

like to protect its commercial interests and develop a market for its patented monoclonal antibodies. Researchers would like to use those antibodies (some of them are to T cells, which are part of the immune system). And scientists with

the right know-how undoubtedly can make the antibodies—from the company's cell lines, obtained perfectly legally from ATCC—more cheaply than they can be bought.

"The reason we wrote those letters

was to inform people of the possible legal consequences. We intend, in appropriate circumstances, to protect our rights," Dellenbaugh says. The question, as with the Roche versus Bolar ruling, is "How far does that extend?" he adds. "If

DOD Springs Surprise on Secrecy Rules

Pentagon officials have moved to resolve a major issue in their dispute with university scientists about government efforts to control militarily sensitive research. The Department of Defense (DOD) has decided to abandon its search for a formula to govern so-called gray areas of research—research which is not classified but is deemed militarily useful. Under the proposed policy, federally supported fundamental research would be treated on an either-or basis as classified or unclassified.

The immediate reaction from academic observers is that the decision has the merit of creating a clearly defined policy. Whether the new policy will satisfactorily resolve the controversial issue of prepublication review of nonclassified but sensitive research, however, is far from clear. The debate on scientific communication has caused divisions among policy-makers at the Pentagon and there is some skepticism about how fully the new policy has been accepted along the chain of command. A major issue is the working definition of fundamental research under the new policy and, therefore, what research will be covered. Some observers suggest that under the proposed policy, the Pentagon would put more and more types of research into the classified category.

For more than a year, DOD's effort to find forms of protection short of classification for gray-area research has been a major sticking point for Pentagon policy-makers and university officials debating the tightening of controls on scientific communication (*Science*, 3 June 1983, p. 1021). Recently there had been signs of a split in opinion within Pentagon ranks, with DOD under secretary for research and engineering Richard D. De Lauer identified as questioning the creation of a new category of controls on research (*Science*, 4 May, p. 471). But the decision caused surprise among outsiders.

In testimony at a House hearing on 24 May, deputy secretary for research and engineering Edith W. Martin said that DOD officials had decided "not to pursue the gray-area concept" because the option had proved to be "more complicated than it had seemed," and "the trade-offs unclear."

Martin's comments at the hearing were the first public mention of the decision. In a brief summary of the new policy, which did not appear in her prepared testimony, she described it as a "draft policy" that is still under discussion in DOD and in other federal agencies. To a question, however, she replied that she expected the policy to be accepted in substantially its present form and to apply to fundamental research sponsored by all federal agencies.

In response to a question of when and why the decision was made from Representative Doug Walgren (D-Penn.) who chaired the hearing, Martin said that the possibility of

taking the "classification-nonclassification approach" had been considered from the beginning of DOD deliberations on the matter and, after discussions extending over more than a year, the conclusion evolved to adopt the classification alternative. This occurred 3 or 4 months ago, but was being enunciated publicly for the first time at the hearing.

The policy statement made available at the end of the hearing is as follows: It is the policy of this administration that the mechanism for control of fundamental research in science and engineering at universities and federal laboratories is classification. Each federal government agency is responsible for: a) determining whether classification is appropriate prior to the award of a research grant or contract and, if so, controlling the research results through standard classification procedures; b) periodically reviewing all research grants or contracts for potential classification. No restrictions may be placed upon the conduct or reporting of research that has not received national security classification.

The face-off between the universities and the Pentagon over gray-area research dates from the publication in 1982 of the Corson report, a National Academy of Sciences-sponsored study, "Scientific Communication and National Security," headed by Cornell University president emeritus Dale Corson. The study defined the research universities' concern about the problem. Corson appeared at the hearing and raised the issue of what he called "creeping grayness," noting that "There appears to be growing interest on the part of sponsoring agencies to extend the concept of grayness to ever more areas." But Corson and other university and industry witnesses by no means confined their criticism to the gray-area problem. By and large, they were most concerned with the application to research of legislation designed to control the export of militarily useful equipment and materials. In particular, they criticized the use of such legislation to restrict foreign nationals studying or working here.

Government witnesses were scheduled last at the hearings, but Martin did not deal directly with the criticisms by earlier witnesses. In effect, she trumped them with her announcement of the policy decision. There was no real exchange on the testimony since it came after a long session punctuated by intermissions for roll-call votes on the House floor and the Pentagon party had to depart for another engagement.

With details of the new policy unavailable, let alone information on interpretation and implementation, a wait-and-see attitude seems to dominate in the universities. But a snap reaction among knowledgeable observers is that the effect of the decision may be to return the debate on gray-area research to where it was before the Corson report.

—JOHN WALSH