

# Contracts and Intellectual Property

Patrick Schlesinger(Chair)	UC Berkeley
Alexandra Albinak	Johns Hopkins University
Cindy Kiel	UC Davis
Michael Moore	Northwestern University
Dan Nordquist	Washington State University
Elizabeth Peloso	University of Pennsylvania
Jennifer Ponting	Harvard University
Fred Reinhart	University of Massachusetts
John Ritter	Princeton University
Janna Tom	University of California
David Winwood	Pennington Biomedical Research Center – LSU
Kevin Wozniak	Georgia Institute of Technology
Robert Hardy	Director, COGR

# Foreign Influences – Legislative Developments

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- ▶ Stand alone legislation unlikely to pass
- ▶ NDAA FY20
  - ▶ Look for sleeper provisions
  - ▶ Congress looking for more progress on last year's bill
  - ▶ 3 areas under consideration
    - ▶ Requiring more information, more disclosure
    - ▶ Action against “bad actors”
    - ▶ Methods to increase R&D, more funding
- ▶ Securing American Science and Technology Act
  - ▶ OSTP interagency group
  - ▶ National Academies roundtables
  - ▶ Endorsed by the associations

# Foreign Influences – Agency Developments

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## ▶ NIH Investigations

- ▶ 66 open investigations; 16 referrals to OIG
- ▶ High profile cases –
  - ▶ MD Anderson, Emory
- ▶ Questions re: searches
- ▶ 2<sup>nd</sup> phase
  - ▶ Going beyond English-language web searches, institutional forms, and PI interview
  - ▶ Chinese language searches
  - ▶ Email and calendar searches
  - ▶ Talent recruitment program – NIH will want to see contract
    - Commitments re: IP, postdocs/grad students, funding, publishing
  - ▶ Cooperation from Chinese partners limited by government/party

# Foreign Influences – Agency Developments

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- ▶ **DOD**
  - ▶ Current and pending support
  - ▶ Restrictions on use of 6.2 funds for fundamental research
  - ▶ NSDD-189
- ▶ **DOE**
  - ▶ S&T Risk Matrix
- ▶ **BIS**
  - ▶ Emerging Technologies – ANPRM
    - ▶ Categories of technologies – not controls yet but could be useful checklist

# Practical Next Steps

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- ▶ Academic espionage?
- ▶ Taking steps against actions that are not illegal?
- ▶ Implementation of AAU/APLU Effective Practices
- ▶ Practices developed by other universities
  - ▶ Meetings with federal law enforcement
  - ▶ Town halls with faculty
    - ▶ No racial profiling
    - ▶ Importance of accurate disclosures (*including updating past disclosures*)
  - ▶ International activities and international engagement policies
  - ▶ Use and misuse of MOUs
  - ▶ Increased vetting of international partners and visitors
  - ▶ Information protection
    - ▶ Export Control review of high-risk areas, data security measures
  - ▶ Comparison of information submitted to the institution
    - ▶ COI, COC, grant applications