

# Stormy Weather Ahead For OSI's Gallo Report

*NIH, HHS, and John Dingell are trading shots over a report that hasn't even seen the light of day*

IF YOU THOUGHT THE NATIONAL INSTITUTES of Health's (NIH) 2-year probe of AIDS researcher Robert Gallo and his former co-worker, virologist Mikulas Popovic, was sailing swiftly toward the finish line, think again.

Yes, the NIH Office of Scientific Integrity (OSI) has finally given NIH Director Bernadine Healy a rewrite of its Gallo investigation report, a controversial first draft of which was leaked to the press last fall. And, yes, according to Gallo and Popovic's lawyers, the rewrite does take into account many of their counterarguments. And it is true that this was expected to be OSI's final report of its investigations into the Gallo lab's discovery of the AIDS virus. In theory Healy now had only to forward the report to the U.S. Department of Health and Human Services (HHS), where it would pass through a few more hands, sanctions (if any) would be determined, and the report would be made public.

But in the days since Healy laid eyes on the controversial document, a variety of parties have begun to fire warning shots across each other's bows:

■ *Chicago Tribune* investigative reporter John Crewdson wrote a 9 February article purporting to reveal OSI's "conclusions."

■ Representative John Dingell (D-MI) wrote HHS Secretary Louis Sullivan suggesting that Assistant Secretary James Mason (now slated to be the last person to read and approve the OSI report) and two HHS attorneys should be removed from any role in judging Gallo and Popovic.

■ Gallo and Popovic's attorneys wrote Healy criticizing the "final" report.

■ NIH, through odd channels, released a statement denouncing Crewdson's news account as "flawed and inaccurate."

What happens now is anybody's guess, but it seems clear that the rest of the sailing will be in choppy and uncharted waters. Dingell, who earlier lit into Healy for what he believed was her harsh treatment of OSI (*Science*, 9 August 1991, p. 618), surely will do everything he can to prevent any watering down of the OSI report. Hence the 5 February letter to Sullivan saying Dingell's subcommittee is "particularly concerned" about the roles played in the OSI investigation by Mason and HHS attorneys

Richard Riseberg and Robert Lanman.

As assistant secretary of health, Mason has the power to reject or approve OSI's findings—as well as to decide what sanctions, if any, the principals should receive. Though Lanman and Riseberg have a more peripheral role, offering legal advice to the NIH and HHS staff members who are writing and reviewing the OSI report, Dingell also wants to ensure that they do not wrongly influence the outcome.

In the letter Dingell writes that "presumably [HHS] considers it essential that there be no real or apparent conflicts of interest that could call into question the decisions or actions" of Mason, Riseberg, or Lanman. The possible conflicts stem from the fact that all three men played roles in the clash between Gallo and the Pasteur

Institute's Luc Montagnier over who first discovered the AIDS virus and who deserves the HIV blood test patent and the resulting royalties. The trio's involvement in the patent litigation, writes Dingell, "raises troubling questions." What's more, Dingell argues, the patent dispute and the OSI report of possible misconduct in the discovery of HIV are "inextricably intertwined" because the OSI investigation focuses on a 1984 *Science* paper that provides data "critical" to the Gallo patent.

Much of Dingell's four-page letter targets Mason, whose "substantial" involvement in the patent dispute, writes Dingell, includes the fact that the day before HHS held a press conference in April 1984 to announce that Gallo's lab had discovered the cause of AIDS, Mason, then head of the Centers for Disease Control, was quoted in *The New York Times* as saying that Pasteur Institute scientists had discovered the virus. Yet, the Dingell letter says, at "no time during the press conference did Dr. Mason affirm his beliefs about the priority of the Institut

Pasteur scientists in discovering the AIDS virus, nor, as far as is known, did Dr. Mason affirm these beliefs within HHS during the subsequent patent dispute."

Dingell's letter then claims that "there are indications" that Mason later "became an active supporter of the U.S. position that Dr. Gallo and his colleagues were the 'original and true' inventors of the HIV blood test." Though Dingell does not offer any

evidence, an October 1985 official memo from Mason provides some support for the charge. In the memo, written 2 months after the Pasteur first complained officially to HHS about the Gallo patent, Mason states that "quite frankly, I believe our case to be strong should this issue be litigated."

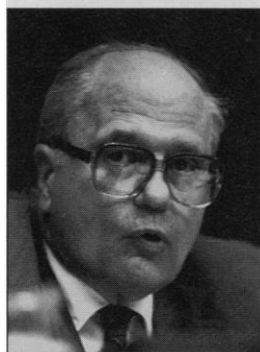
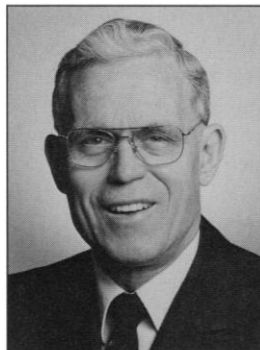
Insisting on anonymity, a subcommittee staffer told *Science* that although he believed Mason probably would not cause the conclusions of the OSI report to be changed, the staffer is concerned that Mason might not recommend sanctions against the scientists involved.

For now, Mason is standing fast. A Public Health Service (PHS) spokesman says: "Dr. Mason has no knowledge of any reason that he needs to recuse himself." But he says the formal HHS response won't come until Sullivan replies—which Dingell has asked

Sullivan to do by 19 February.

Riseberg, however, isn't waiting for Sullivan's decision. Although he is scarcely mentioned in the Dingell letter, Riseberg decided on 14 February to recuse himself—though not, he insists, because of Dingell. Riseberg, explains the PHS spokesman, used to be a tennis partner of Adi Gazdar, the NIH researcher who developed a cell line that was critical for isolating the AIDS virus—but who wasn't originally credited for the cell line by Gallo (*Science*, 22 June 1990, p. 1499). Lanman, NIH's general counsel and the third man mentioned in the letter, could not be reached for comment.

Lawyers for Gallo and Popovic were no less eager than Dingell to get their salvos away early—although their shots had a different target. They argue that the report contains omissions and errors that they want corrected before it goes to HHS. So they bombarded Healy directly. Joseph Onek, Gallo's lawyer, stresses that Healy did not solicit criticisms from Gallo and has not even agreed to read them, but, he says, "We got a report that was



James Mason (above),  
John Dingell.

flawed and we commented on it." Then he adds: "For all I know, Healy will throw [our comments] in the garbage." But he won't say publicly what the comments were.

Barbara Mishkin, Popovic's attorney, also says no one in Healy's office promised that Healy would read Mishkin's critique. But she also felt the report should be revised before going to HHS. "There are still errors in it and there are clear omissions," says Mishkin, although, she added, this draft is much more "readable" and less "inflammatory" than the last one.

As if the back-and-forth between HHS, NIH, and Congress weren't enough, the seas have been made even stormier by NIH's critique of one journalist's story. In an NIH "statement" obtained by *Science*, Crewdson's 9 February article is criticized for making "errors and misstatements." Even though Crewdson cites only "sources familiar with a summary of the investigation's findings" and never states that he has seen the report, NIH is clearly upset that someone broke the strict silence surrounding the document, leaking enough information for a page one *Tribune* story titled "Inquiry concludes data in AIDS article falsified."

The "statement," which the NIH press office was unaware of when first contacted—but later said was official—says, "NIH stresses that speculation based on hearsay about ongoing...scientific misconduct investigations is fundamentally at odds with standards of fairness that the scientific community and the public expect and deserve." The statement focuses on the fact that Crewdson referred to the OSI report as "final," which, the statement says, is an inaccurate term—although federal regulations describing the process use the same language.

Crewdson, who knew nothing of the statement when contacted by *Science*, but was shown a copy, says, "I don't see anything in here that suggests that anything in my story was inaccurate. The story stands."

So, as has been true from the beginning of this salty tale, the navigational chart looks different to everyone involved. Crewdson's "final" report is the NIH's "proposed" report. Some say Healy has promised to pass the report to the HHS Office of Scientific Integrity Review by the end of February. Attorneys for Gallo and Popovic, on the other hand, insist that if she reads their critiques, she'll be forced to send it back down the chain for further rewrites. Taking those contradictory chart readings into account, the best advice for OSI-watchers would seem to be: Batten down the hatches, rough seas ahead. ■ JON COHEN

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# Truly's Dismissal Puts NASA on Autopilot

*The White House scrambles to find a new space chief as Congress begins its debate on the 1993 budget*

PRESIDENT BUSH IS MOVING RAPIDLY to find a replacement for Admiral Richard Truly, head of the National Aeronautics and Space Administration (NASA), whose resignation he demanded and received on 10 February. The White House has no choice but to step smartly, because Truly will be leaving NASA on 1 April, and the agency has had no deputy since last September, when the former number two official, J.R. Thompson, resigned. So who will pilot the agency through the big budget battles ahead? This "tends to create a sense of insecurity in NASA and in Congress as to whether NASA really will get its act together," says House science committee Chairman George Brown (D-CA), putting it gently. Uncertainty about the future could make it hard to obtain the big money NASA is counting on this year.

The agency needs \$15 billion to honor a multitude of commitments, including \$2.25 billion for Space Station Freedom (up 11% since last year) and \$3 billion for science programs (up 9%). According to Brown, the station will soon be at the center of another "heavy debate" on the Hill as budget hearings begin this week. So, with a lame duck at the helm, who will guide the agency through Washington's version of space junk?

Congress regarded Truly, the former astronaut, as a leader who could be trusted. He is credited on Capitol Hill for getting NASA on track after the 1986 shuttle disaster and for speaking plainly. He's viewed as "a good man who did a good job under difficult circumstances"—the characterization that was given by Senator Al Gore (D-TN) last week.

But within the White House, space strategists saw Truly in a different light. He seemed a conservator of tradition rather than a spokesman for new ideas, and this played a part in his removal. The other key factor was his inability to recruit a new deputy director. Officially, Truly submitted



**Obsolescent?** *Admiral Richard Truly clashed with the White House over his dogged support for a space agenda—including the shuttle and the space station—drawn up in the 1980s.*

a letter of resignation on 10 February, but when he spoke with the Associated Press 2 days later, he conceded, "Frankly, it wasn't what I had planned. It's a

situation where the president decided to make a change." Yet no one has identified a single incident that might have precipitated Truly's dismissal. Even old hands in the space community say they were taken aback by the decision. Representative Brown was "more than surprised; I was shocked." And John Logsdon, director of George Washington University's Space Policy Center, thinks that only a handful of top officials knew the ax was about to fall. "The specific timing was a surprise," says Logsdon.

Truly's abrupt removal as the appropriations process gets under way has prompted speculation that the Administration already has someone lined up to take his place. But this is not so, says David Beckwith, spokesman for Vice President Dan Quayle. "No notification was given to anybody prior to [Truly's] resignation," Beckwith says. As for the criticism that the Administration chose a bad time for acting, Beckwith responds: "There's never a great time for a change like this; if it had happened last fall, people would still say it was bad timing."

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