

**INVESTIGATION INTO ALLEGATIONS  
THAT THE GEORGIA INSTITUTE OF TECHNOLOGY VIOLATED THE  
GEORGIA OPEN RECORDS ACT  
JUNE 25, 2002**

**Background**

In a January 25, 2002 letter to Mr. Thurbert E. Baker, State Attorney General, Dr. Theodore P. Hill, Professor of Mathematics in the School of Mathematics (SOM) at the Georgia Institute of Technology (GIT), requested investigation and prosecution of specified GIT employees for violation and obstruction of the Georgia Open Records Act (ORA). Since July 17, 1997, Dr. Hill has made at least 314 requests for records under the ORA. Each request has been apparently related to a variety of grievances and complaints that Dr. Hill has had against a number of SOM faculty members and administrators as well as College of Sciences (COS) administrators.

Upon review of Dr. Hill's letter, the Attorney General's office requested that the Board of Regents investigate Dr. Hill's allegations. The investigation, which was assigned to the Internal Audit Department, began on May 20 and was concluded on June 18, 2002. The investigation consisted of reviewing the Open Records Act and interviewing the GIT employees Dr. Hill alleged as having violated the ORA.

**Executive Summary**

Our investigation into Dr. Hill's allegations that specified GIT employees violated his rights under the ORA revealed that, with very limited exceptions, his allegations are not substantiated by the facts. Section 50-18-74(a) of the Act states "...Any person knowingly and willfully violating the provisions of this article by failing or refusing to provide access to records not subject to exemption from this article or by failing or refusing to provide access to such records within the time limits set forth in this article shall be guilty of a misdemeanor...." A reasonableness test of overall compliance with the ORA strongly indicates that GIT did not knowingly and willingly violate the Act. There appears to be no evidence that supports Dr. Hill's request that individuals be prosecuted. A prudent search for records requested but not found, or found later, does not represent a violation of the intent of the ORA. Many of Dr. Hill's ORA requests were vague or for records he had previously requested and received. In fact, Dr. Hill has admitted he did not keep documentation of which records he requested or when he requested them. This lack of documentation, coupled with the fact that a number of Dr. Hill's allegations lacked specificity and appeared to have no basis beyond Dr. Hill's personal opinion, often meant we could neither confirm nor deny some of Dr. Hill's allegations. Consequently, our conclusions were formed by reviewing the records kept by GIT, especially those maintained by the OLA and by interviewing employees named by Dr. Hill in his allegations.

### **Discussion of Dr. Hill's Allegations and Results of Investigation**

Dr. Hill's letter contained nine allegations of ORA violations. Under each of the nine allegations he cited specific examples in support of the allegations. In many of the examples Dr. Hill cites not only what he believes were violations of the ORA, but he also discusses what he believes was the negative impact that those alleged violations have had on his grievances and complaints against GIT. It should be noted that our investigation was limited to the alleged violation of the ORA. The following paragraphs present Dr. Hill's *allegations*, details of our investigation, and our **conclusions**.

#### ***Allegation One - False Official Statements on the Existence of Documents.***

*1a. GIT administrators and attorneys repeatedly denied the existence of records of revenues and expenditures for the Center for Dynamical Systems and Nonlinear Studies (CDSNS, a research center housed in the SOM) for a nine-year period. A Faculty Status and Grievance Committee (FSGC) unanimously found these statements were patently false. Mr. Nordin, Office of Legal Affairs (OLA), called the false statements an honest mistake.*

#### **Investigation Results/Conclusions**

Dr. Hill requested these records on July 17, 1997. OLA employees contacted the administrative assistant for the CDSNS who stated that there were no records for CDSNS other than the standard accounting records maintained in the GIT Business Office. OLA employees also contend that at an undetermined point in time, Dr. Jack Hale, Director of CDSNS, also stated that there were no such records. According to OLA, the Business Office records on CDSNS were provided to Dr. Hill, but he was not satisfied with those. The OLA contends that Dr. Hill failed to specify that CDSNS kept its own revenues and expenditures records and that that is what he was requesting. That confusion apparently led to the initial response that the records did not exist. The response to the request was also complicated by the fact that the SOM was in the process of relocating to a different building at the time of the request and that many records were still in moving boxes. Sometime, apparently several years after the initial request, Dr. Hale and Dr. Hill met and Dr. Hale apparently informed Dr. Hill that specific CDSNS records did exist. According to OLA officials, once the existence of the records was established Dr. Hill was provided with the records. **While it is true that Dr. Hill was initially informed that the records did not exist, there is no evidence that GIT officials intentionally made false statements. Over a period time, as his requests became more specific and additional information became available, the requested records were provided to Dr. Hill. The ORA was not violated.**

*1b. SOM administrators and OLA attorneys repeatedly denied the existence of SOM video accounts.*

### Investigation Results/Conclusions

SOM video accounts refer to videotaped classroom lectures that were subsequently sold for a charge. Dr. Hill's request was for the accounting records related to the disbursement of funds generated from the sale of the tapes. He requested them on October 16, 1997. Initially, SOM officials informed OLA that separate video accounts did not exist. OLA relied on that information and informed Dr. Hill on two occasions that the records did not exist. The OLA, while looking for other SOM accounting records, found the Video account information. The faculty member who was chairman of the SOM at the time of the request stated that he did not recall telling Dr. Hill that the records did not exist. The interim chair stated that after great difficulty the requested records were located and provided to Dr. Hill. The OLA control log that details documents requested, date requested, date produced or promised, and what documents were provided does not indicate when the documents were provided to Dr. Hill. **Based on information provided to it by SOM employees, OLA did initially deny the existence of records that were eventually located. OLA acted in a prudent manner based on information available to it and did not knowingly or willfully violate the Act.**

*1c. SOM administrators and OLA attorneys denied the existence of certain financial records of the McFarland Mathematics Fellowship GIT Foundation account.*

### Investigation Results/Conclusions

Dr. Hill also requested these records on October 16, 1997. The SOM administrator whom Dr. Hill has accused of denying the records' existence stated that he provided Dr. Hill all known records related to the request. The current interim chairman of the SOM stated that the records were very difficult to locate but once found they were provided to Dr. Hill. OLA records indicate that on the day of the request, they informed Dr. Hill that his request had been forwarded to the SOM. OLA records further indicate that some records were provided on November 6, 1997, but that the SOM was unclear as to what was provided. **In our opinion, no violation of the ORA occurred.**

*1d. An OLA employee falsely claimed that Dr. Hill had seen all documents in Dr. Chow's (former chairman of SOM) files that were responsive to the ORA request.*

### Investigation Results/Conclusions

Dr. Hill is referring to the fact that Dr. Chow apparently maintained both personal and official records in a locked cabinet in his office. The OLA attorney stated that at the time she told Dr. Hill that all records responsive to a particular request had been provided she was not aware that Dr. Chow kept official records in a locked file cabinet. **It appears that Dr. Chow may have violated the ORA by keeping official records locked in his office, but OLA does not appear to have violated the ORA in that they did not know of the existence of the records at the time of the request.**

*1e. The COS dean claimed that no documents existed pertaining to his financial support of several SOM – related research centers.*

### Investigation Results/Conclusions

Due to the vagueness of the request, which Dr. Hill made on November 26, 1997, the Dean interpreted it to mean his personal financial support of the Centers, not the support provided by COS or SOM. Once this was clarified Dr. Hill's request was granted. **A misunderstanding over what a request for records means does not constitute a knowingly and willful intent to violate the ORA.**

### *Allegation Two - Concealment of Documents*

*2a. Dr. Hill alleges that OLA attorneys concealed for more than four years the existence of records, the Berger files, which he had repeatedly made ORA requests to see. In the fall of 2001 OLA finally produced the records (500-1,000 documents) that allegedly existed at the time of his original requests.*

### Investigation Results/Conclusions

On October 1, 1997, Dr. Hill requested the Berger files. Marc Berger was a GIT professor who sued GIT for wrongful termination. Dr. Hill requested all files related to the Berger lawsuit and, on October 8, 1997, he received all documents not protected by attorney-client privilege. OLA contends that they provided Dr. Hill all that he requested and that the concealed documents he refers to were other documents related to Berger, but not his lawsuit. Once the request was clarified Dr. Hill was provided with other Berger documents. **Dr. Hill's initial request for only the legal documents appears to have caused the delay in obtaining all Berger records. It appears the problem was Dr. Hill's failure to ask for all records that he wanted rather than GIT administrators deliberately concealing records. It does not appear that the ORA was violated.**

*2b & c. COS and SOM administrators concealed the Berger files for the same four years. See 2a.*

*2d. Dr. Chow concealed documents that Dr. Hill had made ORA request to see, by hiding them in two locked file cabinets in his office labeled "Personal".*

#### **Investigation Results/Conclusions**

Dr. Hill is referring to the fact that Dr. Chow apparently maintained official records in a locked cabinet in his office. At the time of the request, Dr. Chow was overseas with the keys to the cabinet. GIT administrators, working with Dr. Chow's attorney, were able to get Dr. Chow back on campus, open the cabinet and provide Dr. Hill with requested records. **In a letter to Dr. Hill dated March 3, 1999, President Clough stated, "...the lack of access to those [records] in the file cabinet is a violation of the intent of the open records act." It appears that Dr. Chow violated the ORA by keeping official records locked in his office. It should be noted, however, that when made aware of this, GIT administrators required Dr. Chow to produce the records.**

*2e. Dr. Hill alleges that OLA refused to allow a search of certain GIT email backup tapes that he had made ORA requests to see.*

#### **Investigation Results/Conclusions**

OLA states that the word "refusal" was never used. Dr. Hill was informed that it would cost a substantial amount and gave him a specific estimate. According to OLA officials, Dr. Hill never pursued the request after being given an estimate. **The actions of OLA on this request appear to comply with the requirements of the ORA.**

*2f. GIT administrators illegally copied and distributed to other administrators and OLA a private document of Dr. Hill's, his memoir. OLA then demanded that Dr. Hill make an official ORA request to recover the stolen intellectual property. Only one copy was returned to Dr. Hill; another was concealed from him and given to the opposing attorney in a separate lawsuit for his use in deposing Dr. Hill.*

#### **Investigation Results/Conclusions**

The document Dr. Hill refers to is his unofficial, in-progress memoir. It was not copyrighted. According to SOM administrators, Dr. Hill voluntarily provided his memoir to a SOM colleague, who eventually copied it and gave it to COS administrators. On November 21, 1998 Dr. Hill made an ORA request for his memoir and any copies and comments that had been about it.

On November 25 the memoir was returned to him. No one that the auditors interviewed claimed any knowledge of how an opposing attorney used it to depose Dr. Hill in another matter. **Dr. Hill's memoir was not a copyrighted document so copying it was not illegal. Dr. Hill voluntarily provided one copy of his memoir and received one copy back.**

### *Allegation Three - Destruction of Documents*

*3a. GIT administrators granted Dr. Chow a leave of absence. During the leave of absence, Dr. Chow returned from Singapore and was on campus for a brief period. During his visit, more than a dozen large trash bags of shredded financial documents appeared outside his office door. Since then OLA repeatedly informed Dr. Hill that certain crucial financial documents including one related to a journal published by the CDSNS were missing, but they could perhaps be reconstructed from other records at great expense to Dr. Hill.*

#### Investigation Results/Conclusions

There were a large number of trash bags full of shredded documents outside of Dr. Chow's office during his visit back to the campus. To the extent that it could be determined from the shreds of paper, some of the shredded documents appeared to contain financial information but its specific nature could not be determined. **While it is a fact that an extensive amount of records was shredded and that Dr. Chow had a shredder in his office, to suggest a relationship between the shredded documents and the missing documents would be pure conjecture.**

*3b. During the same time period as the aforementioned shredding of documents, a burglary occurred in the SOM offices in which the only item stolen was the hard drive of the SOM accountant's computer. Even though the initial police report indicated that the burglary was an inside job, no thorough investigation was made.*

#### Investigation Results/Conclusions

The GIT Police Department investigated the case and reported that an unknown person had entered several SOM offices but no items were removed except the accountant's computer. The police report refers to the incident as forcible entry but also states that someone with a key may have been the person who entered the offices. The police report concluded that there was no evidence that would lead to discovering the identity of the offender so pending further information, the case is considered inactive. **It is not clear how Dr. Hill considers this a violation of his ORA rights and there is no hard evidence to suggest that the burglary was intended to deprive Dr. Hill of records he had requested or would request.**

*3c. The Director of GIT Internal Auditing has admitted to shredding documents related to his audit investigations. These documents include one particular email from the National University of Singapore (NUS), which, in conjunction with records already in the Director's possession, indicate a strong likelihood of fraud.*

#### Investigation Results/Conclusions

According to the Director of Internal Auditing, he did not admit to shredding documents, but rather explained to Dr. Hill the process for disposing of extraneous documents in accordance with the Standards for the Professional Practice of Internal Auditing (SPPIA) which are developed by the Institute of Internal Auditing (IIA). The email was a paper copy that came from an unknown source (identity information had been blacked out) and alleged that Dr. Chow had been reimbursed travel expenses by both NUS and GIT for the same trip. Internal Auditing looked at all of Dr. Chow's travel for the time period alleged and found no overlap or duplicate payments. Because no evidence of fraud or misuse of funds was observed, the email and documents generated while reviewing travel expenses were shredded because they did not represent new material related to Chow's travel or indicate that any new investigation should be initiated. There is no evidence to suggest that the Director of Internal Auditing in any way acted improperly or violated the ORA, the SPPIA, or the Code of Ethics promulgated by the IIA.

#### ***Allegation Four - Violation of the Financial Aspects of the ORA.***

*4a. OLA required \$1,500 advance payment for an ORA request. Dr. Hill did not pay, and the documents were not made accessible to him.*

#### Investigation Results/Conclusions

The OLA attorney stated that she did not fully recall all the details of the request because it was nearly five years ago. However, she believes that her requirement that Dr. Hill pay was not a request for an advance payment but rather payment for past requests provided to him plus his most current request. **Assuming that the OLA attorney's recollection is correct, there does not appear to have been a violation of the ORA in this matter. Additionally, it would have been improper for GIT to have granted credit to Dr. Hill because the state constitution prohibits gratuities.**

*4b. OLA gave Dr. Hill a cost estimate of \$9,500 for one of his ORA requests in which he asked to see records of GIT department chairs since 1980 that had been given a paid year's absence during an audit of their department. Since Dr. Hill believed that there were no such records, and that this was*

*very easy to establish, he would not agree to pay the \$9,500 estimate, and OLA would neither confirm nor deny the existence of such records, or make them available to Dr. Hill. The GIT audit director later confirmed that the search could indeed be done in a much less expensive way.*

#### Investigation Results/Conclusions

OLA states that the records requested did not exist as one set of records, but they did contact the departments and determined that the records could be assembled with great difficulty and much time and that is why the estimate was nearly \$10,000. Additionally, section 50-18-70(d) of the ORA states that "No public officer or agency shall be required to prepare reports, summaries, or compilations not in existence at the time of the request". The GIT audit director explained that his comment that the search could be done in a much less expensive manner referred to Dr. Hill looking at completed audit reports of the departments, not source documents. **The difference in the estimates provided by OLA and Internal Audit exist because the two departments were providing cost estimates of totally different documents and apparently Dr. Hill did not appreciate or discern the difference. This action did not violate the ORA, but it is interesting to note that Dr. Hill admits to requesting records that he believed did not exist.**

*4c. OLA refused, in writing, to give Dr. Hill an up-front estimate for one of his ORA requests.*

#### Investigation Results/Conclusions

The OLA attorney who handled this request stated that she could not recall for sure, but that it may be true that she did refuse to give an up-front estimate. Section 50-18-71.2 of the ORA states that any agency receiving a request for public records shall be required to notify the requestor of the estimated cost of copying, search, retrieval, and any other authorized administrative fees. **Based on available information, it appears that GIT may have violated the ORA by refusing to provide an up-front estimate.**

*4d. OLA imposed unreasonable special charges to Dr. Hill to review records, including a rate of \$16.50 an hour for a student to supervise his review of documents when student rates were \$6 an hour. OLA explained that the rate was for a law student even though GIT does not have a law school.*

#### Investigation Results/Conclusions

The "student" in question was a recent graduate from the Emory School of Law and had been hired by the Georgia Tech Research Institute (GTRI).

The OLA heard about him and requested his services because it felt that a legal background was necessary to oversee Dr. Hill's review of certain records. The use of this law graduate and his hourly wage was reportedly discussed with and approved by the Attorney General's office. **The hiring and pay scale of the law student does not represent a violation of the ORA because the Act stipulates that the custodian has the right to assign a person with the necessary skill and training to perform the request.**

#### ***Allegation Five - Unlawful Delays in Production of Documents***

*5a. OLA repeatedly delayed production of documents for weeks, months, and even more than a year, often with no explanations or apologies.*

##### **Investigation Results/Conclusions**

OLA attorneys explained that there were some delays, especially when Dr. Hill first began his ORA requests in July 1997. The fact that Dr. Hill claims that delays were more than one year is probably related to his request for CDSNS records that took the longest amount of time to produce because of the misunderstanding as to which records were requested and which records existed. Also, OLA officials explained that they were often at the mercy of the departments that actually had the records. The attorney who has handled Dr. Hill's requests for the past several years estimates that maybe five times there was a delay in the response. She emphatically states that whatever delays occurred were never intentional. **There does not appear to have been a knowingly and willful intent to violate the ORA.**

*5b. OLA often refused to accept ORA requests by email, thus causing multiple delays.*

##### **Investigation Results/Conclusions**

OLA attorneys stated that they did request Dr. Hill to put his ORA requests in hard copy letter format because the number of requests Dr. Hill was sending was overwhelming them. **The ORA does not require an individual to make his/her ORA requests in a particular format such as a written letter. Additionally, even though the Attorney General has opined that a written request is not required for an ORA request to be legally binding, such a request would seem to be a minor inconvenience for Dr. Hill but of significant benefit to GIT in attempting to track over 300 ORA requests.**

*5c. According to Dr. Hill, even as late as Fall Semester 2001, OLA withheld, for more than a month, SOM Berger files that he had made ORA requests to see.*

#### Investigation Results/Conclusions

OLA contends that Dr. Hill had already received the files related to the legal aspects of the Berger matter. In this matter, Dr. Hill complains that he did not receive the remainder of the Berger files that related to personnel issues. According to OLA, the personnel records were not responsive to his request. **We believe that no violation of the ORA occurred.**

*5d. Dr. Hill alleges that OLA gave intentionally misleading responses to some of his ORA requests, such as "No such documents exist" or "To the best of my knowledge, no such documents exist." OLA would not explain the difference between the two answers. Dr. Hill states that a year later they told him that the latter meant the search was still not complete. Since he did not know that, and since they did not respond when the searches were complete, Dr. Hill had not made follow-up requests on the same records, and lost the chance to review those documents in time to be of use in the audits and grievances.*

#### Investigation Results/Conclusions

OLA states that its practice was that if the department holding the records did not respond in three workdays, it would inform Dr. Hill that as far as they knew and to the best of their knowledge, the records do not exist. **We believe that no ORA violation occurred.**

#### ***Allegation Six - False Claims of Attorney – Client Privilege***

*6a. The OLA repeatedly cited attorney-client privilege in refusing to produce certain correspondence between GIT administrators and OLA that Dr. Hill had requested under the ORA even though they knew that a decision by former State Attorney General Mike Bowers explicitly excludes attorney-client privileges between State University legal advisors and University administrators.*

#### Investigation Results/Conclusions

OLA stated that they have claimed attorney-client privilege in a limited number of ORA requests by Dr. Hill, not repeatedly as Dr. Hill claims. OLA estimates that probably less than 25-30 pages of documents have been withheld from Dr. Hill under the claim of attorney -client privilege. **Although it is true that the former State Attorney General, in Official Opinion 95-1, opined that no attorney –client privilege exists between State University legal advisors and University administrators, at the time the claim of privilege was made, the OLA personnel reasonably believed that such a privilege existed and acted in good faith according**

to what they understood to be their ethical and legal obligations. We do not believe that OLA personnel intentionally violated the ORA in this regard.

***Allegation Seven - Discriminatory Compliance with ORA***

*7a. Dr. Hill alleges that OLA gave swift and complete access to records requested under ORA by supporters of former SOM Chair Dr. Chow; in sharp contrast to the way he was treated.*

**Investigation Results/Conclusions**

None of the numerous officials interviewed by the auditors knew to which persons ("Dr. Chow supporters") Dr. Hill is referring. **Because of the general nature of this allegation and the fact that no specific individuals are named no determination of any ORA violation can be made.**

***Allegation Eight - Obstruction of ORA Copying***

*8a. Dr. Hill alleges that contrary to the provisions of the ORA, and in spite of his repeated reminders to OLA of that aspect of the law, record copying was almost never done in the room where the records are kept.*

**Investigation Results/Conclusions**

Both OLA and SOM officials stated that in most cases records were not photocopied in the room where they were kept because those rooms did not have copiers. Records were copied at the copier located closest to the records. **Section 50-18-71(a) of the ORA states that "the work [copying] shall be done in the room where the records...are kept by law...."** None of the records requested by Dr. Hill were required to be kept in a particular room by law. **Additionally, if GIT administrators had followed Dr. Hill's reminders regarding his belief that the records should be copied in the room where kept, his costs would have significantly increased due to having to arrange for a photocopy machine to be placed in the room. We believe that no violation of the ORA occurred because the records were copied in a manner and in a location that in no way denied Dr. Hill's access to the records or his right to obtain copies of them.**

*8b. Dr. Hill has written that OLA continually refused to take cash in payment for record copies, insisting instead that he return to pay by check for copying bills as small as \$3.75.*

### Investigation Results/Conclusions

The OLA does not have a petty cash fund and is therefore not able to provide change. **The ORA does not address how payment for copies is to be made. The fact that OLA has not established a petty cash fund and cannot make change does not represent a violation of the ORA.**

*8c. According to Dr. Hill, one day a SOM staff secretary was helping him copy records requested under the ORA when the Acting SOM Chair, in a loud voice, abruptly ordered her to stop. When Dr. Hill protested that the copying job would take only about ten more minutes, the Acting Chair ordered her to leave the documents and copies on the floor or the corridor and return to her office. Dr. Hill was forced to phone OLA, who told him to wait until a representative from their office could come supervise the copying.*

### Investigation Results/Conclusions

According to SOM officials, the employee who had been assigned to supervise the copying was out sick on the day in question. Dr. Hill took it upon himself to have another SOM employee to supervise the copying. When the Acting Chair learned of this, he instructed her to stop copying (he denies using a loud voice) because he had assigned her to some critical work that was time sensitive and she did not have time to supervise the copying. OLA did send an employee to oversee the copying. **We believe that no violation of the ORA occurred.**

### ***Allegation Nine - Retaliation for Use of the Open Records Act***

*9a & b. In 1998, the SOM Acting Chair gave Dr. Hill a "below expectations" rating for his performance evaluation for 1997 (the only such rating out of some 45 faculty members and told Dr. Hill the low rating was for his use of the Open Records Act. Dr. Hill's salary raise reflected this rating and the COS Dean supported both the evaluation and raise. Dr. Hill filed a grievance and the Faculty Status Grievance Committee found that "the intent of the evaluation was indeed punitive and the aim was that of discouraging continued grievance and use of the Open Records Act". The Board of Regents ordered an external re-evaluation, which placed Dr. Hill's performance in the top 10 in the department. The GIT Provost made upward adjustments in Dr. Hill's salary but refused to make the raise retroactive to the years in question.*

## Investigation Results/Conclusions

These matters are four years old and have been previously dealt with by the FSGC and GIT administrators. If Dr. Hill was in fact retaliated against for his use of the ORA, full corrective action regarding his evaluation was taken and at least some corrective action was taken regarding his raise. It is true that there was not a retroactive raise for fiscal years 1996 and 1997, the manner in which Dr. Hill and the FSGC addressed that issue was confusing and may still need to be clarified. What is clear is that for fiscal year 2000 Dr. Hill was granted a retroactive raise. Dr. Hill was on a nine-month faculty contract that commenced on or about August 15, 1999. In a November 22, 1999 letter, the Provost and Vice President for Academic Affairs informed Dr. Hill that based on an independent review of his latest performance evaluation, his salary was being adjusted upward by \$4,350 (5.7%) beginning in fiscal year 2000. On December 23, 1999, GIT issued a check to Dr. Hill for \$1,061.99, a cumulative amount representing a retroactive increase for the first three months of Dr. Hill's contract. **The ORA does not address issues related to retaliating against employees who use it.**

*9c. The GIT administration allowed supporters of Dr. Chow to repeatedly attack Dr. Hill for his use of the ORA, letting them use State computers to send emails to colleagues around the world calling certain of Dr. Hill's ORA requests "cowardice." Dr. Hill further alleges that another email sent to faculty, staff, students, and visitors falsely accused him of using ORA to engineer a "thorough search" of colleague's office, suggesting Nazi tactics. Dr. Hill finally was forced to file a defamation lawsuit to stop the attacks against him for using the ORA and obtain an apology and retraction. GIT legal insurance, through BOR and DOAS, paid not only the defendant's attorney's fees, but also his settlement payment, even though the Superior Court Judge found that the defendant was acting outside the scope and course of his employment in sending those emails.*

## Investigation Results/Conclusions

According to the Acting Chair of the SOM, Dr. Hill's colleagues apparently did use email in the manner as alleged by Dr. Hill. The Acting Chair threatened to cut off the SOM's access to email if the activity did not cease. Dr. Hill did file a defamation lawsuit, but a settlement was reached before the case went to trial. According to OLA officials, DOAS did pay the defendant's legal fees as is DOAS' normal procedure, but the settlement payment was made to Dr. Hill and his attorney, not the defendant. **We do not believe that a violation of the ORA occurred.**

*9d. According to Dr. Hill, when he first discussed with the OLA's Chief Legal Advisor (CLA) his dissatisfaction with the CLA's compliance with the ORA, and the possibility of filing a grievance against him for obstruction of the ORA, the*

*CLA reminded Dr. Hill that he had a half dozen full-time State-paid attorneys at his disposal, and that if Dr. Hill did file such a grievance, he would "file a counter-grievance so fast it would make my [Dr. Hill] head spin" or words to that effect.*

#### Investigation Results/**Conclusions**

According to the Chief Legal Advisor (CLA), the alleged comments came at the end of a long and contentious meeting with Dr. Hill. According to the Chief Legal Advisor, when Dr. Hill threatened to file a grievance, he replied that he was welcome to do that but he cautioned Dr. Hill to make sure that all his statements against him were factually supportable because if they were not he (CLA) would file a defamation lawsuit against Dr. Hill. The CLA denies making any comment about how many attorneys were at his disposal. **Neither the personal comments of Dr. Hill or the CLA, however contentious, constitute a violation of the law and certainly do not implicate the Institute's compliance with the ORA.**