## AIDS researcher cleared of charges

The charges of scientific misconduct leveled at federal AIDS researcher Robert C. Gallo a year ago by the National Institutes of Health's Office of Research Integrity (ORI) were dropped Nov. 12.

Last December, ORI released a report claiming that Gallo misrepresented his laboratory's ability to grow the virus that causes AIDS (SN: 1/9/93, p.20). The agency said that researchers working in Gallo's lab grew a virus supplied by French scientists but failed to give credit to the French team in one of four 1984 papers that characterize the AIDS virus.

Lyle W. Bivens, director of ORI, says the office will no longer pursue the Gallo case because a Department of Health and Human Services (HHS) appeals panel has started applying a more stringent standard of proof to scientific misconduct cases. On Nov. 3, the HHS panel cleared Mikulas Popovic, a scientist who had worked in Gallo's laboratory and had also been charged with misconduct. In that case, the panel said, ORI failed to prove that Popovic intentionally made false statements in the AIDS papers.

The HHS panel was expected to hold ORI to the same strict standard in the Gallo case, forcing the agency to show that Gallo had shown a "deliberate intent" to deceive in his 1984 paper. In addition, ORI would have to demonstrate that there was "no possibility" of honest error in the misstatements or omissions in that disputed paper.

Bivens contends that it is very difficult to prove intent to deceive. He believes that a better standard for scientific misconduct is one in which investigators prove that the scientist "knew or should have known" a statement to be false. (Indeed, ORI used that standard to pursue its case against Gallo and Popovic.) The "knew or should have known" standard allows investigators to bring charges against scientists who are suspected of "gross negligence," he says.

Many scientists and lawyers have criticized that standard for its failure to distinguish between honest mistakes and intentional acts. "It's outrageous," comments Gallo attorney Joseph Onek. "No scientific paper is absolutely perfect," says Onek, who is at the Washington, D.C., firm of Crowell & Moring. Further, he asserts, ORI has pursued misconduct charges that are based on honest errors or errors that creep into a paper being rushed to a journal for publication.

Bivens acknowledges that some scientific misconduct cases involve judgment calls. However, he points out, ORI takes on only 20 percent of cases that come to its attention. The remainder are dropped for lack of evidence, he says. "For the most part . . . we are blowing the whistle on significant [cases of] misconduct," Bivens adds.

## Scientific misconduct: Not so rare?

A survey of 4,000 doctoral science students and faculty members from 99 universities reveals that ethically wrong or questionable behaviors, such as plagiarism, falsifying data, sexual harassment, and racial discrimination, may be far more common than previously believed.

Judith P. Swazey of the Acadia Institute, a nonprofit organization in Bar Harbor, Maine, and her colleagues published their findings in the November-December AMERICAN SCIENTIST. They found that 44 percent of students and 50 percent of faculty were aware of two or more types of misconduct or questionable research practices in their academic programs.