

Gallo Report Complete

■ The long-awaited draft report of NIH's Office of Scientific Integrity (OSI) investigation of Robert Gallo, director of the National Cancer Institute's (NCI) Laboratory of Tumor Cell Biology, and his former NCI colleague Mikulas Popovic, is in the final stretch. Both researchers received the confidential report late last month, and are expected to respond to the OSI by the end of July.

The investigation focuses on work done at NCI in 1983 and early 1984 that led to a landmark paper in *Science*—one that gave

the first molecular characterization of the AIDS virus and established that it would grow in cell culture. While no one familiar with the report would speak to *Science* on the record, the As-

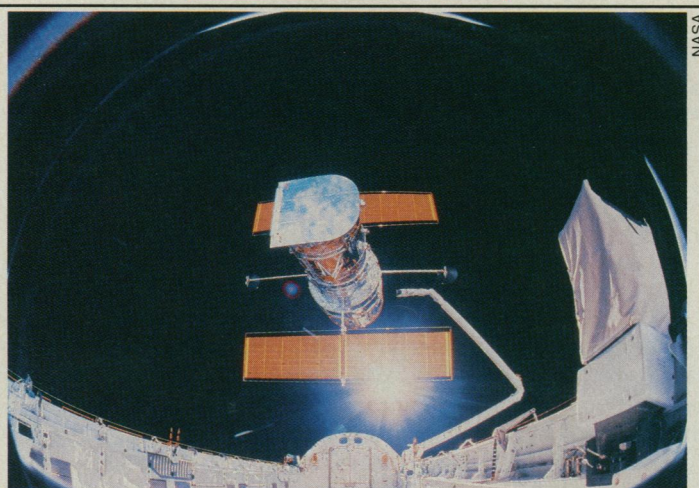
sociated Press last week quoted an unnamed NIH official who said the report contained “no smoking gun” or evidence of misconduct.

Once it has Gallo and Popovic's comments in hand, the OSI will forward the report to an independent panel chaired by Yale University biochemist Frederic Richards. Already



Robert Gallo

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NASA

Could better contract management prevent future Hubble fiascoes?

Keeping Contractors on the Straight and Narrow

■ Annoyed by a string of embarrassing mistakes on the part of NASA contractors—everything from the flawed mirror on the Hubble Space Telescope to a series of defective parts in the next generation of weather satellites (see p. 133)—the House science subcommittee on investigations and oversight soon will look into the broad issue of how government can hold private firms accountable for their mistakes on federal projects.

“We have all sorts of concerns about NASA's contract management,” says a commit-

tee aide. Since NASA contractors generally sign “cost-plus” agreements that reimburse them for all expenses plus a guaranteed profit, says the aide, they have no incentive to perform quality work and keep costs down: “All extra cost and risk is borne by the taxpayer.” As a result, the committee is interested in considering possible alternatives, such as fixed-price contracts in which firms agree to construct a system for a certain price and to bear the cost of overruns themselves. The hearing is scheduled for 25 July.

priqueted at not getting to see the report before it was sent to the principals (*Science*, 21 June, p. 1606), that panel might refuse

to review it if its contents should leak to the media. As *Science* went to press, however, the lid of secrecy seemed to be holding.

OSI Verdict Delayed

■ Ever since a widely leaked NIH draft report accused Tufts immunologist Thereza Imanishi-Kari of fraud, close followers of what has come to be known as the “Baltimore case” have eagerly awaited the final version, which will incorporate the comments and rebuttals of Imanishi-Kari, Nobel laureate David Baltimore, and other principals in the case. Their wait, however, may be a long one.

Science has learned that the OSI intends to hold up the final report until Imanishi-Kari has a chance to examine forensic evidence cited in the draft report as the strongest evidence of fraud—a move likely to cheer those concerned with OSI's version of due process. The decision comes shortly after Imanishi-Kari complained in her response to the draft report that she could not properly rebut its charges without access to the original chromatograms produced by the Secret Service.

That evidence, however, is now in the hands of the U.S. attorney's office in Baltimore, where it appears to play a key role in the office's ongoing criminal investigation of Imanishi-Kari. As a result, OSI may not get it back until the prosecutors are finished with it.

While there is no hard and fast rule for handling such evidence, says one assistant U.S. attorney in the Baltimore office, if it's needed for a grand jury proceeding that could lead to an indictment, “it is unlikely that it would be returned” soon. But a lawyer sympathetic to Imanishi-Kari says that legally nothing prevents the office from handing the chromatograms back to the OSI. “The notion of prosecutors telling OSI it can't give out its own evidence is ridiculous.”

Ken Heinen



Imanishi-Kari

Supreme Court Patent Case?

■ The Supreme Court could soon clarify some of the rules for patenting bioengineered organisms, if it agrees to hear an argument being put forward by some distinguished legal scholars on behalf of Genetics Institute, Inc. (GI). The Massachusetts biotechnology company argues that lower courts made a number of mistakes when they ruled that Amgen, Inc. deserved an exclusive patent for genetically engineered erythropoietin (EPO), a protein that helps create red blood cells.

Specifically, GI claims that Amgen did not make a true public deposit of its genetically engineered EPO when it filed for a patent. The law requires a company to deposit such a sample from its “best mode” of manufacture, so that others

have the opportunity to learn from it. But instead of depositing a sample of the EPO gene in a mammalian cell (the best mode), Amgen deposited only bacterial and yeast cells.

A lower federal court ruled in Amgen's favor, noting that the rules for making a public deposit really apply only to “unique biological material...obtained from nature,” and not to man-made bioengineered materials, since the latter can readily be reproduced in the laboratory by following the written text of the patent. Lawyers for GI argue otherwise. Biotechnology is just as random and unpredictable as nature, they say, so bioengineered products must be subject to the same deposit rules. The Court is expected to announce by October if it will accept the case.

EDITED BY DAVID P. HAMILTON