cannot account for the origin of life.

Most evolutionary biologists, not to mention much of the broader scientific community, dismiss intelligent design as a sophisticated version of creationism. To teach it in science classes, they say, would be to overturn hundreds of years of scientific progress. The National Museum of Natural History was drawn into this controversy in June, when protest forced it to withdraw from co-sponsorship of a documentary on intelligent design.

Sternberg's case has sent ripples far beyond the Beltway. The special counsel accused the National Center for Science Education, an Oakland, Calif.-based think tank that defends the teaching of evolution, of orchestrating attacks on Sternberg.

"The NCSE worked closely with" the Smithsonian "in outlining a strategy to have you investigated and discredited," McVay wrote to Sternberg.

NCSE officials accused McVay of playing out a political agenda. "I must say that Mr. McVay flatters us beyond our desserts -- the Smithsonian is a distinguished organization of highly competent scientists, and they're not marionettes," said Eugenie Scott, the group's executive director. "If this was a corporation, and an employee did something that really embarrassed the administration, really blew it, how long do you think that person would be employed?"

### **Risky Decision**

Sternberg is an unlikely revolutionary. He holds two PhDs in evolutionary biology, his graduate work draws praise from his former professors, and in 2000 he gained a coveted research associate appointment at the Smithsonian Institution.

Not long after that, Smithsonian scientists asked Sternberg to become the unpaid editor of *Proceedings of the Biological Society of Washington*, a sleepy scientific journal affiliated with the Smithsonian. Three years later, Sternberg agreed to consider a paper by Stephen C. Meyer, a Cambridge University-educated philosopher of science who argues that evolutionary theory cannot account for the vast profusion of multicellular species and forms in what is known as the Cambrian "explosion," which occurred about 530 million years ago.

Scientists still puzzle at this great proliferation of life. But Meyer's paper went several long steps further, arguing that an intelligent agent -- God, according to many who espouse intelligent design -- was the best explanation for the rapid appearance of higher life-forms.

Sternberg harbored his own doubts about Darwinian theory. He also acknowledged that this journal had not published such papers in the past and that he wanted to stir the scientific pot.

"I am not convinced by intelligent design but they have brought a lot of difficult questions to the fore," Sternberg said. "Science only moves forward on controversy."

He mailed Meyer's article to three scientists for a peer review. It has been suggested that Sternberg fabricated the peer review or sought unqualified scientists, a claim McVay dismissed.

"They were critical of the paper and gave 50 things to consider," Sternberg said. "But they said that people are talking about this and we should air the views."

When the article appeared, the reaction was near instantaneous and furious. Within days, detailed scientific critiques of Meyer's article appeared on pro-evolution Web sites. "The origin of genetic information is thoroughly understood," said Nick Matzke of the NCSE. "If the arguments were coherent this paper would have been revolutionary-- but they were bogus."

A senior Smithsonian scientist wrote in an e-mail: "We are evolutionary biologists and I am sorry to see us made into the laughing stock of the world, even if this kind of rubbish sells well in backwoods USA."

An e-mail stated, falsely, that Sternberg had "training as an orthodox priest." Another labeled him a "Young Earth Creationist," meaning a person who believes God created the world in the past 10,000 years.

This latter accusation is a reference to Sternberg's service on the board of the Baraminology Study Group, a "young Earth" group. Sternberg insists he does not believe in creationism. "I was rather strong in my criticism of them," he said. "But I agreed to work as a friendly but critical outsider."

Scott, of the NCSE, insisted that Smithsonian scientists had no choice but to explore Sternberg's religious beliefs. "They don't care if you are religious, but they do care a lot if you are a creationist," Scott said. "Sternberg denies it, but if it walks like a duck and quacks like a duck, it argues for zealotry."

## Endgame

Sternberg has seen stress piled upon stress in the past year. His marriage has dissolved, and he no longer comes into the Smithsonian. When the biological society issued a statement disavowing Meyer's article, Sternberg was advised not to attend. "I was told that feelings were running so high, they could not guarantee me that they could keep order," Sternberg said.

A former professor of Sternberg's says the researcher has an intellectual penchant for going against the system. Sternberg does not deny it.

"I loathe careerism and the herd mentality," he said. "I really think that objective truth can be discovered and that popular opinion and consensus thinking does more to obscure than to reveal."

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August 16, 2005, 8:26 a.m.

## Unintelligent Design

Hostility toward religious believers at the nation's museum.

By David Klinghoffer

**T**he Smithsonian Institution is a national treasure of which every American can legitimately feel a sense of personal ownership. Considering this, I'd imagine widespread displeasure as more Americans become aware that senior scientists at the publicly funded Smithsonian's National Museum of Natural History have reportedly been creating a "hostile work environment" for one of their colleagues merely because he published a controversial idea in a biology journal.

The controversial idea is Intelligent Design, the scientific critique of neo-Darwinism. The persecuted Smithsonian scientist is Richard von Sternberg, the holder of two PhDs in biology (one in theoretical biology, the other in molecular evolution). While the Smithsonian disputes the case, Sternberg's version has so far been substantiated in an investigation by the U.S. Office of Special Counsel (OSC), an independent federal agency.

A lengthy and detailed letter from OSC attorney James McVay, dated August 5, 2005, and addressed to Sternberg, summarizes the government's findings, based largely on e-mail traffic among top Smithsonian scientists. A particularly damning passage in the OSC letter reads:

Our preliminary investigation indicates that retaliation [against Sternberg by his colleagues] came in many forms. It came in the form of attempts to change your working conditions...During the process you were personally investigated and your professional competence was attacked. Misinformation was disseminated throughout the SI [Smithsonian Institution] and to outside sources. The allegations against you were later determined to be false. It is also clear that a hostile work environment was created with the ultimate goal of forcing you out of the SI.

Meanwhile, on the basis of the "misinformation" directed against him, Sternberg's career prospects were being ruined.

### OFFENSIVE PROCEEDINGS

What exactly was his offense? Some background is in order. In a January *Wall Street Journal* op-ed, I reported the story of how Sternberg, a *Smithsonian* research associate, suffered as a result of his editing a technical peer-reviewed biology journal, *The Proceedings of the Biological Society of Washington*.

The journal is housed at the Smithsonian, though it's nominally independent. For his part, formally, Sternberg is employed by the National Institute of Health, though his agreement with his employer stipulates that he may spend 50 percent of his time working at the Smithsonian. So when the August 2004 issue of the *Proceedings* appeared, under Sternberg's editorship, Sternberg's managers at the Smithsonian took a keen interest in a particular article



— the first paper laying out the evidence for ID to be published in a peer-reviewed technical journal.

The article was "The Origin of Biological Information and the Higher Taxonomic Categories," by Stephen Meyer, a Cambridge University PhD in the philosophy of biology. He's currently a senior fellow at Seattle's Discovery Institute. In the essay, Meyer reviewed the work of scientists around the world — at places like Oxford, Cambridge, Yale, and the University of Chicago — who have cast doubt on whether Darwinian evolution can explain the sudden infusion of genetic "information" and the resulting explosion of between 19 and 34 new animal phyla (body plans) about 530 million years ago — the Cambrian Explosion. Meyer argued that perhaps an unidentified designing intelligence played a role in the event.

#### NO WAY TO TREAT A "RESPECTED SCIENTIST"

However strong you think the argument is for Intelligent Design — and I'm no scientist — most reasonable people would agree that an ID theoretician should, without fear of retaliation, be allowed to state his case for the consideration of fellow scientists. This was the view held by Sternberg, who isn't himself an advocate of ID. However, according to the OSC's investigation, when the Meyer article was published, Sternberg's managers were outraged and a number of them sought a strategy that would make him pay.

Writes the OSC's McVay: "Within two weeks of receiving the Meyer article in the *Proceedings*, four managers at the SI and NMNH [National Museum of Natural History] expressed their desire to have your access to the SI denied." A typical internal e-mail on the subject fumed, "I hope we are not even considering extending his access to space." (All quotations from e-mails given here are taken from the OSC's letter to Sternberg.) Another expresses frustration that a good pretext for dismissing him had so far not been identified: "As he hasn't (yet) been discovered to have done anything wrong,... the sole reason to terminate his appt seems to be that the host unit has suddenly changed its mind. If that's OK w/NMNH, let me know and I'll send him a letter stating so." One manager huffed, "Well, if you ask me, a face-to-face meeting or at least a 'you are welcome to leave or resign' call with this individual is in order." The same e-mail indicated that a manager had been compiling trivial offenses by Sternberg that could be cited in telling him to get out. Among other things, the Smithsonian staffer had gone over Sternberg's library records. He "has currently 50 books checked out from the SI library (I checked this with the library)."

One bright idea was to tear apart the traditional veil of secrecy concerning the identities of the scientists ("peers") who had reviewed and approved Meyer's article before publication. The "serious effort" to do this, as the OSC document relates, would represent

an unprecedented and unethical act within your [Sternberg's] field. They also assumed that you [Sternberg] violated editorial regulations of the *Proceedings* because you were the primary editor of the article. These comments were made to and by SI and NMNH managers and were published to several outside organizations. It was later revealed that you complied with all editorial requirements of the *Proceedings* and that the Meyer article was properly peer reviewed by renowned scientists. As an aside, the information received by OSC does not indicate that any effort was made to recall or correct these comments once the truth was made known.

One disturbing element in the affair concerns Sternberg's allegations that his supervisor, Zoology Department chairman Jonathan Coddington, called around the museum to check out Sternberg's religious and political affiliations. After I wrote about this in *Wall Street Journal*, Coddington, who had repeatedly ignored my telephone calls asking for his side of the story,



responded on a favorite website of Darwinists.

Coddington wrote: "As for prejudice on the basis of beliefs or opinions, I repeated and consistently emphasized to staff...that private beliefs and/or controversial editorial decisions were irrelevant in the workplace...that [Sternberg] was an established and respected scientist, and that he would at all times be treated as such."

The OSC investigation directly contradicts this: "...at the same time many other actions were taken during the uproar over the Meyer article, your [Sternberg's] supervisor was questioning your friends about your personal political and religious background."

The investigation also contradicts Coddington's assertion that no actions were ever taken against Sternberg: "At no time did anyone deny him [research] space, keys, or access." According to the OSC, "they denied your access by taking your master key." The museum "prevented you from having the same access to the research specimens," access "given to others [who] do not have the same hindrances."

#### **NO CULTURE OF TRUTH**

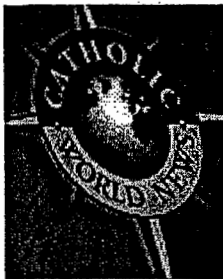
Whether, in the end, Sternberg's legal rights were violated remains unclear. Owing to what the OSC's McVay describes as a "complicated jurisdictional puzzle," it turns out that because Sternberg is employed by the National Institute of Health he is "effectively remove[d]..from the protections granted under the auspices of OSC." So the OSC investigation is being closed.

Whether or not Sternberg's Smithsonian managers broke the law, the OSC's preliminary investigation certainly opens a window on the culture of the Smithsonian, a venerated institution where the unfettered search for truth is supposed to be the rule, and where, one also hopes, the people who fund that search would be respected.

And yet, quite apart from Sternberg's treatment, the e-mail traffic at the Smithsonian gives ample evidence not of respect for ordinary Americans but of contempt, especially if those Americans are religious believers. One senior SI staffer commented ruefully about the Meyer article in an e-mail quoted in the OCS document: "We are evolutionary biologists, and I am sorry to see us made into the laughing stock of the world [by publishing Meyer's article criticizing Darwinian theory], even if this kind of rubbish [that is, Intelligent Design] sells well in backwoods USA." One e-mail generously granted, "Scientists have been perfectly willing to let these people alone in their churches." Another from a scientist at the museum told of how, after "spending 4.5 years in the Bible Belt," the writer had learned how to deal with religious Christians. For example, he described the "fun we had" when "my son refused to say the Pledge of Allegiance because of the 'under dog' [meaning presumably the 'under God'] part."

The Smithsonian is indeed a treasure, beloved by millions of Americans who visit it from across the country. How sad that some of the scientists who work there feel this way about the people who pay their salaries. Whether that observation is more or less troubling than the way the same scientists apparently feel about the search for truth is a question every taxpayer will have to decide for himself.

— *David Klinghoffer, a former NR literary editor, is a columnist for the Jewish Forward. His most recent book is Why the Jews Rejected Jesus: The Turning Point in Western History. His website is [www.davidklinghoffer.com](http://www.davidklinghoffer.com).*



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## Scientist punished for Intelligent Design article, federal probe confirms

Aug. 19 (CWNNews.com) - A federal government investigator has confirmed that a scientist suffered harassment at the Smithsonian Institution because he agreed to publish an essay on Intelligent Design in a scientific journal that he edited.

Dr. Richard Sternberg, the editor of the *Proceedings of the Biological Society of Washington*, reported that he was subjected to verbal abuse by other senior scientists at the prestigious federal research institution immediately after the appearance of the journal article.

Although the essay had been approved for publication after peer review by other qualified scientists, the Smithsonian staff violently objected to the appearance of an article that questioned the theories of Darwinian evolution, Steinberg said. He reports that colleagues questioned his competence and honesty, and circulated false rumors about his own scholarly work.

"They were saying I accepted money under the table, that I was a crypto-priest, that I was a sleeper cell operative for the creationists," Steinberg told the *Washington Post*. The *Post* today reported that the US Office of Special Counsel has confirmed Steinberg's complaints. The campaign against Steinberg was clearly a response to the Intelligent Design article, wrote James McVay for the Office of Special Counsel. He said that the "retaliation came in many forms," including "misinformation that was disseminated through the Smithsonian Institution and to outside sources."

Glossary Terms: None

~~Subscriber comments from SOUND OFF!~~

Evolution is not science. It is a creed. Object to this "atheistic religion" and suffer the

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consequences. To object to the concept of "Intelligent Design" is the work of a fool. It doesn't help much when highly placed clerics weigh in with some idiotic platitudes meant to assuage the hurt feelings of these fools when their errors are pointed out. This like all error needs to be corrected - at times with gentleness, at times with humor, at times with loud bellows!

be

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The real problem here is that evolutionists have turned anti-scientific. Way back in my graduate school days, I wondered how the Krebs cycle, which produces intermediates that are poisonous to the cell (remember lactic acid?) could have evolved if all the enzymes are necessary to prevent the poisoning and release the energy. All the enzymes would have had to appear in a reproducing cell at once. Michael Behe just asks the obvious.

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"Ah, persecution..."

"How sweet it is..."

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The Smithsonian & the full extent of its relationship to the federal government should be the subject of a thorough investigation. I live in D. C. & have spent a great deal of time at their several museums here. Along with the national public school monopoly & other radical secularist forces, they are spending billions of federal dollars to 'establish an anti-religion' in the form of an anti-Christian and antireligious culture. In recent decades, the Supreme Court has protected their flanks.

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Apparently, no one is qualified to oppose evolution, not politicians, not school boards, not scientists or the president. Evolutionists, go back to the lab and come back with evidence, not words, theories and name-calling. As much as nature itself is scientific, so is the idea that nature is intelligent. Anyone can prove it. Signed, Samuel Alibrando author "Nature Never Stops Talking - The Wonderful Ingenuity of Nature" [www.NatureNeverStopsTalking.com](http://www.NatureNeverStopsTalking.com) (see more articles on this topic)

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## Office of Special Counsel Concludes Smithsonian Created a 'Hostile Work Environment' in Effort to Oust Biologist Skeptical of Darwinism



SEATTLE, Aug. 19 /PRNewswire/ -- In a letter to Smithsonian biologist Dr. Richard Sternberg, the United States Office of Special Counsel writes: "it is... clear that a hostile work environment was created with the ultimate goal of forcing you out of the [Smithsonian Institution]."

Dr. Sternberg, who holds two PhDs in evolutionary biology, was persecuted by Smithsonian colleagues for allowing the publication of an article skeptical of Darwinian evolution and advocating intelligent design, in the peer-reviewed biology journal *Proceedings of the Biological Society of Washington*, published out of the Smithsonian. The article was written by Discovery's Dr. Stephen Meyer, a Cambridge educated philosopher of science.

According to the *Washington Post*: "Within hours of publication, senior scientists at the Smithsonian Institution -- which has helped fund and run the journal -- lashed out at Sternberg as a shoddy scientist and a closet Bible thumper."

The OSC letter, made public by Dr. Sternberg, states that "retaliation came in many forms," and says that the OSC was able to find support for many of Dr. Sternberg's allegations, including:

- A hostile work environment was created with the ultimate goal of forcing him out of the Smithsonian.
- Sternberg's religious and political affiliations were investigated.
- Sternberg's scientific education, background and writings were investigated.
- Attempts were made to deny Sternberg workspace within the Smithsonian.
- Misinformation was disseminated through the Smithsonian and to outside sources.

"These self-appointed defenders of the theory of evolution are waging a malicious campaign to demonize and blacklist anyone who disagrees with them," said Bruce Chapman, president of Discovery Institute, the nation's leading think tank dealing with scientific challenges to evolution and supporting research of intelligent design. "Unfortunately, Dr. Sternberg is not alone. There are a number of scientists under similar attack across the country."

"Free speech and academic freedom are cherished principles in America," added Chapman. "They are too important to be sacrificed to the intolerant demands of extremists on any issue."

It was determined that Sternberg "complied with all editorial requirements of the proceedings and the ... article was properly peer-reviewed by renowned scientists." Furthermore, allegations against Sternberg were later proven to be false, but no retractions were ever issued.

The OSC investigation also revealed that not one single e-mail examined during the investigation showed that a manager attempted to halt retaliatory actions or administer any admonishment for those that had taken place.

*SOURCE Discovery Institute*

**Web Site: <http://www.discovery.org>**

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## EDITORIAL DESK

**Intelligent Design and the Smithsonian**

(NYT) 459 words

Published: August 20, 2005

The Smithsonian Institution can't seem to disentangle itself from the clutches of the anti-evolution crowd. Earlier this year, the Smithsonian's natural history museum discovered to its dismay that it had agreed to be the host and co-sponsor of a movie intended to undercut the theory of evolution and make the case for "intelligent design," the idea that an intelligent agent had a hand in designing the universe. Only after intelligent-design proponents started chortling on the Internet about their stunning coup in co-opting the Smithsonian did museum officials reverse course and withdraw their sponsorship, while allowing the film to be shown.

Now comes word that a little-known government office has accused the Smithsonian of retaliating against a scientist who slipped an article promoting intelligent design into an obscure journal that has only very loose connections to the Smithsonian. That judgment, by the United States Office of Special Counsel, a federal agency set up to protect whistle-blowers, is the latest twist in a case that started with the publication of the article last year in the Proceedings of the Biological Society of Washington.

The article contended that evolution theory could not account for the great proliferation of life forms during the so-called Cambrian explosion some 530 million years ago, and that an intelligent agent was the best explanation. It set off an uproar among evolutionary biologists and was later disowned by the professional society that published it.

The editor who authorized publication, Richard Sternberg, filed a complaint contending that he had suffered reprisals. In an 11-page letter not yet officially released, the Office of Special Counsel said it had found support for his complaint but was dropping the investigation because he was not an employee of the Smithsonian, just a research associate.

E-mail notes show that several scientists and managers at the Smithsonian were extremely embarrassed and eager to push Mr. Sternberg out of his research niche, and that some dug around for material to discredit him. That may lead critics of evolution to see Mr. Sternberg as a martyr.

But those who see no place for intelligent design in the realm of science -- and that includes us -- will ruefully give him credit for maneuvering a brief for intelligent design into a peer-reviewed scientific journal, although how rigorous that review was remains a point of contention.

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U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 218  
Washington, D.C. 20036-4505

## OSC FORWARDS PUBLIC HEALTH CONCERNS ON VACCINES TO CONGRESS

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FOR IMMEDIATE RELEASE - 5/20/04  
CONTACT: CATHY DEEDS  
(202) 254-3600

The Office of Special Counsel (OSC) today forwarded to Congress hundreds of disclosures alleging public health and safety concerns about childhood vaccines that include a mercury-based preservative known as thimerosal, and its possible link to neurological disorders, including autism. Notwithstanding a new Institute of Medicine study released yesterday that concludes there is no link between thimerosal and autism, the OSC sent copies of the letters to both Senator Judd Gregg and Rep. Joe Barton, to ensure that the proper Congressional oversight committees are aware of these serious allegations.

While Special Counsel Scott J. Bloch shares many of the concerns about the allegations, many of them from parents of children with autism or other neurological disorders, the OSC does not have jurisdiction over disclosures from private citizens. In the event, however, that a federal employee comes forward with information on this issue, OSC would then have jurisdiction to determine whether there is a substantial likelihood that the information discloses a violation of any law, rule or regulation ... or a substantial and specific danger to public health and safety.  
5 U.S.C. §1213(b).

"It appears the science is inconclusive, not definitive," Special Counsel Bloch said. "Based on my limited review of the literature, there appears to be equally qualified experts on both sides of the emotional scientific and medical debate. This strikes me as a far-reaching public health issue that warrants further study and awareness, particularly because it affects the most vulnerable among us."

Special Counsel Bloch continued, "I think it is important that government agencies be as certain as possible that these vaccines containing mercury, a known potent neurotoxin, have undergone sufficient, reliable scientific review definitively answering the legitimate medical questions, such as, whether there is any medically necessary reason for including mercury in vaccines given to children. Furthermore, parents and others should also know that they can request a mercury-free vaccine."

A copy of the Special Counsel's letter to Congress follows.

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OSC is an independent investigative and prosecutorial agency and operates as a secure channel for disclosures of whistleblower complaints and abuse of authority. Its primary mission is to safeguard the merit system in federal employment by protecting federal employees and applicants from prohibited personnel practices, especially retaliation for whistleblowing. OSC also has jurisdiction over the Hatch Act and the Uniformed Services Employment and Reemployment Rights Act. For more information please visit our web site at [www.osc.gov](http://www.osc.gov) or call 1-800-872-9855.

Special Counsel Scott Bloch's letter to Congress



May 20, 2004

The Honorable Judd Gregg  
United States Senate  
Chairman, Committee on Health,  
Education, Labor and Pensions  
428 Dirksen Senate Office Building  
Washington, D.C. 20510-6300

The Honorable Joe Barton  
U.S. House of Representatives  
Chairman, Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Re: OSC File Nos.: DI-04-1399, et al.

Gentlemen:

The U.S. Office of Special Counsel (OSC) is authorized to receive disclosures of information from federal employees, former federal employees or applicants for federal employment alleging violations of law, rule, or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). As Special Counsel, if I find, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and prepare a report. 5 U.S.C. § 1213(c) and (g).

I have recently received hundreds of disclosures from private citizens alleging a widespread danger to the public health, specifically to infants and toddlers, caused by childhood vaccines which include thimerosal, a mercury-containing preservative. As you know, the vaccine program is administered by the U.S. Department of Health and Human Services (HHS), over which you have oversight jurisdiction. Because none of the individuals making the disclosures are federal employees, former federal employees or applicants for federal employment, OSC lacks jurisdiction over these cases and can legally take no action on the allegations. 5 U.S.C. § 1213(a)(1). I hasten to add, however, that based on the publicly available information, as discussed briefly below, it appears there may be sufficient evidence to find a substantial likelihood of a substantial and specific danger to public health caused by the use of thimerosal/mercury in vaccines because of its inherent toxicity.

Due to the gravity of the allegations, I am forwarding a copy of the information disclosed to you in your capacity as Chairmen of the Senate Committee and House Committee with oversight authority for HHS. I hope that you will review these important issues and press HHS for a response to this very serious public health danger.

The disclosures allege that thimerosal/mercury is still present in childhood vaccines, contrary to statements made by HHS agencies, HHS Office of Investigations and the American Academy of Pediatrics. According to the information provided, vaccines containing 25 mcg of mercury and carrying expiration dates of 2005, continue to be produced and administered. In addition, the disclosures allege, among other things, that some datasets showing a relationship between thimerosal/mercury and neurological disorders no longer exist, that independent researchers have been arbitrarily denied access to Centers for Disease Control and Prevention (CDC) databases, and that government-sponsored studies have not assessed the genetic vulnerabilities of subpopulations. Due to their heightened concern that additional datasets may be destroyed, these citizens urge the immediate safeguarding of the Vaccine Safety Datalink database, and other relevant CDC information, so that critical data are not lost.

The disclosures also allege that the CDC and the Food and Drug Administration colluded with pharmaceutical companies at a conference in Norcross, Georgia, in June 2000, to prevent the release of a study which showed a statistical correlation between thimerosal/mercury exposure through pediatric vaccines and neurological disorders, including autism, Attention-Deficit/Hyperactivity Disorder, stuttering, tics and speech and language delays. Instead of releasing the data presented at

the conference, the author of the study, Dr. Thomas Verstraeten, later published a different version of the study in the November 2003 issue of *Pediatrics*, which did not show a statistical correlation. No explanation has been provided for this discrepancy. Finally, the disclosures allege that there is an increasing body of clinical evidence on the connection of thimerosal/mercury exposure to neurological disorders which is being ignored by government public health agencies.

I recognize that Congressman Dan Burton, Chairman of the House Committee on Government Reform, held hearings on CDC Activities Related to Autism most recently in April 2002 as well as from 1999-2001. During those hearings Dr. David Baskin, a Baylor School of Medicine neurologist, testified about his research and the serious consequences of exposure to mercury. Dr. Baskin concluded that even if the link to autism has not yet been conclusively proven, based on what is known to date about mercury as a deadly neurotoxin and because thimerosal is not an essential component to the vaccine, there is no reason to continue to purposefully inject it into the bloodstream of infants.

I believe these allegations raise serious continuing concerns about the administration of the nation's vaccine program and the government's possibly inadequate response to the growing body of scientific research on the public health danger of mercury in vaccines. The allegations also present troubling information regarding children's cumulative exposure to mercury and the connection of that exposure to the increase in neurological disorders such as autism and autism-related conditions among children in the U.S. Indeed, the considerable scientific debate that continues to surround the issue of autism and vaccines in the U.S. is exemplified by the recent publication of an article in the National Journal, "Upping the Autism Ante," describing some research which seems to show an association between exposure to thimerosal and autism, and a report released just yesterday by the Institute of Medicine that found no link between vaccines and autism. I have attached a copy of the National Journal article for your review.

Accordingly, because OSC lacks jurisdiction, we are closing our files on these cases. I am also available for any questions you may have, or to offer the services of this office to assist you with any inquiry.

Sincerely,

Scott J. Bloch

Enclosures



Sensible Action For Ending Mercury-Induced  
Neurological Disorders

FOR IMMEDIATE RELEASE  
Tuesday, May 19, 2004

CONTACT: Joe Giganti, 703-928-9695  
Joe@VeritasMediaGroup.com

# **Collusion Seen After Release of Flawed Vaccine-Autism Report**

**Office of Special Counsel and SafeMinds Investigations Find  
Multiple Concerns...Congress Notified**

Washington, D.C. — SafeMinds—America's leading scientific organization investigating the risks that mercury-containing medical products pose to our children—has posted the results of an investigative analysis of several authors relied upon for the flawed Institute of Medicine (IOM) report issued last week attempting to purport a lack of evidence to the mercury-vaccine-autism link.

**"Disclosure of potential conflicts of interest is an essential tenet to good science,"** stated Sallie Bernard, executive director of SafeMinds, **"but here we have a situation where authors of 'studies' are probably quite literally writing to preserve their jobs."**

Bernard was responding to last week's IOM's report that used prejudiced science to conclude a minimal risk between mercury in vaccines and autism. **"The IOM gave unusual weight to several authors from the Statens Serum Institut (SSI), Denmark. What the American public needs to know is that the SSI is not only the Danish version – and frequent collaborative partner - of the CDC, but also that country's largest vaccine manufacturer."**

When asked about *"Something is Rotten in Denmark"*, SafeMinds' investigative analysis of the authors to which the IOM provided preferential treatment, Bernard offered, **"We looked not only at the financial ties of this clique of authors to industry, but also the tangled web of relationships, employers and studies spun to protect their commerce, and their jobs. That the IOM would give any weight to these tainted studies calls into question their judgment and their intention. That these studies received the majority of the committee's focus shows an obvious bias for preparing a predisposed report, literally paid for in full by the CDC."**

Furthering the conflicts of interest issue was the recent revelation that the U.S. Office of Special Counsel recently forwarded for Congressional investigation information regarding alleged collusion between the CDC, FDA and pharmaceutical industry to hide from the public previous scientific findings illuminating the dangers of Thimerosal (mercury) in vaccines, and a pattern to dismiss independent research that made any such claims.

**"Given the facts that are coming to light, and their implications, one can understand the IOM, CDC and FDA's anxiety to call an unprecedented halt to further research funding in this area,"** concluded Bernard.

Referenced reports are available for review at [www.SafeMinds.org](http://www.SafeMinds.org)