

The 'unveiling' of science committees

An executive order and just-passed legislation ostensibly open many Federal advisory committees to the public. How effective will the actions actually be? How large are the loopholes? How will the science advisory process be affected?

by Richard H. Gilluly

Some odd things have been happening at the sometimes secret meetings of advisory committees to Federal agencies.

Prof. Julia Apter of Rush Medical College of Chicago went to a Sept. 7 meeting of a pathology study section of the National Institutes of Health in Bethesda, Md.—uninvited and unannounced. An official in charge of the meeting sputtered, then adjourned the meeting rather than let her in.

Two weeks later, SCIENCE NEWS space sciences reporter Everly Driscoll informed NASA officials of her intention to attend a meeting of the physical sciences advisory committee to NASA. She was admitted to the Houston, Tex., meeting. But committee members then made telephone calls to Washington to secure permission for a closed meeting and later went into executive session. Driscoll was informed she was not to attend the closed session.

A year ago, another SCIENCE NEWS reporter, invoking the Freedom of Information Act of 1967, tried to enter a Pentagon meeting of the industrial advisory council to the Department of Defense. He was turned away with the excuse that "if we let one reporter in, we'd have to let 50 others in." The reporter left, suggesting to an official that DOD needed an auditorium.

The Freedom of Information Act, which has loopholes, did not suffice in this last instance. Apparently Executive Order 11671, issued by President Nixon June 5, ostensibly opening Federal advisory committees to public scrutiny, did not suffice for Apter at NIH and only partially for Driscoll at NASA.

On Sept. 21, the House gave final Congressional approval to the Federal Advisory Committee Act. The act's backers claim it would open advisory committee meetings to more press and public scrutiny than does the Presidential order.

It was not clear early this week whether President Nixon intended to sign or veto the act. Some signs hinted at a veto; others, at reluctant approval.

Bipartisan backers of the act, although disagreeing on many particulars, concurred that the executive order was inadequate; loopholes rendered it little

more effective than the old Freedom of Information Act.

For instance, the order contained no provision for verbatim transcripts to be made of meetings closed under exemptions from the order. The bill provides for such transcripts. Thus if someone should successfully challenge in court the legitimacy of the exemption for a particular meeting, he could be furnished the transcript. Nor did the order provide for the availability of transcripts of *open* meetings at duplication costs (an important omission since cheap microfiche copies of transcripts would make them available to almost everyone). The bill remedies this. Although there is disagreement

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about the meaning of the bill's language, some observers claim it will open Presidential committees and councils—such as the President's Science Advisory Committee—to public and press scrutiny. A PSAC spokesman disagreed.

Both the executive order and the bill incorporate the exemptions listed in Section 552(b) of the Freedom of Information Act. These exemptions provide for closed meetings when trade secrets, personnel matters, matters relating to national defense or foreign policy or law enforcement files are involved. Section 552(b) is the one generally invoked in recent instances where persons have been turned away.

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mittees that deal mainly with scientific matters. The major sponsors of the legislation, Rep. John Monagan (D-Conn.) and Sen. Lee Metcalf (D-Mont.) make strong arguments for full openness of the meetings to the public. Metcalf even argues for public participation. According to a survey by Monagan's subcommittee of the House Committee on Government Operations, there are 1,500 Federal advisory groups costing taxpayers some \$65 million a year. The subcommittee's figures are said by some to be conservative, and estimates run as high as 3,200 committees costing more than \$100 million. The new, much-compromised legislation, although it may be only marginally superior to Order 11671 in opening meetings, appears to have stricter provisions for comprehensive management and overview of all committees by the Office of Management and Budget.

Generally speaking, the advisory committees are made up of nongovernmental representatives believed to have some special expertise they can provide to the agencies involved. They range from groups of ranchers and other land users who advise state and national offices of the Bureau of Land Management to highly technical committees of the National Academy of Sciences and the National Institutes of Health. Metcalf is convinced that many of the advisory groups (not necessarily those just mentioned) have become little more than instruments for the use of special interest groups who want to exert influence on the Federal agencies. Monagan agrees. "There is a growing awareness," says the Connecticut Congressman, "that an invitation to advise can by subtle steps confer the power to regulate and legislate." This is particularly the case, say advocates of the legislation, when an agency is deprived of dissenting opinion because its advisers tell it there is none of importance.

This one-sidedness is just one problem. Metcalf says some advisory committees become, in effect, public relations outlets for particular industries which can then get a Federal Government imprimatur on their pronouncements. Thus, he says, the Commerce

Department's National Industrial Pollution Control Council (made up of executives of leading industries) has issued pamphlets on industrial pollution which laud industry's abatement efforts (SN: 7/31/71, p. 82). The pamphlets carry the Commerce Department seal. One such pamphlet praised nitrilotriacetate (NTA) as a substitute for phosphates in detergents at the same time research evidence was available regarding the hazards of NTA. The hazards were later confirmed by the Surgeon General who, in effect, banned the new chemical. Another problem with NIPCC and with other committees made up mainly of businessmen is that industries appoint their most prestigious executives to them. These executives tend, says E. Winslow Turner, special counsel to the Senate intergovernmental relations subcommittee, to overawe, and then to dominate, less well-paid Federal officials.

There is also the danger of advisory committees' violating the public interest by withholding key information from Federal agencies and the public. Metcalf alleges this is the case with the Advisory Council on Federal Reports of the Office of Management and Budget. The ACFR clears requests from Fed-

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eral officials on the activities of various industries, using 16 subcommittees made up of the representatives of the involved industries. According to Metcalf, the ACFR denies information to agencies in areas such as pollution and utility-rate regulation.

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It might be assumed that advisory groups dealing with strictly scientific matters would be immune from this sort of conflict of interest and thus would objectively weigh the facts about, say, a research grant application or the safety of a particular drug or pesticide. Many of them do, and perhaps most of them are freer of taint than committees that do not pretend to be anything more than groups of businessmen. But advocates of the new legislation claim the scientific committees are by no means totally clean—although the problems may more often be ones of

philosophical bias than outright conflict of interest. Turner cites an instance: NAS provided the U.S. Department of Agriculture with a list of scientists it judged to be suited to sit on a USDA panel considering banning the herbicide 2,4,5-T. USDA chose scientists from the list. Says Turner of the resultant panel: “NAS apparently made no effort to seek a philosophical balance.” The Environmental Protection Agency, which inherited the panel from USDA, rejected the panel findings and instead agreed with anti-2,4,5-T activists. Turner says the EPA action was hastened by private scientists who obtained a copy of the secret panel report, and exposed its flaws publicly.

Arthur W. Galston of Yale University, a plant physiologist, was involved in the development of 2,4,5-T but later strongly regretted the military uses to which the herbicide was put. Lately he has been a confessed “activist” in opposing such uses. Galston says that new NAS committee selection procedures, outlined by NAS President Philip Handler in an official policy statement, only ostensibly overcome the problems of bias on the committees. Galston presumes he has been excluded from committees because of his admitted bias. But, he adds, “I find it difficult to believe that a truly unbiased person can be found on such a question [as 2,4,5-T]. . . . What will be left [to serve on the committees] will be those who either because of indecision, timidity, lack of information, or lack of concern have failed to take a clear stand.”

Galston's comments, included in a newly published report by the New York Academy of Sciences, *The Social Responsibility of Scientists*, are a bit puzzling in view of part of the Handler statement that *does* seem to endorse bias so long as all points of view are represented. The Handler statement goes on to say, however, that individual committee members should decide themselves whether they are biased and that the committee as a whole should have the sole discretion whether the admitted bias of a particular member should cause his input to be suspect: “This information [as to bias] will be shared with all committee members and protected thereafter,” says the Handler statement. In other words, the committee members, but not the public, are to be informed of key facts about the members of the committee; the public will get only the final report.

The Presidential order and the new bill exempt private contractors doing business with Government agencies. The Academy is sometimes characterized as a “quasi-governmental” body, but House floor discussion made clear the intent of some of the sponsors of the bill

to consider NAS exempted from the bill, because it is a private contractor.

But the discussion about NAS is germane in the sense that there is continuing ferment both in and out of the Academy to make its activities more open (SN: 7/1/72, p. 3). Handler, for instance, said recently he might be willing to have committee meetings opened to outside observers if committees retain the right to go into closed executive session when they want to. (Committee members themselves might object to such openness, however, points out an NAS staffer.)

Likewise the question whether committee members' statements of bias should be made public along with final reports “is currently undergoing very serious scrutiny,” says a spokesman for the Academy. But he adds the policy now is not to do so. Another issue is whether routinely to have minority and majority reports by committees. Current “consensual” reports, says one NAS staffer who favors the majority-minority approach, tend to create “false security” in that they cause the public to believe there is scientific certainty about complex questions on which there is, in reality, wide divergence of scientific opinion.

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Alan Chvotkin, an American University graduate student active in trying to open advisory committees, says NIH is “certainly the worst offender” in Government in the way it tries to keep its 185 research and training grant advisory committees free of public scrutiny. Julia Apter, who is both a physician and a physicist, agrees. She provides impressive documentation that appears to show how NIH dispenses some \$1.2 billion annually of research and training grant money to researchers and their institutions without providing necessary safeguards against elitism, conflict of interest and unfairness to applicants for the grants. Some of her allegations (for instance, that women have a disproportionately low representation on the NIH public advisory groups) have been confirmed by Senate Appropriations Committee investigations and are admitted by NIH offi-

Attending an open meeting of a formerly

Executive Order 11671, signed by President Nixon in June, opened to the press meetings of advisory committees to Federal agencies. Two weeks ago, Everly Driscoll, SCIENCE NEWS' space sciences editor, traveled to Houston to attend the first meeting of the NASA Physical Sciences Committee held since the executive order was issued. Following is her personal report on the meeting. (Reports on the scientific matters discussed will appear in future issues.)

by Everly Driscoll

"We'll feel our way along this morass somehow," sighed William A. Fowler, chairman of the physical sciences committee, an advisory group to NASA, at the start of its first open meeting. Seven of the 12 committee members were present, plus the usual NASA personnel, a scientist who wished to present the details of an experiment he wants to fly on Apollo 17, and one member of the press. The meeting had been announced only three days before in the Federal Register. NASA plans in the future to give a one-week to two-week notice, says one official.

On this rather humid Texas day, the committee was meeting for the first time at the Lunar Science Institute in Houston. The institute used to be the mansion of James Marion West ("Silver Dollar Jim"). It overlooks Clear Lake, adjacent to the Manned Spacecraft Center (MSC), and is the site for many of the lunar and planetary "think" sessions where scientists meet to discuss, most often in private, their latest experimental results and theories. The Italian Renaissance-styled mansion is almost clubby in decor.

Fowler began by rearranging the approved agenda to accommodate an executive session he now felt he needed because a member of the press was present. (Executive sessions are not open to the public.) It was already ob-

vious that even without the unscheduled executive session, the committee would have a hard time completing all items on the agenda in two days. If a closed session were worked in, something would have to go. "We won't get around to the 'thrust for space research in the 1980's' [item 7 on the agenda]. We have too many problems left in the 1970's," the chairman noted. "We have to have an executive session," Fowler said to the senior NASA official present. "Does Homer Newell [associate administrator for NASA who has to approve advisory committee agendas] have to approve an executive session?" The answer was yes.

While the NASA official looked through the text of the Presidential order for the rules governing closed meetings, the chairman listed four items he wanted to discuss: the atomic clock experiment proposal, problems of the physics and astronomy program, the composition and function of the committee, and the current NASA budget problems.

"I don't understand why some of these items should be discussed in executive session," one committeeman said. Answer: "I rule these sound to me like executive session and that's that. They can fire me." (Laughter because he had already announced his plan to retire from the committee.) According to interpretation of the Presidential order by the NASA official present, the consideration of the proposed clock experiment for Apollo 17 and the role and membership of the committee could be discussed in a closed session. He left the meeting to make one of several calls to Newell in Washington.

"It appears to me we must become guard-house lawyers very quickly," quipped one scientist.

"It sounds to me that if there is no public interest in the items, we will discuss them in public; if the public is interested, we will do it in private," observed another.

"Things are confusing."

And that was the end of the official response of the physical sciences committee to the new ruling about open

cial. Another Apter allegation, that there is conflict of interest among committee members, is difficult to substantiate, although the appearance of such conflict exists. Apter has secured information on the business connections of various committee members. These committee members are listed in an NIH directory only by academic vitae and not by their business affiliations; Apter says the for-profit firms they are affiliated with often do business with NIH grantees.

Apter alleges other abuses. NIH claims, for instance, that its advisory groups constitute a "peer review" system. In reality, claims Apter, "as many as 70 percent of the members . . . are administrators and no longer creative scientists . . . not the peers of the creative applicants." Moreover, she claims there is an Eastern Seaboard elitism reflected in a disproportionate number of Harvard University committee members; NIH often neglects to list the Harvard affiliation of members and instead lists their Boston hospital affiliations

only, she says.

And any openness claimed by NIH is illusory, she says. Project summaries of grant applications and minutes of meetings said by NIH to be in public files are often not actually to be found there, she claims. She adds that many ostensibly open meetings are not listed in advance.

John F. Sherman, deputy NIH director, admits to some of the allegations and denies others. As to conflict of interest, he says it is true that some committee members have had business affiliations with firms that have done business with grantees, "but we have been unable to tie together anything that equates in time with service on one of our committees and affiliations . . . outside." That is, the awarding of particular grants has not, according to Sherman, coincided with committee membership by men affiliated with firms which have done business with the particular grantees.

Sherman admits women are underrepresented on the committees but

claims NIH is doing all in its power to find qualified women to serve. In-house studies show women grant applicants have not been discriminated against, he says.

Sherman agrees with Apter that administrators of one sort or another are heavily represented on the advisory committees, but he claims that at a preliminary review level the reviewers are "in the forefront of research." He also admits that summaries of grant applications are not universally filed in the public Science Information Exchange; but he claims that public meeting notices are published in the Federal Register (although he concedes such publication is a "ponderous" procedure).

Apter's most interesting arguments deal with the philosophy of scientific research and whether it should be open. She claims NIH's contention it keeps some meetings closed to protect scientist-applicants from having their ideas stolen is not valid. (NIH invokes the trade secrets provision of 552(b) to keep meetings closed.) Honest scien-

closed science committee: A reporter's view

advisory meetings. The NASA official returned saying Washington would call back with the approval or disapproval of a closed session. Based on this experience, I surmised that NASA would take steps to see that such "quicky" closed sessions weren't requested in the future. I had been told before my trip to Houston that no executive session was on the agenda.

During this awkward beginning, it was difficult not to sympathize with the apparent struggle of the committee. Although the committee members were aware of the Presidential order, they were not really prepared for the consequences. "This sort of changes the role of the adviser to the advisee," one scientist told me during a brief break. "We are used to arguing, debating and evaluating the NASA physical science policies without fear of misinterpretation by the public. Our opinions are given to NASA and they are either accepted or rejected. Now we will have to measure our words more carefully."

Another scientist walked up and tried rather apologetically to explain to me their dilemma. "It's not you," he explained. "You are just the first. What if you were the vice president of an industry that NASA contracts with regularly? What if you were an alumnus of one of our universities and you contributed heavily to our school, and you wanted to be sure our advice to NASA is what you wanted? . . . And some members of the press are notorious for their penchant for controversial topics. . . ."

The executive session was approved for later that day and I was asked not to attend. (It would last only two hours.) The meeting then resumed. Only one other related question came up—one that appears to bother some well-meaning scientists. A NASA official was presenting the results of an experiment done with Mariner 9. He was interrupted and asked whether the scientist who had done the work knew the results were being presented to the public before presentation in a scientific journal. The answer was yes.

The two-day meeting then proceeded smoothly. There

was no apparent mincing of words. The committee was briefed on the current status of Mariner 9, NASA's hopes for a Jupiter-Saturn mission, the Viking Mars landing site committee's work, Viking instruments and how they were progressing, proposed Venus probes and possible cooperative efforts with ESRO (European Space Research Organization). The Large Space Telescope (LST), the High-Energy Astronomical Observatory (HEAO), and future solar observatories, small astronomy satellites and interplanetary monitoring platforms (IMPS) were discussed. John Naugle, associate administrator for space sciences at NASA headquarters, outlined the current cuts in NASA funding (imposed by the Office of Management and Budget in August) and the deletions and rearrangements of various programs as a result.

Committee members toured the new facilities for housing moon rocks at MSC, which they evaluated afterward as "barely adequate." (One response: "So *that* is where the moon rocks are kept!") A lengthy discussion followed about budget and personnel cuts that had affected the curatorial facilities. Recommendations were written and approved. The committee was briefed on a summer study of the combined assets of the Apollo program and proposals for the use of the Apollo returns after the last Apollo mission in December. Scientific uses of the shuttle were briefly discussed.

The meeting was informal, open, rewarding and informative to me as a space sciences writer. Except for those awkward early moments the first day, the chairman and the vice-chairman both assumed a low-key approach that encouraged uninhibited debate. "I was really surprised at how uninhibited the remarks were," remarked one NASA observer after the meetings. "Your presence didn't seem to curb them at all."

Evidently the scientists had decided business as usual. They had not staged the meetings, softened their criticisms or camouflaged their doubts. That they would go underground had been my principal fear.

tists, she claims, do not try to monopolize ideas for egotistical or financial gain; the more openness and intellectual interbreeding, the better.

Sherman disagrees: "Because research scientists and academic clinicians owe their advancement and standing in the scientific community to their original contributions, their creative ideas are of critical importance, and research scientists carefully protect their ideas." He adds that competition is as valuable in scientific research as it is in economic activity, and thus "research designs and protocols are regarded and treated as proprietary information If we are to encourage vigorous competition in health research, the NIH review system . . . must be sustained."

That argument is often made. But privately—and sometimes publicly—officials say the real problem is one of the freedom of scientists to communicate with one another, a freedom they think would be severely stricured if reporters or members of the public were present. This is not due to any

inherent need for secrecy, but rather to the way journalists and the public might receive the communications of the scientists. "New Cancer Cure," a headline might scream after an NIH study-section meeting, and the justification for the headline might be slim, indeed. Some thoughtful journalists recently have been confessing in articles in journalism reviews that after a time they automatically begin to think in terms of the big story that will please the editor and the headline writers. Newspaper reporters sometimes write two stories or more daily—often on unrelated subjects. Even larger newspapers, which to a degree can assign writers to more limited subject matter, still often have reporters hopping from one subject to another. All this militates in favor of lick-and-promise treatment of scientific stories that are immensely complex and require daily attention over several weeks before they can truly be grasped. Julia Apter's story about NIH is a case in point; a newspaper reporter told this writer he

had given the story limited coverage because it would require several days of checking and then "probably wouldn't make the front page anyway." Much as he favors openness, Chvotkin admitted he has doubts about the value to reporters of actually covering the NIH meetings even if they were open; he considers open meetings to be an advantage mainly to individuals, such as members of public-interest law firms, who need specific information for a specific public purpose.

But it seems likely that with good will on both sides, really meaningful communication could take place between scientists and the public in an entirely open scientific atmosphere, although the communication might take some time to develop. One immense advantage members of the press or the public have over scientists, says Apter, is that they would be willing to ask dumb questions. "Scientists are often afraid to ask questions of other scientists," she says. "They're afraid they might look ignorant." □