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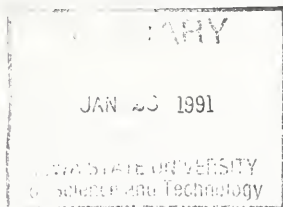






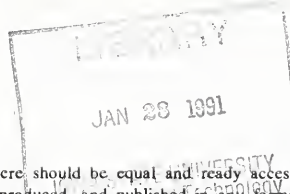
# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XV

## A 1990 Chronology: June - December



Prepared by the  
American Library Association  
Washington Office

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### INTRODUCTION

During the past nine years, this ongoing chronology has documented administration efforts to restrict and privatize government information. A combination of specific policy decisions, the administration's interpretations and implementations of the 1980 Paperwork Reduction Act (PL 96-511, as amended by PL 99-500), implementation of the Grace Commission recommendations, and agency budget cuts have significantly limited access to public documents and statistics.

The pending reauthorization of the Paperwork Reduction Act should provide an opportunity to limit OMB's role in controlling information collected, created, and disseminated by the federal government. However, the bills that were considered in the 101st Congress, but did not become law, would have accelerated the current trend to commercialize and privatize government information.

Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. This circular requires cost-benefit analysis of government information activities, maximum reliance on the private sector for the dissemination of government information, and cost recovery through user charges. OMB has announced plans to revise this controversial circular in 1991.

Another development, with major implications for public access, is the growing tendency of federal agencies to utilize computer and telecommunications technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products have begun to be distributed to federal depository libraries, public access to government information will be increased.

During 1990, at a time when the American economy never has been more complex, increasing numbers of news articles showed that federal statisticians are losing the ability to track the changes.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy in a resolution passed by Council in January 1984

which stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In January 1985, Council established an Ad Hoc Committee to Form a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts which limit access to government information and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions which creates a climate in which government information activities are suspect. Previous chronologies were compiled in an ALA Washington Office publication, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*. The following chronology continues two updates published in 1988, two in 1989, and one in 1990.

### CHRONOLOGY

**JUNE** - For more than four decades, the United States and its allies kept a secret list of computers, machine tools, telecommunications equipment, and other high-technology products that could not be sold to the Soviet Union or its East Bloc satellites. However, high-tech companies in the Western alliance never knew what products were on the list, which was compiled by a 17-nation group that polices technology sales, the Coordinating Committee for Multilateral Export Controls, known as Cocom. With the Cold War winding down, East Bloc turning capitalist and Cocom making more advanced technologies available to Moscow, all that has changed. In May, the State Department bowed to a Freedom of Information Act request and made the Cocom list public. It acted 11 years after Congress said the list should be readily available. ("High-Tech List Comes Out of Cold," *The Washington Post*, June 22)

**JUNE** - Retired Admiral Elmo R. Zumwalt Jr. accused government and industry scientists of manipulating research data to hide what he called clear evidence that Agent Orange may have caused cancers, birth defects and a wide variety of other ailments in Americans who fought in Southeast Asia and their offspring. The admiral, who recently reviewed studies on the widely used defoliant for the Department of Veterans' Affairs, charged that the distortions continue to "needlessly muddle the debate" over the impact of dioxin-laden chemicals on the American public. Forms of dioxins, a carcinogenic agent in Agent Orange, are present in herbicides widely used in American agriculture.

Appearing before the House Government Operations Subcommittee on Human Resources and Intergovernmental Relations, Zumwalt noted that he had suspected that his son, a former naval officer, died of cancers

caused by Agent Orange. But Zumwalt said that until recently he had also believed "that there was insufficient scientific evidence to support a linkage between his illness and Agent Orange exposure. That was, of course, the conventional propaganda. The sad truth which emerges from my work is not only is there credible evidence linking certain cancers and other illnesses with Agent Orange, but that government and industry officials credited with examining such linkage intentionally manipulated or withheld compelling information of the adverse health effects...." (Ex-Admiral Zumwalt Claims Manipulation on Agent Orange," *The Washington Post*, June 27)

**JULY** - "The federal government has come up with a novel approach for handling bad economic news: it has decided to stop reporting it. The statistic in question is the annual assessment of America's global investment standing, which in the past few years has shown that the United States has gone from being the world's largest creditor nation to being the largest debtor nation. The government says the figure is no longer reliable. Critics say the Bush administration is playing politics by not releasing it." ("Bad News Is No News," *Newsday*, July 2)

**JULY** - A top Air Force general knew that the Stealth fighter plane had missed its targets in its first combat mission, but he did not tell his superiors at the Pentagon, a classified report says. The lapse left Defense Secretary Dick Cheney bragging about the plane's "pinpoint accuracy" in the Panamanian invasion even though one of the bombs missed its target by 160 yards.

The general, Robert D. Russ, chief of the Tactical Air Command, which controls the Air Force fighter planes, knew shortly after the mission about the flaws in their performance and should have kept his superiors fully informed about problems in the raid by the planes, the report said. Asked about the report, General Russ issued a statement saying that the Army commanders who led the invasion were responsible for telling top Pentagon officials about what happened in the attack. Soon after the invasion, Cheney said that each of the fighters had delivered a 2,000-pound bomb with "pinpoint accuracy," based on information provided to him by the military. And for months after, the Pentagon continued to insist that it had been a picture-perfect operation. But in early April, after a *New York Times* reporter showed a senior Air Force official a picture of the bombed site, Cheney learned that the bombs had missed their targets. Soon after, he commissioned the report. ("Report Says General Knew of Stealth Fighter's Failure," *The New York Times*, July 2)

**JULY** - The Bush administration is seeking a change in the federal computer espionage law that would open the door to prosecution and conviction of whistle-blowers and journalists as well as spies. The Justice Department said the proposal would make the espionage law "more useful." It would eliminate a provision in current law requiring proof of espionage and make it a crime to use—or cause the use of—a computer to obtain classified information without authorization. The penalties would be the same as they are now. Violators would be subject to 10 years in prison for a first offense, or "an attempt to commit such an offense." Second offenders could be imprisoned for 20 years.

The proposal was submitted to Congress in June by the Justice Department as part of a package of changes in the computer fraud and abuse statute of 1986. "It seems they want to make far more people spies than actually are," said Rep. Charles E. Schumer (D-NY), chairman of the House Judiciary Subcommittee on Criminal Justice.

Another part of the Justice Department package that drew criticism was a provision that would define information in a computer, as well as computer processing time, as "property." "The thrust of that is to say that if you take information, that's property and you can be accused of stealing," Schumer said. "I think that's very dangerous. We need a law more finely honed than that."

Morton Halperin, Washington director of the American Civil Liberties Union, said the proposals call to mind the controversial 1985 prosecution of former naval intelligence analyst Samuel Loring Morison, the first person convicted under espionage laws for leaking documents "relating to the national defense" to the news media. Morison's lawyers contended that the sections of espionage law used in the case were meant to apply only in a clandestine setting, to spies and saboteurs, and not to disclosures to the news media. As for the theft charges, they protested that making the law applicable to government "information" would give the executive branch unbridled discretion to control what the public may be told.

Under the Justice Department computer espionage proposal, it could be even more dangerous to take the secrets from a computer than to get them on paper. The bill would make it a crime to pluck from a computer any "classified" information, even items stamped secret, because disclosure would be embarrassing. That is a much broader category than documents "relating to the national defense."

Halperin said, "Given the amount of information that is classified and the degree to which debate in the United States depends on that information, we have consistently opposed criminalizing access to classified information by private citizens, except where it involves transfer to foreign powers." Justice Department officials acknowledged that their proposal would cover whistle-blowers and journalists. "No one considered that in the drafting of it," said Grace Mastali, special counsel in the Justice Department Office of Policy Development. But she said it was "probably not possible to narrow it without destroying the purpose of the bill." ("A Revised Computer Espionage Law?" *The Washington Post*, July 5)

**JULY** - At a time when the American economy never has been more complex, federal statisticians are losing the ability to track the changes. The official statistics report that the nation is in the midst of a period of unsurpassed prosperity—a peacetime record of 7½ years without a recession. But private economists say many of the statistics spewed by the government each month that purport to track the economy are seriously flawed. Some are so suspect that analysts ignore them in preparing forecasts rather than face embarrassment when the government totally revises its original report. "History is being rewritten on a monthly basis," said Allen Sinai, chief economist of the Boston Co. "It makes it very hard for private-sector analysts and public policy makers to come to correct conclusions."

Bad data triggers more than bad government policy. A number of economists believe the Federal Reserve has been forced to keep interest rates higher this year because of a mistaken easing in credit last year resulting from a mistake in the monthly report on retail sales. The government first reported retail sales fell by 0.1 percent in May 1989 only to discover belatedly that the survey had overlooked \$1.4 billion in sales. This, a small decline turned into a sizable 0.8 percent increase. The initial erroneous report was picked up in the government's broadest measure of economic activity—the gross national product—which originally showed an anemic 1.7 percent growth rate during the spring.

After the error in retail sales was caught, the GNP report was revised to show the economy growing at a much more respectable 2.5 percent. But the correction came too late to stop policy makers at the Federal Reserve from acting to cut interest rates for fear the economy was headed into recession.

In studying government data, everyone from the National Academy of Sciences to the National Association of Business Economists has reached the same conclusion: there are serious problems regarding the accuracy and usefulness of the statistics. ("Economists Question Accuracy and Value of U.S. Statistics," *The Washington Post*, July 5)

**JULY** - Officials of Richard Nixon's presidential library said the library will pick and choose who can do research there and probably will keep out Pulitzer Prize-winning Watergate reporter Bob Woodward. The library also will lack a full set of memos, letters, and other documents from Nixon's White House years when it opens later in July. The originals are in the custody of the government, and Nixon has chosen to copy only those he considers important to the library. The actions have irked some scholars who say they mistrust a library where documents will be screened. The library's director, Hugh Hewitt, says every document of any importance, including many relating to Watergate, will be in the library. But he acknowledged that Woodward probably would not be allowed to study them. "I don't think we'd ever open the doors to Bob Woodward, he's not a responsible journalist," Hewitt said.

The Richard M. Nixon Presidential Library will be able to use its autonomy as a privately run facility to choose the scholars it allows to do research. Of the nation's other presidential libraries, only the Rutherford B. Hayes library is privately operated. Eight are run by the National Archives, which will also control the Ronald Reagan library in California. ("Nix on Library to Screen Visiting Researchers," *The Washington Post*, July 9)

[Ed. note: A July 12 editorial in *The Washington Post*, "Access to the Nixon Library," said that after the preceding story appeared, inquiries came quickly from Nixon scholars and others, who pointed out that no reputable research library screens access to researchers on the basis of possible disagreement with their conclusions. Library Director Hewitt then said he had been mistaken and that the library's not-yet-assembled archives would be open to all comers.]

**JULY** - The Government Accountability Project filed suit against the Agriculture Department to obtain a report on its beef inspection procedures. The suit is the latest flurry in a long-running battle pitting the USDA against consumer groups and dissident federal food inspectors who charge that the USDA Streamlined Inspection System is putting dirtier and more dangerous beef in supermarkets. Partly in response to public criticism, the department last year contracted with the National Academy of Sciences to study the inspection system to ascertain whether it posed unacceptable food risks. The department later gave the academy its own report on the program, but refused to make it public. This prompted GAP to file suit in U.S. District Court to obtain the report under the Freedom of Information Act.

"We have very strong suspicion that the USDA defense of the Streamlined Inspection System is a bureaucratic bluff," said Thomas Devine, the project's legal director. "The reason they won't release it is that the assertions they make couldn't withstand outside scrutiny." Agriculture Department spokesman David Schmidt said, however, that the agency

had decided not to release its report until the academy had finished its study. The academy said publication was expected at the end of September. "Releasing the report would compromise and politicize the results of a scientific study," Schmidt said. "We don't feel we need to release it to a group that has no expertise in the subject." ("USDA Is Sued: Where's the Beef Report?" *The Washington Post*, July 10)

**JULY** - In a move that will provide more access to government information, Secretary of Health and Human Services Louis Sullivan proposed a set of uniform definitions that would clarify and standardize the labels on virtually every food product sold in the United States. The 400-page proposal, which will be published in the *Federal Register*, updates and expands the list of what nutrients should and should not be listed on food labeling and defines precisely what is meant by previously confusing terms such as "cholesterol-free" and "reduced cholesterol" that manufacturers have used at their own whim. Officials of the Food and Drug Administration said that in the coming months they will follow with two more-detailed proposals. The first will set precise standards for use of terms such as "high in fiber," "lite," and "fresh," and the second will set out guidelines for how food labels should be designed. Final rules are expected to be in place by this fall and full industry compliance is expected a year later.

"American consumers should have full access to information that will help them make informed choices about the food they eat," said Sullivan. Sullivan said the administration had not yet decided whether the federal rules would preempt states in food labeling. Both the Office of Management and Budget and senior White House officials apparently oppose the idea. ("Uniform Food Labels Proposed," *The Washington Post*, July 13)

**JULY** - In early July, President Bush signed a classified order that revises National Security Decision Directive 145 and eliminates National Security Agency oversight of federal computers containing sensitive but unclassified information. Duane Andrews, assistant defense secretary for Command, Control, Communications and Intelligence told about the Bush action at a hearing on government compliance with the Computer Security Act held by the House Science, Space, and Technology Subcommittee on Transportation, Aviation, and Materials.

The order revises NSDD 145 to clarify the computer security policy role of NSA and the National Institute of Standards and Technology and brings federal computer security regulations in line with the computer security legislation enacted more than three years ago, the official said. The changes to NSDD 145 may resolve an ongoing turf battle between NSA and NIST, which share responsibility under the Computer Security Act for monitoring government computer security plans. Under the changes, NSA no longer will have responsibility for computer systems handling sensitive but unclassified information. As stated in the act, that responsibility will be solely NIST's. The new directive also removes any reference to federal authority over private-sector computer systems, Andrews said. ("Bush Revises NSDD 145," *Federal Computer Week*, July 16)

**JULY** - A substantial proportion of people who call the Social Security "800" hotline and are told that a local Social Security office will call them back never receive the follow-up telephone call, the General Accounting Office reported. Critics have claimed that Social Security began the toll-free telephone line in an attempt to save money on personnel and, in effect, has reduced the amount of services available at local offices.



The GAO findings showed that of callers who were instructed to expect a return call at a specific time, 89 percent reported getting the call and being pleased with the help they received. However, about 24 percent of those who expected to be called back to arrange for an application for benefits said they never received a call, the GAO reported. Of those receiving benefits who wanted to be called back to discuss problems, 42 percent said they never received a call. In all cases, the follow up did not occur until at least two to three weeks had passed from the date the person initially called 1-800-234-5772. ("GAO Faults Social Security '800' Hotline," *The Washington Post*, July 18)

**AUGUST** - A test a decade ago revealed an apparent flaw in the main mirror of the blurry-eyed Hubble Space Telescope, but key officials of the National Aeronautics and Space Administration and outside experts charged with overseeing the project say they were never informed of the problem. Tests on the telescope's main mirror in 1981 uncovered a defect called spherical aberration, according to scientists investigating the problem and an optical expert who worked on the mirrors at Perkin-Elmer Corp., the company that designed, built, and tested the telescope's optical system. The test that detected the aberration was discounted because another testing device believed to be more sophisticated found no such flaw, according to a former Perkin-Elmer employee, who asked not to be identified. NASA officials said they knew of no one at the agency who was aware of the discrepancy in the test results. Former employees of Perkin-Elmer, on the other hand, said that NASA representatives were informed at the time.

By discounting the results of one test, the engineers at Perkin-Elmer were, in essence, relying on a single test to assure the mirror was perfect. Optical experts say now that Perkin-Elmer and NASA should have challenged the mirror with at least two or three independent tests. Perkin-Elmer's bid for the project did not include independent tests, although a losing bid submitted by Eastman Kodak did. According to documents obtained by the Associated Press, Perkin-Elmer was awarded the optics contract for \$64 million against a Kodak bid of \$100 million. Because of massive cost overruns, Perkin-Elmer was eventually paid \$451 million. ("Hubble Flaw Was Found in '81," *The Washington Post*, August 6)

**AUGUST** - Reporters and photographers who sought to cover the landing of American troops in Saudi Arabia were barred from accompanying military personnel by the Pentagon, which said it was honoring a Saudi request to keep the media at bay. Thus, the beginnings of the largest U.S. military operation in the Middle East in three decades went unseen and unheard by the American public.

The last time the Defense Department allowed reporters to accompany the military into combat was during the invasion of Panama in December. Even by the Pentagon's account, the "press pool" arrangement worked badly: journalists who had been given credentials to join front-line combat troops were kept far from the action by U.S. officials. The sequestering of reporters in Panama kept vital pieces of information from the public, such as the military's treatment of Panamanian citizens and the performance of U.S. personnel and weaponry. Recalling that fiasco and the total blackout of the media during the United States' 1983 invasion of Grenada, some journalists suggested that the Bush administration had more to do with keeping the media out of Saudi Arabia than Cheney let on. ("Media Shut Out at the Front Lines," *The Washington Post*, August 9)

[Ed. note: In an August 11 editorial, "Getting Behind 'Desert Shield,'"

*The New York Times* said that in a wise change of course, the Bush administration has prevailed upon Saudi Arabia to permit firsthand coverage of the U.S. troop deployment by American journalists. A pool of representative reporters will be admitted.]

**AUGUST** - According to John Markoff in an August 19 *New York Times* article, "Washington is Relaxing Its Stand on Guarding Computer Security," President Bush has ordered a quiet dismantling of an aggressive Reagan administration effort to restrict sources of computerized information, including databases, collections of commercial satellite photographs, and information compiled by university researchers. The article gives the background of the controversy regarding the creation of a new security classification, "sensitive but classified information," which was aimed at reducing unauthorized uses of computerized information and at restricting authorized uses so that foreign countries could not piece together sensitive information to learn the nation's secrets.

However, the Bush administration move to revise the Reagan administration policy has caused some computer security experts to say that they are concerned that the Bush move goes too far in decentralizing oversight for computer security. A National Security Agency official warned that the United States was now in danger of losing its leadership in computer security to European countries that have been investing heavily in new technologies.

**AUGUST** - A lack of adequate computer security in the Department of Justice is endangering highly sensitive information, ranging from identities of confidential informants to undercover operators, the General Accounting Office has concluded in a report to be issued soon. Although the department moved its main data center last year to a new "state-of-the-art" facility, GAO said that unauthorized users still could enter and exit the system without being detected. "The threat of intrusion into these systems is serious, and there are criminals who could benefit immensely from such covert encroachments," Rep. Robert E. Wise Jr. (D-WV) said in a letter urging Attorney General Dick Thornburgh to "immediately correct" the security flaws. A department official who requested anonymity said he was dismayed that the GAO assessment failed to cite "a lot of corrective action already taken and more that is under way." ("Justice Data Security Faulted in GAO Report," *The Washington Post*, August 23)

**AUGUST** - In a three-page article, "Science, Technology, and Free Speech," in the Summer 1990 *Issues in Science and Technology*, Allen M. Shinn Jr. observed that now that industrialization has spread technological and scientific capabilities around the globe, there is an increased need for American researchers to talk freely with colleagues in other nations. Yet the export laws—in particular, the Export Administration Act, the Arms Export Control Act, and the Invention Secrecy Act—may stand in their way. Ironically, what was intended to further national security may now actually hurt it. These laws frequently have been criticized on economic grounds. But there is another, largely unexplored avenue to their reform: as applied to control information, the laws are probably unconstitutional.

Shinn says the export laws violate the First Amendment in three ways: (1) they impose controls through administrative licensing, a form of prior restraint that has been almost uniformly rejected by the courts since the 18th century; (2) the definitions of controlled information are overbroad; and (3) the laws are ineffective in protecting national security. He says that new regulations under the Export Administration

Act have both defined and greatly relaxed controls on "fundamental" research. The new regulations, final in 1989, remove constraints on technical data that are "publicly available," that result from fundamental research (essentially, research intended to be published), or that are "educational information."

Shinn believes that these changes establish a policy against using the export control laws against academic research. Although they represent real progress, the new rules still suffer from constitutional defects. He makes a case that when revised, the laws should make clear that the government can require, at most, notification of intent to export, with actual control dependent on its willingness to go into court and seek an injunction. Shin says: "That is what the First Amendment requires."

**SEPTEMBER** - Writing in the September 1990 issue of *Natural History*, Michele Stenhjem says that for 40 years scientists knew that radionuclides from reactors along the Columbia River accumulated in bony tissue. They decided to keep the information to themselves.

In an eight-page article, "Indecent Exposure," Stenhjem describes how the Hanford Engineer Works in Washington produced the plutonium for the world's first atomic explosion. The secret project was created in early 1943 to produce plutonium for the first American atomic weapons. The enterprise, operated on contract for the federal government, brought spectacular results and for 40 years after the war, the endeavor was praised by those involved or interested in atomic energy.

In 1986, however, with the release of some 19,000 pages of environmental monitoring reports, engineering reports, office memoranda, and letters concerning Hanford's early history, the world learned that there had been a darker side to the vast undertaking. These documents, many previously classified, and the 40,000 pages subsequently released, disclose that in the course of producing plutonium for World War II and the cold war that followed, the Hanford Works released radioactive wastes totaling millions of curies.

The facility released billions of gallons of liquids and billions of cubic meters of gases containing contaminants, including plutonium and other radionuclides, into the Columbia River and into the soil and air of the flat, wide Columbia Basin. Some of the releases were caused by leakage or faulty technology; others were the result of deliberate policies set by scientists convinced of the acceptability of these emissions. In the years of peak discharges, 1944 to 1966, these scientists and policy makers never informed the residents of the region of the emissions or warned them of any potential or real dangers, even when the releases far exceeded the "tolerance levels" or "allowable limits" defined as safe at the time. Instead, on many occasions they told the public that Hanford's operations were controlled and harmless.

**SEPTEMBER** - The Bush administration opposed a House Democratic leadership proposal to create a federal technology database that would help American companies compete against foreign rivals. The White House said such a program would be costly and unnecessary. The legislation is part of a Democratic package intended to enhance the competitiveness of American companies and signals growing congressional concern over the problems American companies encounter in competing with foreign rivals. The proposed database would include all industrial technology (dealing with physics, chemistry, biology, communications, transportation, medicine, and other sciences) developed with the aid of federal- and state-financed research. The federal government spent \$6 billion last year on university-sponsored

research. But the administration said that the final project would duplicate existing government databases and that a \$25 million pilot project would be too costly.

House Democratic leaders contend, however, that the government's approach has been piecemeal and that access to the current databases depends on knowledge of their existence and protocols—rules governing the communication and transfer of data between machines. They argue that technology transfer through databases provides the biggest return for the investment. Rep. John LaFalce (D-NY), chair of the House Small Business Committee, said that under existing programs a business in need of technical assistance had to know "10 different protocols needed to access 10 different data bases." Joe Shuster of Teltech Inc., a Minneapolis information systems company, said that "smart, world-class competitors are constantly looking for leverage, and nothing today provides more economic leverage than technical knowledge—nothing." ("Democrats' Data Plan Is Opposed," *The New York Times*, September 6)

**SEPTEMBER** - After a century of serving as the public's eyes and ears about the weather, the National Weather Service is changing its mission. The agency has begun to close its phone lines and refer to private weather companies more and more questions it formerly answered. In addition, these private companies have gradually acquired from the government the right to distribute readings from federal observation offices and pictures from its radar systems. Some people who rely on Weather Service data say they worry that the government is abandoning a long-established duty and is forcing the public to pay for information it is used to getting for virtually nothing.

"It's just ridiculous," said Albert Thompson, a cotton grower who was recently told by the Weather Service in Lubock, Tex., that he would no longer be told the rainfall in West Texas cities. "We pay taxes, and there is no reason we should not get that information from a Government office." Weather Service officials say the changes are designed to get the government out of the business of distributing routine weather information, so it can concentrate on the difficult job of spotting and reporting dangerous weather conditions. Dr. Elbert W. Friday Jr., the director of the Weather Service, said he believes that the change—in effect, making private companies the middlemen between the public and its government—is going to provide greater access to the information and save the Weather Service money.

Dave Powell, president of the National Weather Service Employees Organization said: "The specialized services they are talking about really are things we have been providing since 1890. A lot of the people we serve are on a shoestring, farmers and contractors."

Perhaps the clearest example of the changing Weather Service missions is the signing of 13 contracts with private companies in the South. In each case, the agency closed phone lines providing recorded weather information just as a private company opened its own lines, providing a similar message but preceded with advertisements. The private weather industry has grown to include more than 100 companies that together make \$200 million a year.

In Atlanta, for example, the Weather Service is paying the Contel Corporation to electronically distribute national weather information. Contel can charge the public for the information. Contel classified the Associated Press, with thousands of clients, as a reseller and asked for \$1.6 million from the news agency for the right to transmit the



information. The agency objected to any reseller fee and decided to use a service operated by the government. That service has no reseller fee but gives less information and is slower, said John Reid, vice president and director of communications and technology for the news agency. He said there have been times when severe weather warnings arrived at the news agency after the warnings had expired. ("What's the Weather? Don't Ask the Service," *The New York Times*, September 10)

[Ed. note: In a related story, people in Miami phoning to find out the time and temperature got something else: soft pornography. A voice welcomed them, saying, "She's all alone in the tub. Jump in. It's all wet." Then it gave a 976 telephone number, told listeners that it would cost them \$19.95 for a three-minute call, and finally gave the temperature and time. "We have received complaints relative to this ad," said Gary Allington, Southern Bell Telephone & Telegraph Co. By mid-morning the tape was replaced with an ad for a psychic. Southern Bell leases the time number to Ryder Communications of Coral Springs, Fla., which sells ad space on it. ("Soft-Porn Ad on Bell Firm's Tape Pulled," *The Washington Post*, December 13)]

**SEPTEMBER** - Citing budget constraints and agency policy, only news media, university libraries, heads of university departments, members of Congress, members of the diplomatic corps, and government officials can continue to receive the monthly publication, *World Agriculture Supply and Demand Estimate*, free of charge. The announcement was made in a September 11 letter to "Dear Reader" from Raymond Bridge, information officer for the Department of Agriculture World Agricultural Outlook Board. Others who want the publication were invited to subscribe for \$20 a year.

**SEPTEMBER** - New York City officials challenged preliminary 1990 census figures, charging that the count conducted this spring and summer missed 254,534 housing units in the city and, as a result, hundreds of thousands of New Yorkers. The city said its records showed that the census overlooked at least five housing units on each of 11,957 blocks, or 43 percent of the city's blocks. New York City has been particularly vigorous in challenging census findings, in part because federal funding is tied to population totals. Officials estimate that the city receives about \$150 annually for each of its residents. Also, preliminary census figures indicate that the state will lose three congressional seats, in part because of population shifts away from New York City.

The city has participated in a lawsuit to force the Census Bureau to use a statistical adjustment to compensate for residents missed by the census. Other cities also have challenged Census Bureau figures. Los Angeles officials said they found nearly 50,000 units not included on census lists, and Detroit officials said they found errors on almost all of the city's 13,000 blocks. ("New York City Disputes 1990 Census," *The New York Times*, September 20)

**SEPTEMBER** - The National Library of Medicine announced a new fee schedule effective February 1, 1991, for CD-ROM products containing MEDLARS data in the September-October 1990 *NLM Technical Bulletin*. Among the categories of annual subscription fees:

- 1) For a copy of the database on a stand-alone station, the charge to the vendor from NLM will be (and currently is) \$100.
- 2) For the same subscription on a network of two to five stations, the charge is \$1000.

3) For the same subscription on a network of five or more stations, librarians have estimated the charge to be between \$7,500 and \$10,000, since the NLM newsletter gave a formula instead of a specific figure.

These are the charges to the various Medline vendors; the vendors are likely to pass the fee changes on to their users. Concerns have been expressed in the library community that these NLM charges will discourage network access to CD-ROM MEDLINE.

**OCTOBER** - Wassily Leontief, awarded the Nobel Prize in Economic Science in 1973, decried the "sad state of the Federal statistical system" in an op-ed piece in *The New York Times*. He said that while our system employs very dedicated, highly qualified individuals, the funds appropriated for their task fall far short of what is needed. Moreover, with a rapidly changing economy, the job has become more complex. Leontief said in his own field—the compilation of the input-output tables that describe the flow of goods and services between the different sectors of the U.S. economy in a given year—the situation is as bad as the current difficulties with the U.S. census.

The federal input-output unit has been reduced to 22 people. There is a hiring freeze. "No wonder the input-output tables for 1972 have not yet come out. With the changes in our economy, these figures, when published, will be only of historical interest." By contrast, in Japan the compilation of input-output tables is done by 200 economists and statisticians. A four-volume table for 1975 was published in March 1979. The 1985 table has already been published.

Leontief concluded: "Some proponents of privatization suggest that diminished support for Federal statistical services will eventually be compensated by private corporate data-gathering organizations. This solution seems about as effective as replacing the klieg lights in a baseball stadium with player-held flashlights. As the U.S. struggles to maintain its competitive position in the world, we can ill afford further deterioration in the data base indispensable to the efficient conduct of all public and private business." ("Federal Statistics Are in Big Trouble," *The New York Times*, October 1)

**OCTOBER** - The government's special nutrition program for low-income women, infants, and children (WIC) sharply reduces later Medicaid health outlays for the mother and child, and also results in improved birthweights, according to a Agriculture Department study. The long-awaited study has special significance because of a protracted dispute over a study four years ago that came to the same basic conclusion: that WIC enhances the health of the mother and child. Despite its findings, and for reasons never made clear, the Agriculture Department altered the summary statement of the 1986 findings to play down the beneficial health effects. The new study, in contrast, was hailed by the current Secretary of Agriculture, Clayton Yeutter. ("Mothers' Nutrition Program is Effective, U.S. Study Finds," *The Washington Post*, October 19)

**OCTOBER** - When Congress passed the 1991 military spending bill in October, it imposed little-noticed but significant new restrictions on the President's power to spend billions of dollars on classified programs. Legislators and administration officials struggled over a section of the bill requiring the administration to use money earmarked for secret programs precisely as Congress prescribes. At stake is control over a "black budget" of more than \$35 billion hidden in the military spending bill for numerous secret weapons programs and intelligence activities.

In the past, Congress has attached classified reports to military appropriations saying how this secret money should be spent. But the administration has treated the instructions in these classified "annexes" as mere expressions of congressional wishes rather than actual law. When President Bush signed the 1990 military appropriations bill on November 21, 1989, he expressed concern about restrictions that Congress tried to impose through a classified report on the bill. "Congress cannot create legal obligations through report language," he insisted. But now, after a year marked by several disputes over the administration's refusal to comply with secret directives from congressional committees, Congress has given the classified annexes the force of law. ("Congress Changes Spending Rules on Secret Programs for Pentagon," *The New York Times*, October 30)

**OCTOBER** - The Army fired, handcuffed, and removed from office a veteran engineer for threatening to disclose that many troop-carrying helicopters primed for war in Saudi Arabia lack protection against Iraqi heat-seeking missiles. Calvin Weber, a 16-year Army civilian employee, was fired for seeking information about the vulnerabilities of Army helicopters now in Saudi Arabia and "intimating" he would make it public, the Army said yesterday. "Information regarding equipment vulnerabilities, especially during the pendency [sic] of Operation Desert Shield, is very sensitive, and its disclosure could be highly detrimental to the security of the United States," Col. Thomas Reinkober told Weber in a one-page memo ordering him to leave his office at the Army Aviation Systems Command in St. Louis.

The Army has about 300 Blackhawk helicopters in Saudi Arabia—more than any other type—to ferry troops to the front and to evacuate casualties from the battlefield. Weber estimates about 200 hundred of them lack suppressors which are muffler-like devices installed over the engines. They are designed to cool the exhaust before it leaves the engines and hide the turbine blades from heat-seeking missiles. A 1985 Pentagon study concluded that 90 percent of the aircraft downed in combat in the previous 10 years were destroyed by heat-seeking missiles. Most of the losses were Soviet aircraft downed by Afghan rebels equipped with portable, U.S.-made, Stinger heat-seeking missiles. ("Army Worker Fired Over Copter Data," *The Washington Post*, October 30)

**OCTOBER** - *The New York Times* editorialized that "Secrecy, which made the Iran-contra affair possible, is now a huge obstacle to its cleanup. Invoking national security, Attorney General Dick Thornburgh refused to allow classified information for the perjury trial of Joseph Fernandez, a former C.I.A. operative at the Nicaraguan end of the illicit enterprise. That forced Lawrence Walsh, the independent counsel, to drop the case."

After describing details of the case, the editorial went on to say: "There has always been a conflict between the Attorney General's role as investigator and as lawyer for the President. That's why it was necessary to appoint a special counsel in the Iran-contra cases. But the same conflict exists when Mr. Thornburgh makes a decision about classified information. He left open the suspicion he's protecting his boss, the President." ("Iran-Contra: Secrecy's Victim," *The New York Times*, October 30)

**OCTOBER** - The Supreme Court considered the constitutionality of regulations that prohibit federally funded family planning clinics from discussing abortion, with Justice David Souter expressing concern that the rules stop doctors from giving women needed medical advice.

Speaking for the Bush administration, Solicitor General Kenneth Starr defended the regulations, which bar physicians and other workers in federally funded clinics from giving women any information about abortion, even on request, or from stating if abortion is medically indicated.

During oral arguments in the case, *Rust v. Sullivan*, Harvard Law School Professor Laurence Tribe told the court: "We depend on our doctors to tell us the whole truth, whoever is paying the medical bill, the patient or the government, whether in a Title X clinic or in the Bethesda Naval Hospital," referring to the facility where the justices receive medical care. He said that under the regulations, "truthful information that may be relevant is being deliberately withheld from people who have every reason to expect it." ("Souter Questions Federal Defense of Abortion Counseling Limits," *The Washington Post*, October 31)

**NOVEMBER** - "*Newsweek* has learned that there were three times more U.S. casualties from 'friendly fire' or accidents during last winter's Panama invasion than the Pentagon has previously admitted. What's more, according to a confidential Pentagon report obtained by *Newsweek*, the Joint Chiefs of Staff kept Defense Secretary Dick Cheney's aides in the dark about the losses.

Last June, *Newsweek* reported as many as 60 percent of U.S. injuries and nine of the 23 deaths may have been due to friendly fire. The Pentagon denied the story. But the report reveals that the Pentagon failed to disclose that 72 of 312 servicemen it counts among the wounded were actually injured in parachute jumps, not by enemy fire. The report also shows the U.S. military death toll was 26 not 23, and at least six may have been the result of friendly fire.

All told, the report concludes that 114 of the 338 U.S. casualties—34 percent—were caused by friendly fire or accidents. Highly placed sources told *Newsweek* that even this percentage was low. And, the report reveals, the staff of the Joint Chiefs Chairman Colin Powell tried to paint a rosier picture for Cheney. An April 4 memo to Cheney's top aide claimed no U.S. soldiers were killed by friendly fire. The Pentagon's only comment was to confirm the revised figures." ("An Accident-Prone Army," *Newsweek*, November 5)

**NOVEMBER** - The federal appeals ruling during D.C. Mayor Marion Barry's trial that said federal judges may not bar an individual from a courtroom "merely because [that individual] advocates a particular political, legal or religious" view is about to be swept into legal oblivion. The U.S. Court of Appeals in Washington, D.C., has refused to publish the ruling. It means that this important decision can never be cited by other lawyers in Washington, and many lawyers will never even know about it, unless they trot over to the courthouse and look up the case.

The American Civil Liberties Union, which challenged the original order barring two controversial men from the Barry trial, now is challenging the appeal panel's decision not to publish. "It smacks of a system of secret justice," said the ACLU's Arthur Spitzer. Spitzer argues that the appeals ruling—by a panel composed of Clarence Thomas, Douglas Ginsburg, and Laurence Silberman—could be crucial to individuals barred from future trials. He also argues that the court is flouting its own rules, which weigh in favor of publication. Spitzer is seeking a rehearing on the issue and calling for one before the full court. ("You Could Look It Up, but...," *Washington Business*, *The*



*Washington Post*, November 5)

**NOVEMBER** - "The government's end-of-the-year fiscal crunch gave an Education Department employee a novel idea for promoting a new report. The cover letter sent to reporters announced that 'A College Course Map,' which compiles statistics of what courses are taken by college students, has been published, but 'nobody has it. There are 5,500 copies of the book sitting in a warehouse,' the letter said. 'But until we have a budget, there is no money to pay the mailing contractor.' This, the letter noted enticingly, means that reporters are being given data temporarily unavailable to the public. The publicity-hungry writer even suggested which pages to read." (*Education Week*, November 7)

**NOVEMBER** - American University professor Philip Brenner has tried for three years in federal court to get classified documents from the State Department about the Cuban missile crisis. Last month, he even submitted affidavits from the authors of the papers—nine former high-ranking Kennedy administration officials—urging their release.

Unlike many citizens who take on the federal government, Brenner may find that time is on his side. The reason: legislation passed by the Senate in the 101st Congress would require automatic declassification of State Department documents 30 years after the events they chronicle. For researchers dealing with the crisis that brought the United States and the Soviet Union to the brink of nuclear war, the countdown would stop at October 1992. The proposed law would allow State Department documents to be kept secret after 30 years only if they fit one of three strict exemptions: if their publication would compromise "weapons technology important to the national defense," reveal the names of informants still alive who would be harmed, or "demonstrably impede" current diplomatic relations.

Congress adjourned before the House took up the measure, but Senate supporters are confident of passage in the next session. Brenner and fellow researcher Scott Armstrong have filed a Freedom of Information lawsuit to get access to 4,000 documents they say are being withheld by the State Department. ("Lifting the Cuban Missile Crisis Veil," *The Washington Post*, November 9)

**NOVEMBER** - Treatment with steroid hormones can halve the death rate from the pneumonia that is the leading killer of people with AIDS, a panel of experts has concluded. But it was five months before the government agency that had convened the experts notified AIDS doctors of the finding. In part because the experts were concerned that early notification might jeopardize the publication of their conclusions in a prestigious medical journal. Even now, six months after the finding, many doctors who treat AIDS patients say they have not been informed of it.

The expert panel was convened by the National Institute of Allergy and Infectious Diseases last spring to determine whether steroids would be effective in treating the AIDS-related pneumonia. The panel reached its conclusion May 15 after reviewing five studies of the treatment, some of whose authors were among the panel's members. But it delayed announcing its conclusion, said Dr. Paul Meier, the panel's vice-chairman, because the members could not agree on how to work their statement. And part of the reason they could not agree, he said, was that their papers had not yet been accepted at the prestigious medical journal, and they feared that an announcement of the finding would jeopardize publication. Many medical journals have a policy

against publishing studies that have been previously described in the general-circulation press.

The institute did not alert doctors to the findings until October 10, when it mailed a letter to 2,500 practitioners on a list obtained from a pharmaceuticals company which makes a drug used to prevent the pneumonia. The delay has infuriated some advocates for people with AIDS. Dr. Jerome Goopman, an AIDS researcher at the New England Deaconess Hospital in Boston, said the episode showed that it was time that researchers, administrators, and editors of medical journals together set ground rules for the dissemination of information that could save patients' lives. ("News of AIDS Therapy Gain Delayed 5 Months by Agency," *The New York Times*, November 14)

[Ed. note: Responding to criticism that it had delayed announcing a lifesaving treatment for people with AIDS, the federal government issued a defense in the form of an elaborate chronology of the events that occurred over a five-month period before letters were sent to doctors informing them of the treatment. ("U.S. Denies Any Delay in Announcing Treatment for AIDS Patients," *The New York Times*, November 16)]

**NOVEMBER** - Former Secretary of Defense Caspar Weinberger and former Secretary of State George Shultz made special arrangements to get thousands of pages of classified information to help them with their memoirs. The General Accounting Office says it found irregularities in the handling of the papers for both Reagan Cabinet officers. In a report to Sen. David Pryor (D-AR), the GAO auditors were especially critical of the arrangement for the Weinberger papers, which were deposited at the Library of Congress as though he owned them. "There appears to be an inverse relationship between the level one attains in the executive branch and one's obligation to comply with the law governing access to, and control of, classified information," Pryor charged in releasing the report. ("Special Privileges for Ex-Cabinet Members," *The Washington Post*, November 14)

**NOVEMBER** - A federal judge has ordered the Food and Drug Administration to release more safety data on silicon breast implants, a move the Public Citizen Health Research Group said will allow patients more access to information about the safety and effectiveness of drugs and medical devices. The Federal District Court judge, Stanley Sporkin, ruled that the FDA has to release information voluntarily submitted by manufacturers. The ruling provides a long-sought goal of freeing up health data sought under the Freedom of Information Act.

"It's a major, major victory," Dr. Sidney Wolfe, director of the Washington-based group, said. "We've been attempting since 1972 to get the courts to say that data on safety and effectiveness of drugs and medical devices should be public. If upheld on appeal..., we will use this precedent to get a lot of data that will help us oversee what the F.D.A. is doing." The Dow Corning Corporation, the country's major maker of silicon breast implants, said it would appeal to prevent disclosure of what it considers information that could be used by its competitors. The FDA has denied some information act requests, saying certain data submitted voluntarily includes trade secrets or material that is company property. ("F.D.A. Is Ordered to Release Data on the Safety of Breast Implants," *The New York Times*, November 29)

**NOVEMBER** - In memoirs scheduled for publication in February 1991, former senator John Tower says President Reagan and his top

aides tried to mislead the Tower commission and cover up White House involvement in a key aspect of the Iran-contra affair. Tower said he was shocked when Reagan denied that the White House gave advance approval for an August 1985 shipment of missiles to Iran, in contradiction of an earlier statement by the former president. Portions of Tower's book, *Consequences: A Personal and Political Memoir*, were published in the November 29 *Dallas Times Herald*. Tower wrote that Reagan's about-face seemed part of a "deliberate effort" to cover up then-White House Chief of Staff Donald Regan's involvement in the affair. The Tower commission report had noted Reagan's shifting stories about the missile sale. But the book marks the first time a principal figure has suggested the changes were part of a cover up. ("Tower Book Accuses Reagan of Coverup," *The Washington Post*, November 30)

**DECEMBER** - Rep. Jack Brooks (D-TX), Chair of the House Judiciary Committee has accused the Justice Department of withholding documents to frustrate his panel's probe of alleged improprieties in the department's dealings with Inslaw Inc., a Washington-based computer software company. The committee is considering whether to subpoena the documents or to attempt in some other way to force the department to produce the documents.

The case involves Inslaw, which wrote a computer program that allows the Justice Department to keep track of a large number of court cases. Inslaw and its top executive, William A. Hamilton, have accused the department of conspiring to drive Inslaw out of business so that friends of high-ranking Reagan administration officials could get control of the program and market it profitably. Hamilton's testimony reassured those claims. A federal bankruptcy judge concluded that the Justice Department "stole" Inslaw's proprietary software and did, in fact, try to drive the firm out of business. Those findings were upheld on appeal by a U.S. district judge, but the legal battle continues. ("Justice Department Accused of Keeping Inslaw Evidence," *The Washington Post*, December 6)

**DECEMBER** - Acting on behalf of the nation's mayors, New York Mayor David Dinkins made a final plea to the Bush administration to adjust 1990 census totals to compensate for people missed in the census. In a meeting with Commerce Secretary Robert Mosbacher, Dinkins reiterated his concern that the census had missed millions of Americans, many of them low-income minorities living in big cities. In his city alone, census work conducted over the past months has missed around 800,000 residents, Dinkins said. Dinkins said that without an adjustment, which would add or subtract population based on a statistical model, "it could cost us a billion dollars over the next 10 years." Commerce officials, who oversee the Census Bureau, said they remain open to an adjustment, but a decision will not be made until next summer. ("Adjust Census, Mayors Urge Administration," *The Washington Post*, December 13)

**DECEMBER** - Four United States Senators have written President Mikhail Gorbachev requesting on humanitarian grounds that he help clear up remaining mysteries about the Korean airliner shot down in 1983. Several days after the crash, Moscow acknowledged that the jumbo jet had been downed by a Soviet fighter. But it is not known in the Western world whether the Soviet authorities ever found the main wreckage or remains of the victims. Sen. Bill Bradley (D-NJ) wrote the Soviet President in August urging that the official findings of his country's inquiries be made public. In November, a letter was sent to Gorbachev by Sens. Sam Nunn (D-GA), Carl Levin (D-MI), and

Edward Kennedy (D-MA), asking whether the Soviet Union had located the plane's wreckage or the passengers' remains. No answer to either letter has been received.

The recent letters came after months of efforts by the senators and several colleagues to try to get American authorities to help fill in the gaps in the story of Korean Air Lines Flight 007. Strong criticism has been directed at the Federal Aviation Administration and the State Department for taking months to reply to senatorial requests for information. An aide to Sen. Kennedy said that replies by the FAA to specific questions about communications with an air traffic control unit in Alaska the night of the incident were "nonresponsive and evasive." ("Senators Seek Soviet Answers on Flight 007," *The New York Times*, December 16)

**DECEMBER** - Physicians and patients told a congressional panel of an array of health problems associated with silicone breast implants, and urged that Congress require safety testing and risk disclosure. The Food and Drug Administration has received 2,017 reports of adverse reactions from silicone implants, according to Walter Gundaker, acting director of the FDA Center for Devices and Radiological Health. "We were misled, ill-informed and even sometimes misinformed by people we should have been able to trust," said Sybil Niden of Beverly Hills, Calif., who suffered severe complications from breast implants after a mastectomy. "What we needed, what is still needed, is more information," she told the House Government Operations Subcommittee on Human Resources.

Silicone breast implants have been used since the early 1960s. When 1976 amendments to the Food, Drug, and Cosmetic Act required regulations of medical devices, breast implants were "grandfathered" into the market, meaning they did not fall under the new regulation. In 1982, the FDA proposed that silicone implants be classified as high-risk devices. FDA officials said they expect a rule would be in force by March requiring manufacturers to submit safety data or remove their products from the market. ("Hill Told of Silicone Breast Implant Problems," *The Washington Post*, December 19)

Earlier chronologies of this publication were combined into an indexed version covering the period April 1981-December 1987. Updates are prepared at six-month intervals. *Less Access...* updates (from the January-June 1988 issue to the present publication) are available for \$1.00; the indexed version is \$7.00; the complete set is \$13.00. Orders must be prepaid and include a self-addressed mailing label. All orders must be obtained from the American Library Association Washington Office, 110 Maryland Ave. NE, #101, Washington, DC 20002-5675; tel. no. 202-547-4440, fax no. 202-547-7363.

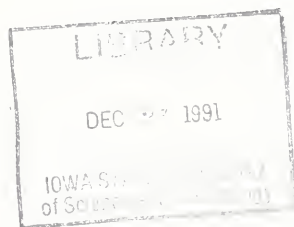


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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XVI

*A 1991 Chronology: January - June*

## INTRODUCTION

During the past ten years, this ongoing chronology has documented administration efforts to restrict and privatize government information. A combination of specific policy decisions, the administration's interpretations and implementations of the 1980 Paperwork Reduction Act (PL 96-511, as amended by PL 99-500) and agency budget cuts have significantly limited access to public documents and statistics.

The pending reauthorization of the Paperwork Reduction Act should provide an opportunity to limit OMB's role in controlling information collected, created, and disseminated by the federal government. However, the bills that have been introduced in the 102nd Congress would accelerate the current trend to commercialize and privatize government information.

Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. This circular requires cost-benefit analysis of government information activities, maximum reliance on the private sector for the dissemination of government information, and cost recovery through user charges. OMB has announced plans to revise this controversial circular in 1991, but a draft revision is not yet available.

Another development, with major implications for public access, is the growing tendency of federal agencies to utilize computer and telecommunications technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual information collected at taxpayer expense, higher user

arrangements with commercial firms to disseminate charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information will be increased.

The restrictive and controversial information policy imposed by the administration during the Persian Gulf War was the most prominent government information issue of the first half of 1991.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions which creates a climate in which government information activities are suspect. Previous chronologies were compiled in an ALA Washington Office publication, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*. The following chronology continues semiannual updates published in 1988, 1989, and 1990.



## CHRONOLOGY

**JANUARY** - Workers at a training complex in West Milton, N.Y., have accused the Navy's nuclear reactor program of serious safety lapses and say they were disciplined for raising safety concerns. Their allegations, denied by program officials, have contributed to pressure for wider scrutiny of the training and research centers, which make up the only branch of the government's nuclear defense program with its secrecy mostly intact.

Federal officials and executives of General Electric, which runs several facilities for the Navy, said the program had an enviable safety record and no serious operating problems. But they acknowledge that this was impossible for an outsider to verify, because the records are classified. The classified records include virtually all the information on whether the program has suffered accidents, as four long-time workers assert.

Sen. John Glenn (D-OH), the chief legislative force behind revealing shortcomings of the nuclear weapons program, said: "If there's one thing we have found in the rest of the nuclear weapons facilities, it's that secrecy bred corner-cutting that got us into deep trouble, and has bred contempt for safety and for waste concerns."

Navy officials contend: "A self-regulating organization, such as Naval Reactors, which demands technical excellence and high standards, and employs strict discipline and encourages self-criticisms, can do its job well." But critics—most prominently, long-time employees no longer at the plant—say that self-regulation has meant no regulation.

The struggle over information has at times taken bizarre twists. Aided by the Government Accountability Project, workers sued General Electric over a "security newsletter" that threatened life-time imprisonment for disclosing information without prior approval. After the suit was filed, the lab issued a second newsletter diluting the first. In May 1990, it issued a third newsletter incorporating some of the same language as the first, and in June a fourth notice retracted the third, saying it had been distributed in error.

Illustrating the degree to which security considerations pervade discussions of safety, a G.E. official said that the reactor facility had been the subject of dozens of articles in *The Schenectady Gazette* in the last two years and that an adversary, by accumulating facts that were individually unrevealing, could piece together classified information. Asked if any classified information had been thus revealed, he replied that the answer to that question was classified. ("Questions Raised About the Safety of Navy Reactors," *The New York Times*, January 1)

**JANUARY** - The Pentagon was eager to announce how many tanks, troops, and airplanes it had arrayed against Iraq. The Pentagon spoke in less-specific, less-grand terms about how many U.S. soldiers could die if war broke out in the Persian Gulf. But what the Pentagon would not say was how many body

bags and coffins it had stockpiled in Saudi Arabia to handle those casualties. That information was "classified." ("Pentagon Classifies Talk of Body Bags," *The Washington Post*, January 2)

**JANUARY** - The Pentagon's release of guidelines for media coverage in the Persian Gulf, including a controversial requirement that journalists submit their war coverage to military review, signaled the beginning of what became the biggest government information-related story thus far in 1991.

Gone from the rules as proposed the previous week was a provision that prohibited reporters from approaching military officials unannounced for spontaneous interviews. Also dropped was an outright ban on publication of photographs or video showing troops in agony or "severe shock." Instead, the Pentagon requested that such photographs or video not be released before next of kin have been notified.

The security review would force journalists who cover the war from Pentagon combat press pools to submit their work for review by military public affairs officers. The new language for this controversial process indicated that any material that did not pass review would be the subject of discussions between Pentagon spokesman Pete Williams and news executives. Williams stressed that such a procedure meant the review could not and would not become censorship. ("Rules Set for Media," *The Washington Post*, January 4)

**JANUARY** - The U.S. Department of Agriculture has 7,000 federal inspectors who inspect meat and poultry products. But the program has become increasingly expensive and threats of inspector furloughs continually hang in the air. So do charges from consumer groups and others that the system is inadequate—inspectors cannot detect by sight or feel chemical residues or bacteria on meat and poultry that can make people sick. In the meantime, health authorities have become more vocal in their concern about the growing number of food poisoning outbreaks—and meat and poultry get a large share of the blame.

Officials at the Food Safety and Inspection Service, the USDA agency responsible for meat and poultry inspection, are currently trying to modernize 80-year-old systems amid a barrage of criticisms about how they are going about it. The latest plan to upgrade inspection is being heavily promoted by the agency, although many charge that FSIS is more interested in reducing its own costs and keeping the industry happy than in protecting public health.

"USDA's approach to modernization is for fewer inspectors to spend less time looking at more food whizzing by at drastically faster line speeds. That's a recipe for food poisoning," said Thomas Devine of the Government Accountability Project.

FSIS has been conducting research in a poultry slaughtering plant in Puerto Rico for the past several years to find out where in the slaughtering process birds might be spreading harmful

bacteria, but has so far refused to divulge the results. A former agency microbiologist, Gerald Kuester, publicly accused FSIS last year of hiding the damaging news that nearly 80 percent of the birds that left the plant were salmonella-contaminated. "You never release scientific data until it's been peer reviewed, and it will be," said Lester Crawford, administrator of FSIS. Since the study was begun, however, its focus has shifted to finding ways to prevent the birds from coming into the plants contaminated, since it appears difficult with current slaughtering methods to keep contamination from spreading to other birds. ("Can USDA Inspectors Do More With Less?" *The Washington Post*, January 9)

**JANUARY** - A six-page article, "Dr. Nogood," in the January 11 *City Paper* discussed the long-awaited National Practitioner Data Bank, a computerized record of medical malpractice payments and disciplinary actions against physicians, dentists, psychotherapists, and other medical professionals. Author Peter Blumberg pointed out:

As a repository of critical information about misdiagnoses, mistreatment, and professional misconduct, the Data Bank is supposed to provide a screening tool for hospitals and other institutions that hire doctors, and to expose bad doctors who shed their reputations by moving from state to state every time they get in trouble. The Data Bank makes finding the skeletons in...[a] closet as simple as dialing a toll-free line and paying a \$2 fee.

But there's a catch—the public is explicitly forbidden to tap into the Data Bank. The authorizing legislation, the Health Care Quality Improvement Act of 1986, makes the information available only to "authorized parties." The authorized parties include hospitals, health maintenance organizations, group practices, state licensing boards of medicine, and professional societies, all of which are required to query the Data Bank before granting any staff or membership privileges to a physician. Any member of the general public who extracts information from the Data Bank is subject to a \$10,000 civil fine.

Why would Congress create an information clearinghouse to protect the public from bad doctors and then make it off-limits to the very people it seeks to protect? The short answer: Organized medicine pressured legislators to make Data Bank information confidential. The prevailing attitude of the medical community—then and now—is that if the records were open, people would make the wrong judgments about doctors for the wrong reason.

Sidney Wolfe, head of the Public Citizen Health Research Group, says: "This idea that the public is too dumb and will misunderstand the information is just an incredible slap in the face of patients. This 'Don't you trust me?' attitude on the part of doctors is unacceptable in 1990. It should have been unacceptable in 1890, but it reflects several millennia of physicians believing they are above and beyond their patients."

**JANUARY** - The National Weather Service's \$3 billion upgrading is so far behind schedule that the agency is forced to rely on deteriorating equipment, a dependence that meteorologists in and out of government say could jeopardize the service's ability to warn of dangerous storms.

One agency report said a new radar systems that should have been installed beginning last year may not be ready until 1997. Another report, written by an agency consultant, said that management problems have led to costly delays in the program, the most comprehensive retooling in the service's 100-year history. Many weather experts who once viewed the program as the opening to a new age of modern meteorology now say that these problems could leave forecasters without the ability to gather much of the basic information they need to predict the weather.

Most of the report on the new radar describes problems the government perceives with Unisys, the large computer manufacturer. Company executives said that its serious financial problems would not affect its ability to fulfill the contract.

Staffing cuts present still more problems. Three hundred fewer employees are working in Weather Service offices around the country than there were 10 years ago, because the agency began to trim to a level appropriate for the new equipment even though it is not yet installed. Richard J. Hirn, the general counsel for the union of Weather Service employees, said the unfilled jobs hurt the service's ability to issue warnings.

A flood in Shadyside, Ohio, that killed 26 people last summer is cited by the union and the Weather Service as an example of the risks the public faces because of problems at the agency. The Weather Service said the radar outside Akron, Ohio, was too weak to determine the extent of the storm, which could have led to warnings. The union said staffing cuts at the Akron office left meteorologists there unable to gather enough information to adequately warn the public. ("Costly Errors Setting Back Weather Service," *The New York Times*, January 13)

**JANUARY** - The Defense Department is facing a formidable enemy—multimillion-dollar computer systems that are so complex they threaten to immobilize weapons. Some of the Pentagon's big-ticket items are being held hostage to their computers. According to two congressional investigations, the Army's Apache helicopter, the Air Force's B-1B and "stealth" B-2 bombers, the Navy's Los Angeles-class attack submarines, and the Trident II missile program all have suffered cost overruns and production delays because of the computer system they have in common—called embedded computer systems.

Bugs and design changes in the BUSY 1 and 2 and the ALQ-161 embedded computer systems have left some of the newest weapons of war brainless. Government documents obtained by Jack Anderson's reporter Paul Parkinson show that it takes more than 800 software programmers to input 3.2 million lines of instructions in the BUSY 2 so the Navy's latest super submarine, the Seawolf, can be launched. ("U.S. Weapons

at Mercy of Computers," *The Washington Post*, January 16)

**JANUARY** - A strict information policy was imposed by the Bush administration on the war against Iraq, with few specific details made available to reporters and the public about the first day of the bombing against targets in Baghdad and Kuwait.

In the first hours of the war, reporting pools were deployed to watch as fighter planes took off from Saudi Arabian bases and were allowed to speak with returning pilots. Both print and video reports were screened, and while there did not appear to be significant censorship of the earliest dispatches, reporters said some deletions had been made by military officers.

The reporting regulations are the most restrictive since the Korean War and in some ways even more so, since reporters then were not confined to escorted pools. American reporters generally accepted censorship in both world wars and Korea, but there were few restrictions on reporting in Vietnam: reporters were free to make their way around combat areas and their reports were not screened. There is widespread agreement that the distrust of the press inherent in the Pentagon's rules for coverage of the gulf war is part of the legacy of Vietnam. ("Government's Strict Policy Limit Reports," *The New York Times*, January 18)

**JANUARY** - Journalists covering the war against Iraq were not the only ones complaining about censorship by the Defense Department. Some of the troops complained too. American soldiers interviewed in remote camps in the Saudi desert said that the amount of news programming on Armed Forces Radio broadcast in Saudi Arabia had been sharply reduced since the war began the previous week. "It's the lack of news that gets people anxious," said Capt. Roger Wandell of Orlando, Fla. "You start to wonder what they are keeping from us." ("Soldiers Fault Lack of News Since War Began," *The New York Times*, January 22)

**JANUARY** - An appeals board will not give 115 fired Chicago air traffic controllers another chance at their old jobs, despite evidence that their agency falsified some of their employment records. The Merit Systems Protection Board said it did "not [emphasis in original] condone the undisclosed alteration of agency records submitted for inclusion in the official record." But controllers failed to persuade the board that those records were changed purposely to give the false appearance that the controllers had gone out on the illegal 1981 strike. President Reagan fired all striking controllers.

The controllers asked the board to take another look at their cases after a congressional oversight subcommittee reported the Federal Aviation Administration doctored records to justify the firing of the controllers. The appeals court upheld the decision of the MSPB: "Because of their reliance on a broadside attack against the [FAA's] case," the court wrote, the controllers "failed to address or counter in any way the crucial findings...on the accuracy and the reliability of the documents." ("Despite

Falsified Records, Fired Controllers Still Off the Job," *Federal Times*, January 31)

**FEBRUARY** - In a three-page essay in *Time*, Lance Morrow asks, "Where was the truth?" as he describes the allies' struggle to control the flood of news as Saddam forced battered prisoners of war to tell lies on Iraqi television. Quoting Senator Hiram Johnson's 1917 statement: "The first casualty when war comes is truth." Morrow then goes on to say:

But that is too simple a metaphor for what is happening in the first war of the age of global information. Truth and elaborate lies, hard fact and hallucination, have become central motifs in the gulf. A war of words and images has taken up a life of its own, parallel to the one in the sand....

The Pentagon and the Bush Administration have come close to achieving their goal of forcing journalists—and the public—to rely solely on the information supplied by briefers or gathered in pool interviews in the field. Doing away with independent reporting has been the Pentagon's goal ever since Vietnam. The military has set up a system of media pools to cover the initial stages of the operation, controlling reporters' movements and their access to sources. The system works brilliantly from the Pentagon's point of view, but it has subverted the coverage of the war and given it a dismal, canned quality.

In the midst of all the spectacle, items of honest truth have died of manipulation and censorship. The drama in the gulf commands eerie and unprecedented high-tech global attention, and yet the volume of real information about the conduct of the war is small. The public does not know how effective the allied strikes against Iraq have been, for example, or how heavy the civilian casualties may have been. Clausewitz's "fog of war"—a phrase endlessly repeated these days—has become a bright electrical cloud of unknowing.

("The Fog of War," *Time*, February 4)

**FEBRUARY** - A book by a former Iran-Contra prosecutor accused the Central Intelligence Agency of bribing officials in Costa Rica to allow the construction of an airstrip to resupply the Nicaraguan rebels. The book, by Jeffrey R. Toobin, also said the CIA hampered the subsequent criminal investigation into the payments to Costa Rican officials. The CIA operation in Costa Rica, which would have violated federal law against aiding the rebels in Nicaragua, is one of several previously undisclosed incidents described in the book, *Opening Arguments*. The affair centered on efforts to provide military aid to rebels in part using profits of secret arms sales to Iran from 1984 to late 1986. The book provides the strongest evidence yet that the United States used its money and influence in Central America to persuade governments there to assist the Contras. President Bush has



denied that any such *quid pro quo* agreements existed. Interviews by the prosecutors with CIA officials provided little help. "Our friends at the agency did not remember anything," Toobin wrote. "With a few courageous exceptions, most of our CIA witnesses suffered stunning memory lapses." The book has been at the center of a long prepublication legal battle. The book was filed under seal in court as part of the case, and in early February, Federal District Judge John Keenan in Manhattan ruled that Penguin USA was free to publish it over the objections of Lawrence Walsh, the Iran-Contra independent prosecutor. ("Book Accuses the C.I.A. in a Contra Aid Scheme," *The New York Times*, February 5)

**FEBRUARY** - Jack Anderson reported: "The Environmental Protection Agency's habit of keeping dirty secrets to itself could prove deadly in several communities across the nation." Government investigative reports he has obtained show widespread lapses in the EPA's handling of the banned herbicide Dinoseb. Huge stockpiles of the chemical are stored around the country waiting for EPA disposal. And some of those stockpiles are leaking, unbeknownst to the emergency planners in the cities and states where the chemical is stored.

In Goldsboro, N.C., nearly 32,000 gallons of Dinoseb were temporarily stored at a warehouse near the river that is the source of drinking water for 70,000 people. In 1989, the EPA inspector general checked the site and found some containers were rusted and leaking, taking the risk of poisoning groundwater. City officials did not know it was there. Laboratory animals exposed to Dinoseb had offspring with serious birth defects. Researchers found increased incidence of sterility among farm workers using it. There is no evidence that the water in Goldsboro has been tainted by Dinoseb, but it appears that the EPA is not interested in assuring that it will not be tainted in the future.

The EPA inspector general team says it found leaking containers there, and put that in writing last year. But an EPA spokeswoman in Washington says there were no leaks, only rust. And a regional EPA official said: "Our records don't indicate there was a leak, so there is not a reason for us to test that area." The inspector general also said local authorities were not notified about the Dinoseb as they should have been. However, EPA headquarters said it's not their job to tell the local authorities, nor is the EPA responsible for making sure the storage site is safe until the EPA officially takes over the site to handle disposal. But firefighters in Goldsboro, whose jurisdiction covers the storage site, did not know the Dinoseb was there. ("EPA Secrets Seeping Through Cracks," *The Washington Post*, February 8)

**FEBRUARY** - Frustration grew among journalists who said the Pentagon was choking off coverage of the war by refusing to dispatch more than a handful of military-escorted pools with ground forces, and by barring those who ventured into the desert on their own. At stake, in the view of these critical journalists,

is whether reporters will serve essentially as conveyor belts for the scanty information dispensed at official briefings and gleaned from the limited access afforded the pools.

Defense officials offered three basic reasons for insisting that coverage be provided by small pools of journalists—representing newspapers, television, radio, magazines, and wire services—who must give their colleagues left behind written reports of what they see and hear. First, they say the pools are necessary for the reporters' physical safety. Second, military officers must review the pool reports to prevent the release of information that could jeopardize U.S. forces. Finally, officials say, it would be impractical to allow the more than 800 reporters now in Saudi Arabia to roam the desert battlefield at will.

Questions about the pool system are "like asking whether a smoothly functioning dictatorship is working well," said Stanley Cloud, *Time* magazine's Washington bureau chief. "Yeah, it's working well, but we shouldn't have to put up with it. We're getting only the information the Pentagon wants us to get. This is an intolerable effort by the government to manage and control the press," he said. "We have ourselves to blame every bit as much as the Pentagon. We never should have agreed to this system in the first place." The pool system was established by the Pentagon in 1984 in response to complaints that journalists had been excluded from the U.S. invasion of Grenada. ("Journalists Say 'Pools' Don't Work," *The Washington Post*, February 11)

**FEBRUARY** - In his briefing on the Department of Energy fiscal 1992 budget, Secretary James Watkins disclosed the cost of cleaning up the nuclear and toxic wastes and restoring the environment at the department's 12-state nuclear weapons manufacturing complex. The costs of the cleanup vary according to which Energy Department activities are included, but by current calculations the price tag has risen from \$2.3 billion in 1990 to \$3.5 billion in the current year to a projected \$4.2 billion next year. The costs will approach \$5 billion a year by 1996. The Energy Department has said the task will take 30 years and cost many tens of billions of dollars.

In a report released on February 11, the congressional Office of Technology Assessment said bluntly that the Energy Department may not be the right agency to manage this huge task, partly because of its shortcomings and partly because the public does not trust it. The department's "stated goal—to clear up all weapons sites within 30 years—is unfounded because it is not based on meaningful estimates of the work to be done or the level of cleanup to be accomplished at the end of that time," the report said. It said the department lacks scientific evidence to support its contention that the factories present no imminent public health danger, adding that "the technical and institutional resources and processes to make and implement sound, publicly acceptable decisions" are not in place. ("Energy's 'Mountain Building Up'," *The Washington Post*, February 12)

**FEBRUARY** - U.S. officials partially relaxed their "blackout"

on news of the ground invasion of Kuwait less than 12 hours after it was imposed, as some officials conceded the restrictions had gone too far and initial reports showed allied forces faring well. Although Defense Secretary Richard Cheney announced that briefings on the war would be suspended for an undetermined period of time, the administration moved quickly on February 24 to ensure that positive news filtered throughout the blackout.

Howell Raines, Washington bureau chief of the *New York Times*, said Defense Department officials were using legitimate security concerns "as a means of imposing the blanket management of information of a sort we've never seen in this country. If they've loosened it today, it was because they had good news to report and it was in their interest to report it. What they've put in place is a mechanism to block out bad news and to keep good news in the forefront." But Army Col. Miguel Monteverde, the Pentagon's director of defense information, said officials simply realized that some of the restrictions were impractical.

The U.S. blackout stood in sharp contrast to the 1944 D-Day invasion of Normandy, when 27 U.S. journalists accompanied allied forces and filed stories that day. Military historians say blackouts were not used during the Korean War and were briefly imposed only twice during the Vietnam War. ("U.S. Lets Some News Filter Through 'Blackout'," *The Washington Post*, February 25)

**MARCH** - The Spring issue of *Drug Abuse Update* cited the following example as "the grossest misrepresentation that we have seen," of how "some for-profit organizations are marketing tax-produced publications outside the spirit of the law":

A publisher in New York, Business Research Publications, Inc., markets a monthly drug-abuse newsletter it publishes for an annual subscription of \$189. Subscribers will receive a free report published by the U.S. Department of Labor entitled *What Works: Workplaces Without Drugs*, that Business Research Publications has republished. The marketing piece fails to say that the report is free to ALL citizens, regardless of their decision to pay the hefty \$189 annual subscription rate. Without a subscription request, the report is still available from this company for \$71. You read it right—a free booklet developed and published by the United States Department of Labor is hawked for \$71 by this New York firm. Another publication advertised by the same firm is *Model for a Comprehensive Drug-Free Workplace Program* for \$85. This report comes from the National Institute on Drug Abuse.

Material published by government agencies is in the public domain. It is reproducible for no charge. The government, in fact, encourages reproduction to increase circulation. Any organization or individual who reproduces a government publication can in turn charge for the

expense incurred in the reproduction. The question is, do \$71 and \$85 fees constitute a fair-market value for a retyped, government-agency booklet bound by a plastic spiral?

We need truth in advertising, but more important, profiteers need to hear this message: Prevention dollars are too scarce for any of us to pay twice for drug-education publications. Human resource managers in the workplace need to hear this message: *What Works: Workplaces Without Drugs and Model Plan for a Comprehensive Drug-Free Workplace Program* may be ordered free of charge from the National Clearinghouse for Alcohol and Drug Information, 1-800-729-6686. You can learn about other free materials by ordering a catalog of resources from the Clearinghouse at the same number. ("Public-Domain Prevention Materials Sold for Big Bucks," *Drug Abuse Update*, Spring 1991)

**MARCH** - Federal courts charge high prices for providing copies of judicial documents to discourage requests. This practice is the subject of a General Accounting Office report requested by Rep. Bob Wise (D-WV), chair of the House Subcommittee on Government Information, Justice, and Agriculture. GAO found that the administrative office of the U.S. Courts does not have a policy on how courts should handle requests for documents. As a result, federal district courts use widely differing procedures. Many federal courts charge 50 cents per page, a fee originally set in 1959. The high price was set to cut down on the workload of the courts.

In releasing the report, Rep. Wise said: "GAO found considerable variability in practice and procedure. Some courts are charging 50 cents a page for copies when some commercial, profit-making companies were only charging 3.5 cents a page. There is no reason why any federal office should use high prices for public information as a way of discouraging requests. Under the federal Freedom of Information Act, copying charges may not exceed direct costs. The courts should be following the same policy."

Copies of the GAO report, *Information Requests: Courts Can Provide Documents in a More Cost-Effective Manner* [report number GGD-91-30 (February 13, 1991)] can be requested from GAO at 202-275-6241. ("U.S. Courts Charge High Prices for Copies of Judicial Documents," News Release, House Committee on Government Operations, March 11)

**MARCH** - A General Accounting Office official, Howard Rhile, testified before the House Subcommittee on Government Information, Justice, and Agriculture that the Justice Department may have compromised sensitive investigations and jeopardized the safety of some undercover agents, informants, and witnesses by inadvertently releasing computerized information. GAO said it uncovered "appalling details" of the department's failure to protect its secret computer files. "Our investigation leads to the unmistakable conclusion that at present, one simply cannot trust

that sensitive data will be safely secured at the Department of Justice."

The GAO's investigation followed press disclosures in September 1990 that the department had mistakenly traded away a federal prosecutor's highly sensitive computer files for \$45. While auctioning off surplus equipment, the department sold computers from a U.S. attorney's office without first erasing electronic copies of sealed indictments and information about confidential informants and federally protected witnesses, according to court records. The department has sued the buyer, a Kentucky businessman, in an effort to retrieve its files. ("GAO Faults Release of Secret Data," *The Washington Post*, March 26)

**MARCH** - Because of bureaucratic foot-dragging, complex directives from Congress and in some cases ideological hostility, the federal government has failed to carry out major parts of health, environmental, and housing laws passed with much fanfare in recent years. The delays have left Congress stymied, consumer groups frustrated, and businesses sometimes paralyzed in the absence of prescribed regulations. Bush administration officials acknowledge that they have missed many of the deadlines set by Congress for the new laws. But they say Congress is partly to blame because it writes laws of impenetrable complexity with countless mandates and gives federal agencies insufficient time to write needed regulations.

For example, two decades after Congress ordered the Environmental Protection Agency to identify and regulate "hazardous air pollutants," the agency has issued emission standards for only seven chemicals. Even when an agency is eager to carry out a new law, it must negotiate with the Office of Management and Budget, which often demands changes in proposed rules to reduce the cost or to minimize the burden on private industry. Congress itself may not provide the money needed to carry out or enforce a new law.

Michael Horowitz, counsel to the director of the Office of Management and Budget from 1981 to 1985, said Reagan administration officials often viewed "nonenforcement of the law" as an easy way to deal with statutes and regulations they disliked. ("U.S. Laws Delayed by Complex Rules and Partisanship," *The New York Times*, March 31)

**APRIL** - The operators of nearly half of the nation's underground coal mines have been systematically tampering with the dust samples they send to federal safety inspectors who determine the risk of black lung to miners, according to Bush administration sources. Labor Secretary Lynn Martin announced that the government will seek major civil penalties against the operators of more than 800 of the nation's approximately 2,000 underground coal mines for tampering with dust samples.

In recent months, federal mine safety officials said they have discovered more than 5,000 incidents of sampling fraud. In many cases, mine operators simply blew away or vacuumed some of the dust from government-approved sampling equipment before submitting it for inspection, officials said. ("Coal Mine

Operators Altered Dust Samples," *The Washington Post*, April 4)

**APRIL** - Jack Pfeiffer, a retired CIA historian, sued the Central Intelligence Agency over regulations he said have blocked him from publishing a declassified version of the organization's role in the ill-fated 1961 Bay of Pigs invasion in Cuba. The agency, citing its strict disclosure rules, has refused to declassify his work and a federal court has upheld its decision.

On April 9, in a second lawsuit filed in U.S. District Court, Pfeiffer sought to overturn the CIA's declassification and review procedures, contending they are "overbroad" and violate his free speech rights. In addition, he argued, as he did in a previous lawsuit filed under the Freedom of Information Act, the agency does not want his papers made public because his findings might embarrass senior agency officials. Public Citizen, an advocacy group, filed the lawsuit on Pfeiffer's behalf, accusing the CIA of balking at giving the historian complete copies of its disclosure regulations. ("CIA Ex-Historian Presses for a 30-Year-Old Tale," *The Washington Post*, April 10)

**APRIL** - The Census Bureau held up release of detailed population data it gathered in the 1990 census while it negotiated with advocacy groups over the agency's count of the homeless. The advocates for the homeless, arguing that the bureau missed substantial segments of the homeless population in its 1990 count, have threatened legal action unless the bureau issues a disclaimer noting the inaccuracy of the numbers. "The danger is this will become the number of homeless people and will be used" to make policy, said Maria Foscarinis, director of the National Law Center on Homelessness and Poverty. ("Holding Up the Homeless Tally," *The Washington Post*, April 11)

**APRIL** - U.S. soldiers were poorly trained and equipped to confront a chemical weapons attack in the months preceding the U.S. military buildup in the Persian Gulf region, GAO concluded in a report that was withheld from public release during the confrontation with Iraq. The GAO report, completed in January, documents unrealistic Army training exercises, serious equipment shortages, weak planning, inadequate leadership and poor innovation in preparing a defense against possible poison gas attack.

While commanders associated with Operation Desert Storm had declined to estimate how many soldiers would die in expected Iraqi chemical attacks, the GAO report stated that 71 Army chemical specialists interviewed for the report had predicted that more than half of the exposed troops would be killed in a future gas attack due to inadequate training.

Army officials said they had ordered increased training and provided adequate protective gear for the troops. Congressional sources said the Army nonetheless considered the report's conclusions so sensitive that it ordered the document be kept secret during the war. The Army also ordered the deletion of two tables in the report documenting wide-spread shortages of



chemical decontamination and protective gear among U.S. forces routinely stationed in Europe, evidently including some deployed to the Middle East for the war. ("Report Withheld from Public Says GIs Were Poorly Equipped for Gas Attack," *The Washington Post*, April 13)

**APRIL** - Sen. Patrick Leahy (D-VT) secured an amendment to the bill reauthorizing the Commodity Futures Trading Commission (S. 207) to require publication of any dissenting, concurring, or separate opinion by any Commissioner. He explained that his amendment was prompted by an incident last year when the CFTC issued an important and controversial interpretation on the regulatory treatment of certain oil contracts. One CFTC Commissioner dissented and prepared a detailed statement of his reasons. But when the CFTC submitted its interpretation of the oil contract to the *Federal Register* for official publication, the dissent was omitted.

Sen. Leahy said: "In this case, the results was [sic] especially unfair. High-priced lawyers with access to the Commission or to expensive private reporting services had no trouble getting their hands on the dissent. But members of the public who rely on official outlets like the *Federal Register* had no access to the document." (*Congressional Record*, April 17, p. S4601)

**APRIL** - The National Practitioner Data Bank has another problem: missing data. The 1986 law creating the data bank requires hospitals and other medical licensing authorities to report adverse disciplinary actions against doctors. The law also requires any malpractice judgment or settlement on behalf of a physician to be reported. Hospital and medical licensing and disciplinary authorities in turn must check the data bank before giving doctors' working credentials.

In practice, the data bank is being undermined by what amounts to a giant loophole: Doctors can avoid being reported to the bank if their lawyers can get them removed from a suit before it is settled. Here's how these deals work: A hospital or some other entity—such as the doctor's professional corporation—agrees to pay the plaintiff if the physician is dropped from the suit.

Then, regardless of whether the rest of the suit is settled or goes to court, no doctor's name is left in the action to be entered into the data bank. Even doctors who are the central figures in suits can avoid the data bank this way. Plaintiffs and defense lawyers alike acknowledge that the time-honored litigation technique of getting a client dismissed from suits subverts the policy rationale behind the National Practitioner Data Bank.

Nobody is sure just how many doctors have avoided the data bank in this manner, but it is not hard to find settled suits around the nation that have been structured to bypass the reporting requirements. Officials at the Department of Health and Human Services—which has a \$15.8 million contract with the Unisys Corp. to run the data bank—say that as of March 22, they had received more than 13,000 reports of malpractice settlements or judgments. More than 425,000 queries for information came in

from hospitals and other medical institutions.

Federal authorities have no way, however, of keeping track of malpractice settlements that are not reported because doctors were dismissed from the suits. Many settlement deals struck between plaintiffs and defense lawyers are secret. According to some medical and legal experts, the public-interest intent in creating a full record of physicians' malpractice-claims experience is not being served. Dr. Sidney Wolfe, of Public Citizen's Health Research Group, says the bank's backers never imagined that doctors would be able to avoid the system simply by getting their names dropped from suits before final settlement. "It flies in the face of the law for clever lawyers to make these end runs," Wolfe declared. ("Data Bank Has a Deficit," *Legal Times*, Week of April 22)

**APRIL** - The Environmental Protection Agency halted distribution of one of its popular consumer handbooks after industry complained that it recommended home measures, such as vinegar and water to clean windows, that had not been assessed for their effect on the environment. The *Environmental Consumer's Handbook*, published in October 1990, was pulled from distribution in February after industry criticism that it was imbalanced, partly because of its suggestion that homemade cleaning solutions might be more environmentally benign than store-bought products.

Industry critics also faulted the pamphlet's assertions that disposable products contribute to litter. "How do these items contribute to litter when it is the users who litter, not the items?" noted a critique by the Foodservice and Packaging Institute, a Washington-based trade association.

The pamphlet was prepared by the EPA's Office of Solid Waste to encourage consumers to reduce, reuse and recycle items that might otherwise add to the burden of the nation's landfills. It quickly became one of the office's most requested documents, with more than 15,000 of 30,000 copies distributed.

In late February, Don Clay, EPA assistant administrator, promised to move ahead quickly on a revised version, saying it would be subject to a "more comprehensive review process" that would include "a cross section of interested parties." The revised version is expected to be available in 30 to 60 days. According to documents provided to Environmental Action Inc. under the Freedom of Information Act, publication of the original pamphlet was followed by a series of memos and letters from industry critical of the document. "Clearly, EPA's action was in response not to the public, but in response to the large consumer product manufacturers," said Joanne Wirka, a solid waste expert for Environmental Action. "We didn't just do it because industry said you should change this," said Henry L. Longest II, acting deputy assistant administrator under Clay, "but because the opponents made good points." ("EPA Pulls Consumer Handbook," *The Washington Post*, April 23)

**APRIL** - "Secrecy is expensive and the Pentagon has decided that it cannot afford as much of it as it used to buy. Sunday's

scheduled flight of a space shuttle, a mission devoted to experiments for the Strategic Defense Initiative, which in the past would have been classified, has been declassified.

According to a Defense Department spokesman, who spoke on condition of anonymity, declassifying military shuttle flights probably will save taxpayers at least \$80 million a year." ("Pentagon Pinching Pennies on Secrecy," *The Washington Post*, April 26)

**APRIL** - Yielding to pressure from the meat and dairy industries, the Agriculture Department has abandoned its plans to turn the symbol of good nutrition from the "food wheel" showing the "Basic Food Groups" to an "Eating Right" pyramid that sought to de-emphasize the place of meat and dairy products in a healthful diet.

The proposed change, hailed by many nutritionists as a long overdue improvement in the way the government encourages good eating habits, represented the basic groups as layers of a pyramid. By putting vegetables, fruits, and grains at the broad base and meat and dairy products in a narrow band at the top, government health experts had hoped to create a more effective visual image of the proper proportions each food group should have in a healthful diet.

But in meetings with Agriculture officials earlier in April, representatives of the dairy and meat industries complained that the pyramid was misleading and "stigmatized" their products. The industry groups said they were unhappy not just with the suggestion that portions of meat and dairy products should be relatively small, but that their place in the pyramid was next to that of fats and sweets, the least healthful foods.

"We told them we thought they were setting up good foods versus bad foods," said Alisa Harrison, director of information for the National Cattlemen's Association. Harrison said the group felt consumers would interpret the pyramid to mean they should "drastically cut down on their meat consumption." According to Marion Nestle, chairman of the nutrition department at New York University and the author of a history of dietary guidelines, on several occasions over the past 15 years the department has altered or canceled nutritional advice brochures in response to industry complaints. ("U.S. Drops New Food Chart," *The Washington Post*, April 27)

**MAY** - In a three-page article, Holley Knaus describes "sharp restrictions on citizen access to government information" as a result of an ideological assault on government activity, coupled with the rise of an "increasingly strong information industry lobby." As a result of "privatization," citizens or organizations seeking information from government agencies as varied as the Census Bureau and the Federal Maritime Commission must increasingly rely on data companies such as Knight-Ridder, Mead Data, McGraw Hill, and Martin Marietta Data Systems.

She writes that information disseminated through the private sector is much more remote from the public, primarily because it is often prohibitively expensive. Private information vendors,

under no obligation to provide the public with low-cost access to government data, "charge exorbitant prices for their services and products."

One example she cites concerns the Department of Commerce National Trade Data Bank. According to the Taxpayer Assets Project, Commerce offers the NTDB, a database of more than 100,000 documents containing political, economic, and technical information relating to foreign trade from 16 federal agencies, on a CD-ROM disk for \$35.

However, Congress has prohibited Commerce from offering online access to the database. To receive the more timely online information, users are forced to turn to commercial vendors. These commercial vendors receive the data on magnetic tape or CD-ROMs at low rates, and then program it so that it is available online to those with computers—"at extravagant rates." McGraw Hill's Data Resources, Inc. charges its users up to \$80 per hour and \$0.54 per number to receive this information. ("Facts for Sale," *Multinational Monitor*, May 1991)

**MAY** - The Justice Department has determined a strict set of conditions governing the access it has granted House Judiciary Committee investigators exploring the alleged government conspiracy against Washington, D.C., legal software developer Inslaw Inc. The committee has spent close to a year tracking the Inslaw case and its possible connection to Justice's award of a \$212 million office automation contract to another company. Investigators have sought 200 department documents related to litigation on the Inslaw case, as well as documents about other companies or procurements. Justice has consistently denied the request, saying the papers would reveal the litigation strategy involving its appeal against Inslaw and so were being shielded from Congress.

Access to the documents will be tightly controlled. For example, Justice officials will be present while committee investigators review the papers. The investigators will be permitted only to take notes of the documents. Based on those notes, investigators will have to formally request copies. If additional hearings on the Inslaw case were conducted, the committee would need to give the department "the opportunity prior to the hearing or proceedings to present any reasons why the material or any portion thereof should not be publicly revealed." If no agreement could be reached, the matter would be referred to an executive session of the committee. ("Justice Screens Inslaw Document Release," *Federal Computer Week*, May 6)

**MAY** - "Most people who work at the White House treat an order from the President as holy writ. So everyone expected quick action when George Bush, embarrassed by news stories on the freeloading travels of chief of staff John Sununu, directed him to 'get it all out' and make 'full disclosure' of his expensive trips aboard Air Force executive jets to ski resorts in Colorado and to his home in New Hampshire.

Instead, Sununu stonewalled. At Bush's insistence, he issued



a list of his White House travels, but it has proved to be incomplete, inaccurate, and misleading. It conceals crucial information that *Time* has obtained concerning at least four family skiing vacations and a fifth trip to his New Hampshire home that were financed by corporate interests—in violation of federal ethics laws. Sununu declined requests for interviews about his travels, smugly assuring associates that if he simply hunkered down and said nothing more, 'this whole thing will blow over'. ("Fly Free or Die," *Time*, May 13)

**MAY** - The Iraqi missile that slammed into an American military barracks in Saudi Arabia during the Persian Gulf war, killing 28 people, penetrated air defenses because a computer failure shut down the American missile system designed to counter it, two Army investigations have concluded.

The Iraqi Scud missile hit the barracks on February 25, causing the war's single worst casualty toll for Americans. The allied Central Command said the next day that no Patriot missile had been fired to intercept the Scud, adding that the Scud had broken into pieces as it descended and was not identified as a threat by the Patriot radar system. But further investigations determined that the Scud was intact when it hit the barracks, and was not detected because the Patriot's radar system was rendered inoperable by the computer failure.

Army experts said in interviews that they knew within days that the Scud was intact when it hit, and that a technical flaw in the radar system was probably to blame. The Army investigations raise questions why the Pentagon and Central Command perpetuated the explanation that the Scud broke up. Central Command officials denied that they were aware of the Army's initial findings of computer malfunction. "It was not something we had at all," said Lieut. Col. Michael Gallagher, who was a Central Command spokesman in Riyadh.

Family members of some of the victims of the attack have tried to get more information from the Army but say the Pentagon has refused to release any details. Rita Bongiorno of Hickory, Pa., whose 20-year-old son, Joseph, was killed in the attack, said she had written the Secretary of the Army, Michael P.W. Stone, for an explanation, but had received only a form letter saying a comrade was at her son's side when he died. When Mrs. Bongiorno requested a detailed autopsy report, she said the cause of death was listed simply as "Scud attack." "I just want to know the truth, and I'm not sure we'll ever know," Mrs. Bongiorno said. "I don't feel the Army's been up front with us." ("Army Blames Patriot's Computer for Failure to Stop Dhahran Scud," *The New York Times*, May 20)

**MAY** - The head of a Pentagon intelligence unit assigned to account for United States servicemen missing in Vietnam has resigned, accusing Bush administration officials of seeking to discredit and perhaps even cover up reports of sightings of Americans in the country. The Army officer, Col. Millard A. Peck, left his job on March 28, stapling an unusual memorandum and farewell note to his office door that charged that his

department was being used as a "toxic waste dump" to buy the whole "mess" out of sight and mind in a facility with limited access to public scrutiny." ("Bush Is Said to Ignore the Vietnam War's Missing," *The New York Times*, May 22)

**MAY** - The Supreme Court ruled on May 23 that federally funded family planning clinics may be prohibited from giving any information about abortion. The court, splitting 5 to 4, upheld federal regulations that forbid some 4,000 such clinics that receive federal money from counseling women about the availability of abortion, even if the women ask for the information or if their doctors believe abortion is medically necessary. The decision in the case turned mostly on whether the regulation infringed on free speech.

Opponents of the regulations, promulgated by the Reagan administration in 1988, vowed to press for congressional repeal. A similar effort last year drew administration threats of a veto and died in the Senate.

The decision in *Rust v. Sullivan* turned on the question of free speech and whether the regulations interfered with the doctor-patient relationship, or kept women from making informed medical decisions about abortion. Justice William H. Rehnquist said they did not. He said the government is entitled to decide what it wants to spend its money on, and that its decision to pay for family planning services but not for information about abortion did not violate freedom of speech or any other constitutional right.

All four dissenters said the court should have struck down the regulations on statutory grounds. Blackmun, Marshall, and Stevens, going on to the constitutional questions, said the ruling represented the first time the court had "upheld viewpoint-based suppression of speech simply because that suppression was a condition on the acceptance of public funds." In addition, they said, "Until today, the court has allowed to stand only those restrictions upon reproductive freedom that, while limiting the availability of abortion, have left intact a woman's ability to decide without coercion whether she will continue her pregnancy to term....Today's decision abandons that principle, and with disastrous results."

"This is worse than we could have imagined," said Rachael Pine of the American Civil Liberties Union, which challenged the regulations on behalf of various clinics and doctors. "This opinion is close to giving the government the blank check it sought" in imposing conditions on federally funded programs, she said. "It's close to sanctioning really any kind of government manipulation of information so long as it's paid for by the government." ("Abortion-Advice Ban Upheld for Federally Funded Clinics," *The Washington Post*, May 24)

**MAY** - On May 28 the Supreme Court let stand a ruling that threatens the conviction of Oliver North in the Iran-Contra affair. It refused to review a 1990 ruling by a federal appeals court that requires prosecutors to re-examine the witnesses against him to determine if any of them had prejudged the trial's

outcome by hearing his earlier testimony before Congress. The Justices, who acted without comment, raised the possibility that much of the evidence used to convict North could be invalidated.

The Supreme Court's action was a serious setback for Lawrence Walsh, the Iran-Contra prosecutor, because it means he must now meet the difficult standards set by the appeals court in its July 20, 1990, decision. North was convicted on May 4, 1989, of aiding and abetting in the obstruction of Congress, accepting an illegal gratuity in the form of a \$13,800 home security system, and destroying government documents. The charge of destroying documents was voided outright by the appeals court. Walsh vowed to go back to the lower court and try to preserve the two remaining guilty verdicts. ("North Conviction in Doubt as Court Lets Ruling Stand," *The New York Times*, May 29)

**JUNE** - The anticrime bill that President Bush has sent to Congress would permit the government to hold special tribunals in which foreigners accused of terrorism would not be allowed to rebut or even see some or all of the evidence against them. Justice Department officials say the tribunals, which would require the approval of a federal judge, would give the government a needed mechanism to deport alien terrorists without being forced to disclose evidence that would reveal the identity of confidential sources, make public the nature of investigative methods, or damage relationships with foreign countries.

But some civil liberties experts say the proposal would violate fundamental principles of American law: that the government's evidence against a person must be public, and that the accused has a right to be informed of that evidence and rebut it. The provision has been largely overlooked until now in the public debate over the anticrime bill but is drawing increasing fire from public libertarians as the larger measure nears Senate consideration in June. The Supreme Court has long held that aliens living in the United States who face deportation are entitled to constitutional protections, including a public hearing in which the government is not entitled to keep evidence against them a secret. ("Crime Bill Would Establish Alien Deportation Tribunal," *The New York Times*, June 1)

**JUNE** - The Defense Department has estimated that 100,000 Iraqi soldiers were killed and 300,000 wounded during the Persian Gulf war, the first official attempt to fix the Iraqi death toll in which military officials said was a "tentative" exercise based on "limited information." Responding to a Freedom of Information Act request from the Natural Resources Defense Council, an environmental group, the Defense Intelligence Agency issued a heavily qualified estimate, which was immediately challenged.

"Upon review, it has been determined that little information is available which would enable this agency to make an accurate assessment of Iraqi military casualties," said Robert Hardzog, chief of the Freedom of Information and Privacy Act staff of the intelligence agency, in a letter dated May 22. "An analysis of

very limited information leads D.I.A. to tentatively state the following" and then Hardzog noted parenthetically that the estimates carried an "error factor of 50 percent or higher." ("Iraq's War Toll Estimated by U.S.," *The New York Times*, June 5)

**JUNE** - While the U.S. military has labored successfully in recent years—under the mandate of federal law—to overcome long-standing service rivalries and improve both wartime and peacetime coordination among the Army, Air Force, Navy and Marine Corps, the Persian Gulf War exposed continued shortcomings from war planning to intelligence-gathering. Senior military commanders say cooperation among the services has improved. They say the services are now using the experiences of the Gulf war to focus on deficiencies that slowed operations and could have resulted in serious problems against a more aggressive enemy force. Among the deficiencies:

- The Air Force could not transmit bombing target lists to Navy pilots aboard ships in the Red Sea and Persian Gulf because of incompatible communications links. As a result, Navy officials had to hand-carry from Riyadh to ships at sea computer disks containing each day's list of targets.
- U.S. intelligence-gathering operations were so cumbersome and compartmentalized among agencies that commanders in the field frequently could not obtain timely intelligence to prepare for war operations....

("War Exposed Rivalries, Weaknesses in Military," *The Washington Post*, June 10)

**JUNE** - A one and one-half page story in the *Village Voice* by James Ridgeway described issues and problems with the privatization of government information. "The result has been to slowly cripple the functions of government that we take for granted." Ridgeway pointed out that changes in the amount and type of statistical information collected may seem insignificant, and do not show up in a decline in actual statistical output for several years, but ultimately, they will help cloud not only the true effect of administration policies, but even future planning for economic growth.

For example, probably the best single source of information on the U.S. economy is Japan. The Japanese have statistics on their own economy, and make their own informed estimates on how the U.S. operates. For data on cross-border trade with Canada, U.S. business now relies on Canadian statistics. Even the ability of elected representatives to understand what is going on is affected. The Joint Economic Committee of Congress, which is supposed to keep up on economic trends, recently made a study of interest rates. Since the data was unavailable via computer from the Treasury, the committee ended up buying it



from a private company.

The author says "This vast subsidy to the information industry was made by...OMB rules, which basically say that if private industry can make money distributing info, then the government shouldn't be doing it."

Ridgeway gives examples, including high costs, of the government's reliance on private sources for knowledge it needs to govern, using examples from the State Department, the Department of Agriculture, and the National Weather Service. Additionally, he points out:

The privatization of information affects the most prosaic governmental services. Let's say you are a journalist or scholar or small businessman anxious to find out about the different civil rights bills now pending before Congress....Congress maintains a bill-tracking service that lists all these pending bills and their sponsors by computer, but to get that information most people would end up using Legislate, a service provided by *The Washington Post*. A professor in Brooklyn inquired about the cost of that service recently: \$9500 a year for an academic, and \$14,500 for businesses.

Ridgeway also mentions efforts in Congress to change the government's privatization of information that are supported by ALA, Public Citizen, and other groups that are pushing to create an inexpensive government system that would allow people to access online government databases through the Government Printing Office. ("Stormy Weather," *Village Voice*, June 11)

JUNE - U.S. Central Command chief Gen. H. Norman Schwarzkopf charged that battlefield damage assessments from national intelligence agencies during the Persian Gulf War were so hedged with qualifying remarks that they created serious confusion for commanders attempting to make wartime decisions. Schwarzkopf told the Senate Armed Services Committee on June 12 that battlefield damage assessment "was one of the major areas of confusion."

He also echoed the complaint of many field commanders during the war that intelligence was not relayed to senior officers on the ground in a timely, useful form. He recommended that "the intelligence community should be asked to come up with a system that will, in fact, be capable of delivering a real-time product to a theater commander when he requests that." Such problems were compounded by the inability of U.S. military services, especially the Navy and Air Force, to share intelligence information because of incompatible computer systems, Schwarzkopf said. ("Schwarzkopf: War Intelligence Flawed," *The Washington Post*, June 13)

JUNE - In an opinion piece in *The New York Times*, Charles Stith, president of the National Community Reinvestment Network, urged defeat of two amendments in President Bush's banking reform bill. Stith maintained that amendments added by

Rep. Paul Kanjorski (D-PA) would gut the Community Reinvestment Act. The "amendments would exempt 80 percent of the nation's banks from following the law's requirements. The amendments would restrict community groups' rights to challenge banks for noncompliance with the act, as well as reduce the number of banks required to report the home mortgage data that would help identify discriminatory lending patterns." Stith said that the Community Reinvestment Act "has been the only leverage poor communities and nonwhite communities possess to win a fair shake from banks....Enforcement of the law is possible because banks are required to keep public records of their business." ("Killer Amendments In the Banking Bill," *The New York Times*, June 17)

JUNE - Ron Pollack, of the Families USA Foundation, charged that more than half of the elderly Americans living in poverty are paying for Medicare benefits they are entitled to receive without charge. According to Pollack, eligible individuals must apply to state agencies to get benefits to help pay for medical services and millions have failed to do so because the state and federal governments fail to notify them adequately.

Rep. Henry Waxman (D-CA), principal author of the 1988 and 1990 provisions that entitled the poor to have Medicaid pay their Medicare bills, said, "It's clear that the Social Security Administration, Health Care Financing Administration and states are not doing their job to get this information out to the elderly who are entitled to this help. We're going to try to push the Social Security Administration to send out notices with the checks and figure out some way to get these people enrolled." ("Many Elderly Missing Out on Medicaid Benefits," *The Washington Post*, June 18)

JUNE - The June 17 blast that killed six workers and injured 23 at a chemical plant in Charleston, S.C., was the latest in a series of fires, explosions and poison-gas leaks at refineries and chemical plants around the country. "Since October 1987, when a leak of hydrogen fluoride gas at a Marathon Oil refinery forced the evacuation of thousands in Texas City, Tex., the American petrochemical industry has endured one of the deadliest periods in its history, one that has baffled Government experts and alarmed company executives. The 12 worst explosions have killed 79 people, injured 933 and caused roughly \$2 billion in damage."

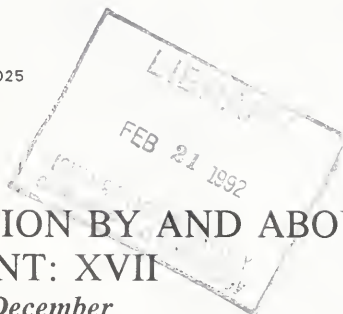
Although some aspects of the explosion were reminiscent of previous accidents, there is no way to know if factors similar to the previous accidents could have contributed to the recent blast. "And there is not a Federal agency that compiles statistics and investigates every accident the way the National Transportation Safety Board does, for example, with air crashes. Although amendments to the Clean Air Act signed into law in 1990 established a Chemical Safety and Hazard Investigation Board, the White House has yet to appoint any members or provide funds." ("Petrochemical Disasters Raise Alarm in Industry," *The New York Times*, June 19)

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XVII

*A 1991 Chronology: June - December*

## INTRODUCTION

During the past ten years, this ongoing chronology has documented administration efforts to restrict and privatize government information. A combination of specific policy decisions, the administration's interpretations and implementations of the 1980 Paperwork Reduction Act (PL 96-511, as amended by PL 99-500) and agency budget cuts have significantly limited access to public documents and statistics.

The pending reauthorization of the Paperwork Reduction Act should provide an opportunity to limit OMB's role in controlling information collected, created, and disseminated by the federal government. However, the bills that have been introduced in the 102nd Congress would accelerate the current trend to commercialize and privatize government information.

Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. This circular requires cost-benefit analysis of government information activities, maximum reliance on the private sector for the dissemination of government information, and cost recovery through user charges. OMB has announced plans to revise this controversial circular early in 1992, but a draft revision is not yet available.

Another development, with major implications for public access, is the growing tendency of federal agencies to utilize computer and telecommunications technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual information collected at taxpayer expense, higher user arrangements with commercial firms to disseminate charges

for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information will be increased.

In the second half of 1991, numerous articles reported poor statistics and inadequate information have led to major miscalculations in the formulation of federal policy. Examples included problems with federal data about early childhood immunizations, prescription drug use, the consumer price index, the 1990 census, and the hazardous waste cleanup.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions which creates a climate in which government information activities are suspect. Previous chronologies were compiled in an ALA Washington Office publication, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*. The following chronology continues semiannual updates published from 1988 to 1991.

**JUNE** - The Northrop Corporation has agreed to pay \$8 million to settle a lawsuit by two of its former employees who said the company falsified tests on parts for cruise missiles built for the Air Force. The settlement comes 16 months after Northrop pleaded guilty to federal criminal charges in the case filed in 1987 by Leo Barajas and Patricia Meyer, both employees at Northrop's plant in Pomona, Calif. They charged that Northrop and some of its executives had improperly tested guidance devices called flight data transmitters and had deliberately reported false results to the Air Force. ("Northrop Settles Workers' Suit on False Missile Tests for \$8 Million," *The New York Times*, June 25, 1991)

**JUNE** - The nation's next generation of badly needed weather satellites, designed by the National Aeronautics and Space Administration and built by aerospace contractors, are so riddled with defects that they may never be launched. According to federal weather officials, loss of coverage by these satellites could precipitate a national emergency, depriving forecasters of crucial coverage for tracking hurricanes, floods, and tornadoes. Only one U.S. weather satellite, the GOES-7, is positioned in geostationary orbit directly above the country, and its five-year lifespan normally would end early next year. NASA planned to launch new weather satellites in 1989. Known as GOES-NEXT, the \$1.1 billion program is \$500 million over budget and more than two years behind schedule. Two of five planned GOES-NEXT satellites have been completed.

GOES-NEXT is so flawed that it may not be launched in time to replace the aging GOES-7, National Weather Service officials said. John Knauss, head of the National Oceanic and Atmospheric Administration, which includes the National Weather Service, said he is so concerned he has ordered contingency plans to investigate building a simple satellite quickly or buying one from Japanese or European makers. Instead of GOES-NEXT, he said, the weather service is facing a "NO-GOES" scenario. Moreover, Knauss said, he is prepared to ask the Europeans to move one of their orbiting satellites closer to the eastern United States, which still would leave half of the country without continuous coverage. ("Crucial Weather Satellites May Be Too Flawed to Use," *The Washington Post*, June 28, 1991)

**JUNE** - Recently librarians in federal depository libraries have complained that the Office of Management and Budget Office is not making OMB circulars available through the Depository Library Program. OMB maintains that the circulars—which are key documents if the public is to understand federal regulations and requirements for public and private organizations—are for administrative purposes only, not subject to depository requirements. Now the public and libraries can get access to the circulars through an expensive electronic product available from

the National Technical Information Service.

NTIS and Government Counselling Ltd., through a joint venture, have produced a CD-ROM containing OMB circulars, the Federal Acquisition Regulations, Defense Federal Acquisition Regulations, General Accounting Office decision synopses, and full-text of the General Services Administration Board of Contract Appeals decisions. The disk also contains public laws, federal information processing standards publications summaries, procurement and acquisition checklists, quarterly news bulletins, and a variety of commentaries to accompany the regulations.

The CD-ROM is available from NTIS as either a quarterly subscription or as a single disk containing the most recent quarter only. The subscription costs \$1,495. The most recent quarter only costs \$995. In the future, Government Counselling, Ltd. will incorporate agency-specific information acquired by NTIS with its proprietary product to create a series of custom CD-ROMs. ("New CD-ROM Makes Government-Wide Procurement Regs Easy to Find," *NTIS NewsLine*, Summer 1991)

**JULY** - Publishers and executives of 17 news organizations, still concerned about press restrictions during the Persian Gulf War, told Defense Secretary Richard Cheney that independent reporting should be "the principal means of coverage" for all future U.S. military operations. In a late June letter, the news organizations said that combat pools—groups of reporters who are escorted by the military and share their dispatches with colleagues—should be used only for the first 24 to 36 hours of any deployment. In Saudi Arabia, military officials frequently detained reporters who attempted to operate outside such pools.

The media executives also sent Cheney a report providing fresh details of how military officials suppressed news, controlled interviews, limited press access, and delayed transmission of stories. Such restrictions "made it impossible for reporters and photographers to tell the public the full story of the war in a timely fashion," the letter said. "Moreover, we believe it is imperative that the gulf war not serve as a model for future coverage."

"We welcome these proposals," said Pentagon spokesman Pete Williams. He said Cheney "is eager to sit down and talk with members of this group.... Nobody should get the impression that because we did it one way during the Persian Gulf War that it's going to be that way forever and ever." Williams said there were good reasons for the press restrictions in the gulf, but that "some things worked well and some didn't."

Among the items in the report were: 1) the Pentagon attempted "to use the press to disseminate disinformation," such as releasing plans for an amphibious assault against Iraq that was a ruse to mislead the Iraqis; 2) a *Newsweek* contributor, retired Army Col. David Hackworth, said that on one occasion "U.S. troops fixed bayonets and charged us;" and 3) two reporters were barred from a Marine unit after their escorts complained



that they had asked questions forbidden by military guidelines. ("News Media Ask Freer Hand in Future Conflicts," *The Washington Post*, July 1)

**JULY** - Columnists Jack Anderson and Dale Van Atta reported that congressional investigators are conducting an enormous probe into allegations that the pro-Iraqi tilt of the Reagan and Bush administrations allowed Iraq to buy technology that it later used in weapons turned against U.S. troops. In one case they examined, the reporters said it appears "the Bush administration not only winked at the export of sensitive technology to Iraq but may have stopped legitimate law enforcement efforts to interdict the trade."

Central to the case is Bob Bickel, an engineering consultant and petroleum expert, who worked for about 20 years as an undercover informant for the U.S. Customs Service. In the course of Bickel's engineering work, he would keep Customs informed about what he thought were suspicious orders filled for foreign buyers. Bickel said he was hired in 1989 by a Houston firm to give advice to a foreign buyer on oil-related technology. The buyer turned out to be an Iraqi, and the technology Bickel was asked to buy included a phased-ray antenna system that could potentially be used in a missile tracking and guidance system. Bickel alerted the Customs contact with whom he had always worked.

A Customs investigation did not get very far. The Customs team sent inquiries to Washington, and Bickel let the Houston broker who had hired him know an investigation was underway into the Iraqi client. The broker's response was unexpected; he allegedly told Bickel and the Customs investigators that he was connected to the U.S. intelligence community.

It was not long before Bickel heard that Customs canceled the investigation. Bickel's contact in Customs called Washington and was told the State and Commerce departments were behind the decision. Some very important people did not want anyone nosing around the technology deal.

Anderson says congressional investigators believe the Iraqi buyer was working for Ishan Barbouti, an Iraqi arms dealer. Barbouti is suspected by U.S. intelligence agencies of having been a major player in the construction of a chemical weapons plant in Libya. He bankrolled at least four businesses in the United States that were producing materials that may have been sent secretly to Iraq for weapons use. Barbouti died mysteriously in London last July. ("How the U.S. Winked at Exports to Iraq," *The Washington Post*, July 8)

**JULY** - Census Bureau Director Barbara Everitt Bryant disagreed with Commerce Secretary Robert Mosbacher on virtually every element of his decision not to adjust the 1990 census to compensate for an undercount. In a document citing strong evidence that the population of the United States is 5.3 million more than the 248 million counted in the census, Bryant wrote: "In my opinion, not adjusting would be denying that these 5 million persons exist. That denial would be a greater inaccuracy

than any inaccuracies that adjustment may introduce."

On average, the accuracy of the census would be improved by a statistical adjustment, Bryant wrote in her advisory opinion, which was released by the Commerce Department along with other expert recommendations that went to Mosbacher in the weeks before his decision. Mosbacher announced he would rely on the results of the initial headcount, rather than figures drawn from a sample survey of more than 170,000 housing units, as the basis for redrawing political boundaries and distributing billions of federal dollars.

Mosbacher was criticized for his decision by Del. Eleanor Holmes Norton (D-DC), who said "The decision is particularly harsh, even cruel, because it comes after more than 10 years of huge declines in federal support to cities." District officials have estimated that the city will lose millions of dollars in aid over the decade. They and others concede, however, that it is impossible to calculate accurately the fiscal impact of the decision, because many federal programs are capped and rely to different degrees on population data. ("Census Bureau Chief Disagreed With Mosbacher on Adjustments," *The Washington Post*, July 17)

[Ed. note: *The Washington Post* editorialized that Secretary of Commerce Mosbacher "was right to decide to stick to the actual number of people counted last year." The editorial said this intricate quarrel will now move back into the courtroom, where a judge will listen to the statisticians debate their differences. "If the country wants a more accurate census in the year 2000, the way to get it is not to embark on statistical massaging of disputed figures but to spend more money to collect better data in the first place." ("Census Accuracy," *The Washington Post*, July 17)]

**JULY** - The former head of the CIA's Central American task force admitted in court he and other senior CIA officials were aware of the secret diversion of funds to the Contra rebels in Nicaragua for months before the scandal broke in the fall of 1986. Alan Fiers acknowledged the agency's complicity in attempts to cover up the affair as he pleaded guilty in U.S. District Court in Washington to two misdemeanor counts of unlawfully withholding information from Congress. His pleas came as part of an agreement to cooperate fully with independent counsel Lawrence Walsh, who has been investigating the Iran-Contra scandal for 4½ years.

Fiers said he willfully withheld information from Congress in the fall of 1986 both about the diversion of funds and about the secret Contra resupply operation that was being run out of the Reagan White House. As a result of those admissions and the prospect he will say more, other officials being investigated by Walsh for possible perjury charges may come under increasing pressure to disclose more than they have to date.

At the same time, investigators probing the unfolding investigation of the Bank of Credit and Commerce International told *Time* that the Iran-Contra affair is linked to the burgeoning bank scandal. Former government officials and other sources

confirm that the CIA stashed money in a number of B.C.C.I. accounts that were used to finance covert operations; some of these funds went to the Contras. Investigators also say an intelligence unit of the U.S. defense establishment has used the bank to maintain a secret slush fund, possibly for financing unauthorized covert operations. ("The Cover-Up Begins to Crack," *Time*, July 22)

**JULY** - House Judiciary Committee Chairman Jack Brooks (D-TX) moved to subpoena Justice Department records to investigate allegations that the agency stole computer software from a private company, Inslaw Inc. The announcement came nearly a week after Attorney General Dick Thornburgh refused to testify before the Judiciary Committee. After Brooks' announcement, a Justice official said the department would provide the documents the committee sought for its investigation of the computer software allegations.

A bankruptcy judge in proceedings involving Inslaw Inc. found there was a conspiracy among Justice Department officials during the Reagan administration to steal the software from Inslaw, which went into bankruptcy protection after the agency withheld payments on its government contract. The software was a case-management system used by federal prosecutors.

The Judiciary Committee announcement also said Brooks planned to seek authority to subpoena a 1989 Justice legal opinion that gives the Federal Bureau of Investigation authority to seize fugitives overseas without permission of foreign governments. ("Brooks to Seek Justice Data," *The Washington Post*, July 25)

[Ed.note: See August 14 entry on same subject.]

**AUGUST** - The General Accounting Office evaluated the quality of Environmental Protection Agency data that will be used to determine the need for mandatory hazardous waste minimization requirements. All the data quality problems GAO identified in its February 1990 report (PEMD-90-3) as likely to occur did occur. These problems included the system's inability to integrate data, uncertain data validity based on inappropriate measurement, and uncertain data reliability based on inadequate data collection methods. Some of these problems were so severe that EPA had to abandon all of the central analyses of waste minimization progress that the agency had originally planned to give to Congress.

Problems such as the extent of missing data were of special importance in negatively affecting the assessment of progress on hazardous waste minimization. These findings suggest that the information EPA presents to Congress will not be helpful in understanding the extent and determinants of waste minimization or in determining whether mandatory or other requirements may need to be included in the reauthorization of the Resource Conservation and Recovery Act. ("Waste Minimization: EPA Data Are Severely Flawed," GAO/PEMD-91-21, August 5, 9 pp.)

**AUGUST** - An article by Spencer Rich stated that one of the most confusing incidents in the debate over the Medicare catastrophic benefits act of 1988, subsequently repealed, was the dispute over the cost of prescription drug benefits. The Congressional Budget Office originally projected the drug benefit would cost the government \$6 billion from 1990 to 1994 and require the elderly to pay \$8 billion in insurance. But revised estimates later put the figures at \$12 billion for the government and \$9 billion for the elderly.

A new study from a National Research Council panel headed by Eric Hanushek of the University of Rochester explains the reason for the huge jumps in both figures: The only available estimates on prescription drug use at the time the bill was passed were ten years old. The CBO initially had to rely on drug-use figures from 1977-80. A subsequent 1987 survey showed that prescription drug use had grown much faster than the earlier figures had suggested.

This example is one of a number cited in the study, which concluded that bad statistics and inadequate information have led to major miscalculations in the formulation of federal policy. The study notes that the government has been cutting funds for developing the statistics that would enable Congress and the White House to understand better what impact new legislation is likely to have on spending and tax policy.

The article cites other examples of poor data about Individual Retirement Accounts, the Consumer Price Index, and the Current Population Survey. For example, during the late 1970s and 1980s, the report says "the consumer price index overstated the rise in the cost of living by some 1-2 percent a year, with serious consequences for wage escalation and overadjustment of Social Security and other federal entitlements." At least 80 million people were affected, and every one percent error cost the government at least \$4.6 billion a year in extra payments or lost tax revenue. ("Bad Statistics Cited in Policy Miscalculations," *The Washington Post*, August 6)

**AUGUST** - After Rep. Frank Wolf (R-VA) met with two officials of the Central Intelligence Agency, the CIA said it will include a consultant's reasons against moving as many as 3,000 employees to West Virginia in a report that previously had been censored. The agency agreed to return some of the information to a version of the report prepared for public release. Wolf is one of several Washington, D.C., area legislators trying to thwart an attempt by Sen. Robert Byrd (D-WV) to transfer thousands of CIA employees from offices in Northern Virginia to Jefferson County, W. Va.

Wolf complained that the CIA was not making public the reasons against moving to West Virginia. The reasons were contained in a report released to the House Intelligence Committee, but were edited from the version made available to the public. How much information the agency will put back in is unclear. "It is our view that to release the study in its entirety would jeopardize the government in its negotiations," said CIA spokesman Mark Mansfield. Mansfield said the information

withheld from the report contained analyses of the advantages and disadvantages of each parcel at four sites that the agency is considering. The edited information also contains estimates of the land costs to the government and financial analyses of the cost to develop the sites.

Wolf said parts of the report stated that West Virginia should be eliminated as a site because a lack of highways in the area, because commutes would be too long for workers now living in the Washington, D.C., area, and because the move would cause some key employees to resign. Wolf questioned the need for secrecy, noting "This is not a covert operation. They are not talking about mining the harbors of Nicaragua. They are talking about purchasing land for a building." ("CIA Will Disclose More on W.Va. Site," *The Washington Post*, August 14)

**AUGUST** - After the confrontation between House Judiciary Committee Chairman Jack Brooks (D-TX) and the Justice Department about a controversial 1989 Justice Department opinion about U.S. authority to act overseas, Justice officials sought to negotiate a compromise that would include permitting some members of the Judiciary Committee to review the opinion without publicly releasing a copy. However, a copy of the opinion was obtained by the *Washington Post*.

The opinion concluded that "serious threats" to U.S. domestic security from "international terrorist groups and narcotics traffickers" would justify the President to violate international law by ordering abduction of fugitives overseas. It asserts that the President and Attorney General have "inherent constitutional power" to order a wide range of law enforcement actions in foreign countries without the consent of foreign governments, even if they violate international treaties. It also argues that "as a matter of domestic law, the executive has the power to authorize actions inconsistent" with United Nations charter provisions barring use of force against member nations. Such decisions "are fundamentally political questions," the opinion states, and therefore do not constrain the chief executive in fulfilling his law enforcement responsibilities.

The opinion from the Office of Legal Counsel, written by then-Assistant and now Attorney General William P. Barr, has been at the center of controversy for nearly two years. Along with a later opinion concluding that the U.S. military could make arrests overseas, it was relied on by Bush administration officials in launching the December 1989 invasion of Panama. But critics have charged that it amounts to a dangerous expansion of Justice Department authority overseas in violation of international law.

Justice Department officials have consistently refused to release the June 21, 1989, opinion, contending that its public dissemination would inhibit department lawyers writing internal opinions. They said it also had the potential to harm the government's position in pending cases, including the trial of ex-Panamanian dictator Gen. Manuel Antonio Noriega, by giving defense lawyers ideas about possible weaknesses in the government's arguments. ("U.S. 'Power' on Abductions Detailed," *The Washington Post*, August 14)

**AUGUST** - Two examples of less government information being made available to the American people were contained in a letter to the editor of the *New York Times*. Ernest B. Dane of Great Falls, Va., cited the annual report to Congress of the Secretary of Defense, which for many years served as a virtual public encyclopedia of data about the defense establishment, and its equipment and cost to the taxpayer. However, for the last two years the report has been revised to exclude most details needed for real understanding of national security issues.

Dane cited a second example of the Office of Management and Budget midsession review of the budget, issued annually on July 15. "This year, the review omitted data showing interest on the public debt. The amount of that interest, now estimated at more than \$327 billion for 1993, might seem embarrassing, but it should nevertheless be published." ("Using Cost-Cutting to Limit Public Data," *The New York Times*, August 14)

**AUGUST** - President Bush signed a bill on covert operations intended to close a loophole blamed for the Iran-Contra scandal. But he made it clear that he would use his own discretion on whether to follow the law's tighter requirements on notifying Congress about secret intelligence operations abroad. Bush protested the inclusion of the first legal definition of "covert action," which he said was unnecessary and infringed on the constitutional powers of the Presidency. The legislation requires the President to provide written approval of covert activities conducted by any federal agency and bans retroactive approval of such operations by the President.

During the Iran-Contra affair, former President Ronald Reagan skirted the Intelligence Oversight Act of 1980, which requires the President to give "prior notice" of all covert activities to the two congressional intelligence committees or to give notice "in a timely fashion" if emergency actions are necessary. He also signed an order that retroactively authorized arms sales to Iran, and he did not inform Congress of the two actions for a year. ("Covert-Disclosure Bill Is Signed by President," *The New York Times*, August 16)

**AUGUST** - The General Accounting Office looked into the removal of government documents during the Reagan administration by the last two agency heads at the Departments of Defense, Justice, State, and Treasury. It discovered that records of departing agency heads were not controlled by the National Archives and Records Administration, as is done for departing presidents. All eight of the former agency heads removed documents when they left office, and two of the four agencies did not know if records had been removed. Agencies were unaware of classified material in two removed collections and failed to ensure that required security restrictions were followed for a significant amount of classified material in a third collection removed to a private business.

Additionally, at least half of the collections contained original documents agencies did not know had been removed. As a result, GAO believes official records possibly also were re-



moved. Once documents are moved, the government's access to them is not ensured—as evidenced by GAO's being denied access to three of the eight collections. GAO concluded that current internal controls do not adequately ensure that government records and information are properly protected because no independent review of documents is made before they are removed. GAO believes the National Archives and Records Administration should oversee plans by agency heads to remove documents and determine whether their relinquishment and removal are consistent with federal laws and regulations. ("Federal Records: Document Removal by Agency Heads Needs Independent Oversight," GAO/GGD-91-117, August 30, 35 pp.)

[Ed. note: The *Washington Post* included a story about this GAO report in a September 24 article, "Leaving Town With the Records." The article mentions that the three who would not allow GAO investigators access to records they had taken were former Secretary of Defense Caspar Weinberger, former Secretary of State Alexander Haig, and former Secretary of the Treasury Donald Regan.]

**SEPTEMBER** - Government studies of the health risks from hazardous wastes at nearly 1,000 Superfund cleanup sites were "seriously deficient," the General Accounting Office reported. The health assessments, which the Agency for Toxic Substances and Disease Registry was required by law to perform under a tight deadline, "generally have not been useful" to the Environmental Protection Agency and others supervising the cleanups, the GAO said in a report to Congress. "Because ATSDR health assessments have not fully evaluated the health risks of many Superfund sites, communities have not been adequately informed about possible health effects," the GAO said.

The Superfund program was established to identify the nation's worst hazardous waste problems and make sure they were cleaned up. Superfund amendments in 1986 gave ATSDR responsibility for looking into the dangers to human health at each site on the national priority list. The agency, which reports to the Department of Health and Human Services, was so rushed that for 165 Superfund sites, it simply found documents already prepared for other reasons and called them health assessments.

For example, the agency took a 1984 review by the Centers for Disease Control of a Massachusetts Health Department cancer mortality study and called it a health assessment of a site at New Bedford, Mass., even though the site was not mentioned. For more recent assessments, the agency has improved its work by visiting all the sites and contacting state or local health officials, the GAO report said. ("Superfund' Studies Called Deficient," *The Washington Post*, September 4)

**SEPTEMBER** - According to Jack Anderson, the Nuclear Regulatory Commission has proposed regulations that would permit radioactive wastes to be recycled into consumer goods such as toys, belt buckles, cosmetics, shotgun shells, fishing lures and frying pans. Anderson said: "Consumers will not find

a surgeon general's warning on these products. That's because the NRC has no plans to mandate labeling."

The policy was put on hold after creating a firestorm, but if ultimately implemented, the United States would allow levels of radiation that are ten times those suggested by international standards. An NRC spokesperson said: "We do not take actions that do not protect public health and safety." But an internal briefing paper from the Environmental Protection Agency painted a different picture: "We believe this is...not protective of the public health."

The nuclear power industry clamored for this change and, by some estimates, stands to save up to \$100 million each year from this cheaper form of waste disposal. The Nuclear Information and Resource Service, a public interest group, estimates the savings would be \$1 per year per utility customer.

The NRC adopted the controversial policy in June 1990 when it raised the level of certain less dangerous forms of radiation to which humans could be subjected, abdicating any regulatory oversight for lower levels. Under the policy, about 30 percent of the nation's low-level radioactive waste could be disposed of in a variety of common outlets, including sewer systems, incinerators, and ordinary landfills where it could seep into drinking water sources. Radioactive waste also, for the first time, would be allowed as recycled material in consumer products. ("No Child's Play in Recycled Waste," *The Washington Post*, September 9)

**SEPTEMBER** - The U.S. Geological Survey's Water Resources Scientific Information Center announced that monthly issues of *Selected Water Resources Abstracts* (SWRA) will cease with the December 1991 issue. The 1991 annual indexes will not be printed at all. The Geological Survey cited budget exigencies and the wide range of commercial sources which provide access to SWRA as reasons for discontinuing the printed publication. Magnetic tapes can be leased from the National Technical Information Service. The SWRA database of 235,000 abstracts is available online via DIALOG and the European Space Agency Information Retrieval Services.

A CD-ROM version of the SWRA is available from several vendors: the National Information Services Corporation charges \$595 a year; the OCLC version costs \$750 a year to nonmembers, \$700 for members. Since no government agency is producing the CD-ROM version of the SWRA, it will no longer be available to federal depository libraries where the public would have no-fee access to it. ("Selected Water Resources Abstracts Will Cease Publication," *Administrative Notes*, U.S. Government Printing Office, September 15)

**SEPTEMBER** - An article by Barry Meier highlighted criticism of the Consumer Product Safety Commission in its role as watchdog of the safety of all consumer products other than cars, boats, drugs, and food. One of the agency's most contentious issues concerns how it discloses information involving hazards. Under its rules, the agency must give a manufacturer a chance



to review and dispute any data about a product. The Consumer Product Safety Commission is the only safety agency that operates under such restrictions. Congress, in 1981, also prohibited the agency from releasing any data about product hazards that manufacturers are obliged to report to the commission. As a result, preliminary determinations about product hazards are no longer placed in a public reading room at the agency, said Alan Schoem, a commission lawyer.

Thus, it may be years before the public hears of suspect products. In November 1989, the Consumer Product Safety Commission determined that a popular portable heater might pose a fire risk. But it did not alert the public until August 1991, after the manufacturer agreed to fix 3.6 million units. In those 21 months, while the agency and company investigated and negotiated, eight people died in two fires that may have been started by faulty wiring in the heaters, said David Fonvielle, a lawyer in Tallahassee, Fla., for plaintiffs in some of the cases. The manufacturer said the units caused no fires.

Several other issues, including proposals that disposable lighters should be made childproof and ride-on lawn mowers made less liable to tip, have been unresolved for six years or more. Some CPSC problems appear traceable to its limited resources and slow processes. The FY 1991 agency budget was \$37 million, down from \$43.9 million in 1979. The agency's success in reducing product-related injuries has slowed. The rate of injuries per 100,000 Americans declined by 24 percent from 1978 to 1982, but between 1982 and 1988 that decline was only nine percent, commission data show. ("Product Safety Commission Is Criticized as Too Slow to Act," *The New York Times*, September 21)

**SEPTEMBER** - At the insistence of former President Ronald Reagan, 6.3 million pages of White House documents will be made public shortly after the opening of his presidential library on November 4. Stung by earlier press reports about a planned three-year restriction on release of all documents, Reagan urged his staff to do everything possible to make some documents available at the library opening, his aides said.

In a letter to National Archivist Donald Wilson, Reagan waived a 12-year delay on the release of 1.5 million pages of selected presidential records covering routine position papers and offering factual information on issues ranging from agriculture to highways and bridges. Reagan also asked that the archives open up an estimated 4.8 million pages of get-well cards, birthday greetings, and other unsolicited letters.

The remainder of the library's storehouse of 55 million pages of presidential documents—including all Iran-Contra documents—will remain shielded from public view for a decade or more by a variety of restrictions to protect national security, foreign policy, and confidentiality. ("Reagan Library Set to Release Private Papers," *The Washington Post*, September 25)

**SEPTEMBER** - A lobbying disclosure law is so riddled with exemptions that six big military contractors which spent \$5.7

million lobbying the executive branch and Congress last year only reported \$3,547, according to investigators for the Senate subcommittee on oversight of government management. Sen. Carl Levin (D-MI) chairs the subcommittee which held a hearing on September 25 to discuss the weaknesses of the lobbying disclosure laws, such as the 1989 Byrd Amendment that requires disclosure by contractors.

In a statement, Sen. Levin said: "Disclosure under the Byrd Amendment is almost non-existent, and it's not because there's so little lobbying. Instead, there's a real problem with the way this law has been interpreted, applied and also studiously avoided." A Pentagon inspector general's survey found that lobbying by 100-plus consultants was not disclosed because of the way contractors interpreted the Byrd Amendment. Their reading of the law was backed by the Defense Department and the Office of Management and Budget. ("Senate Panel Looks at Military Lobbying Law," *The New York Times*, September 26)

**SEPTEMBER** - Proposals by the Food and Drug Administration to improve nutrition labeling on food and drink have been overruled and weakened by the Office of Management and Budget, a consumer-advocacy group alleged. The Center for Science in the Public Interest released documents it obtained showing that some FDA proposals to implement the Nutrition Labeling and Education Act of 1990 were "substantially changed" by OMB. In the opinion of CSPI, the changes favor the interests of manufacturers and retailers.

However, an FDA spokesman said the changes were not significant and that the consumer group had exaggerated the issue. An OMB spokesman said nothing was forced on the FDA, which had agreed to the changes. According to CSPI, the changes would reduce by about 7,000 the number of grocery stores required to post nutrition information for fresh produce and seafood. "The net effect is that the consumer is less likely to see nutritional information than they would under FDA proposals," said Bruce Silverglade, CSPI director of legal affairs.

The FDA had also proposed that the manufacturers of diluted "fruit drinks" use a standard procedure to determine the percentage of real juice in their product—a figure given on the label. This test will be used by the FDA in any enforcement actions, but the OMB would allow manufacturers to use any test they want. "This leaves juice manufacturers free to use whatever test gives them the highest number for juice content," Silverglade said. In addition, the consumer group claims, citing FDA sources, that OMB is delaying approval of a study to test new nutrition labeling formats intended to help consumers better understand what is in their food.

In a separate move, Rep. John Conyers (D-MI), chairman of the House Government Operations Committee, wrote to the director of OMB demanding information on the OMB review of the FDA proposals. Conyers said OMB's revision "appears to subvert congressional intent as expressed in laws to protect public health and safety." Conyers said the OMB has, in the

past, "forced the FDA" to weaken regulations governing health claims on some food. ("OMB Accused of Weakening Food-Labeling Proposals," *The Washington Post*, September 26)

[Ed. note: See November 6 entry for follow-up article.]

**SEPTEMBER** - Judge Harold Greene ruled that a confidentiality clause in federal health research contracts, which bars private researchers from publishing their preliminary findings violates the First Amendment. The ruling comes in the same controversial area of the law that the Supreme Court addressed last May when it upheld a ban on federal funding for public clinics that give abortion counseling. At issue in that case, *Rust v. Sullivan*, and in the current case involving Stanford University was the same question: How much can government limit speech it is paying for?

Greene distinguished his ruling from *Rust*, saying the earlier case involved the government's right to see that public money is spent the way Congress intended. But in the case involving Stanford University, he ruled that the government was directly limiting the rights of scientists to talk about their work. "Few large-scale endeavors are today not supported, directly or indirectly, by government funds," Green wrote. "If [*Rust v. Sullivan*] were to be given the scope and breadth defendants advocate in this case, the result would be an invitation to government censorship wherever public funds flow."

At issue was a dispute between Stanford and the National Institutes for Health over a \$1.5 million contract to do research on an artificial heart device known as the left ventricular assist device. The NIH contract included a clause in the contract barring Stanford scientists from discussing "preliminary" research results or data that had "the possibility of adverse effects on the public." Stanford objected, saying the clause violated its First Amendment rights, as well as the tradition of academic freedom among scientists to discuss their work. Such confidentiality clauses have become common in NIH contracts in the past 15 years and usually are invoked in research involving clinical trials going on simultaneously at different universities. ("Federal Judge Rules NIH Research Confidentiality Clause Invalid," *The Washington Post*, September 27)

**OCTOBER** - A former top Central Intelligence Agency official testified in Senate confirmation hearings that in the 1980s, the CIA was a politicized cauldron in which estimates were slanted and false information was presented to the White House to match the policy objectives of the agency's director, William Casey. The testimony was presented by Melvin Goodman, a professor at the National War College who worked as a Soviet affairs specialist at the CIA for 24 years, to the Senate Select Committee on Intelligence, which was considering the nomination of Gates to direct the CIA. According to Goodman, Gates was Casey's chief agent inside the CIA intimidating analysts into producing slanted reports—especially on Iran, Nicaragua and Afghanistan. However, another former top CIA official, Graham

Fuller, told the senators that Goodman had presented "serious distortions."

The Senate committee made public the testimony by another CIA veteran, Harold Ford, who said Gates failed to take seriously the decline of communism and had offered memory lapses to the Senate committee that were "clever." Ford cited a key analysis he said overstated the depth of Soviet influence in Iran at a time when U.S. arms sales were being justified as a counterbalance to Moscow's influence with Tehran. ("Ex-Aide Calls CIA Under Casey and Gates Corrupt and Slanted," *International Herald Tribune*, October 2)

[Ed. note: See following entry.]

**OCTOBER** - Robert Gates vigorously denied he had exerted pressure on agency analysts to distort Central Intelligence Agency reports. He acknowledged that in a "rough and tumble" CIA atmosphere during the 1980s, embittered and inflexible analysts perceived such political pressure. "I never distorted intelligence to support policy or please a policy-maker," Gates said in testimony to the Senate Intelligence Committee, which was considering his nomination to direct the CIA. Gates drew on freshly declassified CIA memos to present a counterattack against damaging charges by current and former CIA officials that he slanted CIA analyses to suit White House policy objectives and those of William Casey, then the agency's director. ("Gates Tells Panel He Didn't Order Data to Be Slanted," *International Herald Tribune*, October 4)

**OCTOBER** - During the debate on the conference report on HR 1415, the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Sen. Jesse Helms (R-NC), ranking minority member of the Senate Foreign Relations Committee, discussed classification of government information. He observed:

One of the handiest tools used by executive branch agencies to keep Congress in the dark..., is needless classification of documents. Proper classification of matter relating to vital national security concerns of the United States have my full support. But classification that covers up information that might merely provide to be an embarrassment is inexcusable.

(October 4 *Congressional Record*, p. S14439)

**OCTOBER** - The owner and publisher of the Santa Fe *New Mexican*, Robert McKinney, fired its managing editor and criticized a series of articles detailing safety and environmental hazards at Los Alamos National Laboratory, the largest employer in the Santa Fe area. The series contained 32 articles published during six days in February 1991. The series, based in part on documents obtained under the Freedom of Information Act, stated that cleaning up 1,800 sites of possible contamination near Los Alamos would cost \$2 billion over a 20-year period. The articles further stated that the lab releases large amounts of chemical and radioactive contamination into the environment

daily, although the risk to public health is slight to nonexistent.

Lab officials did not cite inaccuracies in the series or ask for corrections. But the *New Mexican* published critical opinion pieces by Siegfried Hecker, director of Los Alamos, and former director Harold Agnew. "Any activity creates wastes," Agnew wrote. "Making a dinner salad, baking a pie....Nuclear wastes are no more dangerous than many other wastes." In late August, Los Alamos released a 308-page internal evaluation highly critical of its failure to comply with safety and environmental regulations, essentially confirming much of what had been in the paper's February series. ("After Nuclear Series, Paper Melts Down," *The Washington Post*, October 5)

**OCTOBER** - In 1985, at the midway point of the worldwide campaign to raise childhood immunization rates fourfold to 80 percent, public health officials in the United States stopped counting. As a result, the United States is the only country in the world that has no official figures on immunization rates of 1- or 2-year-olds. The official explanation was that data collection was costly and the methodology was suspect, but critics contended that the Reagan administration was embarrassed by the contrast between improving immunization rates throughout the Third World and five consecutive years of decline in the United States.

Even without comprehensive data, problems are evident. Nearly 28,000 cases of measles were reported in 1990—more than 18 times the number reported in 1983, when the disease reached an all-time low, and more than 50 times the goal of 500 cases per year that the U.S. surgeon general had set for 1990. Nearly half the measles patients were under age five. In the wake of the measles outbreak, the government has begun to collect immunization data again.

The measles epidemic, along with outbreaks of rubella and whooping cough, has sparked a debate about whether supply or demand is the problem. The supply-siders hold that federal and state funding has not kept pace with a thirteenfold rise in the cost of the vaccines during the past decade. According to a survey last year by the Children's Defense Fund and the National Association of Community Health Clinics, 72 percent of public health clinics experienced spot shortages of vaccines. The demand-side holds that, while there are access problems, the real barrier is a mix of complacency and poverty. To combat the problem, the administration has called for a \$40 million increase in immunization funding for this year; Congress is considering a \$60 million to \$80 million increase. ("U.S. Immunization Rates Uncertain," *The Washington Post*, October 9)

**OCTOBER** - The fight to gain release of the adjusted 1990 census figures has expanded to include states and the House of Representatives, with Rep. Thomas Sawyer (D-OH) saying he will seek a subpoena of the count from the Commerce Department if necessary. At least five state legislatures have filed Freedom of Information Act requests, arguing that they need to see the adjusted count to determine which set of figures—the official census number of those adjusted to compensate for an

undercount—should be used to redraw political boundaries. Sawyer maintains that public access to the data is a matter of fairness: "The American people ought to be able to see and evaluate those numbers. They belong to the American taxpayer, who paid about \$35 million to generate those numbers."

Commerce Secretary Robert Mosbacher has refused all requests to make public the adjusted figures, saying the numbers were flawed and their release could disrupt the redistricting process going on across the country. Sawyer said Mosbacher's refusal to adjust the census or even make public the adjusted counts "has left state legislatures all over the country struggling with large and demonstrably disproportionate undercounts of minorities." ("Adjusted Census Figures Subject of Wider Fight," *The Washington Post*, October 17)

**OCTOBER** - The White House Council on Competitiveness, a regulatory review panel chaired by Vice President Dan Quayle, has refused to turn over documents to several congressional committees seeking to determine the council's role in federal rulemaking. Critics of the Vice President's council assert that it has become a "super-regulatory" agency beholden to business interests, revising regulations after they are written by the designated agencies. The White House maintains that the council is simply an arm of the President's executive office and as such has all the power to review and suggest regulations that the President gives it. The council has claimed executive privilege to fend off requests for information on its deliberations.

Sen. John Glenn (D-OH), chair of the Senate Governmental Affairs Committee, commented that presidential regulatory review is "process cloaked by mystery and secrecy and encourages the representation of interests that may unfairly influence agency rule making." ("Questions on Role of Quayle Council," *The New York Times*, October 19)

**OCTOBER** - The National Research Council reported that the nation's mammoth program to clear up toxic waste was hampered by the inability to tell the difference between dumps posing a real threat to human health and those that do not. The research council, an arm of the National Academy of Sciences, said that because not enough money was spent on developing a sound scientific system for setting priorities, the nation faced the prospect of wasting billions of dollars on dumps that posed little or no risk and ignoring dumps that were a true threat to the environment and public health.

In addition to criticizing weaknesses in the management of the Superfund program, the report's recommendations are equally applicable to even more expensive cleanup programs managed and paid for by the Department of Energy and the Department of Defense. The two departments are spending more than \$6 billion this fiscal year on cleaning up toxic chemical and radioactive waste sites. "We shouldn't be making decisions on spending billions of dollars out of ignorance," said Dr. Thomas Chalmers of the Department of Veterans Affairs in Boston, Mass., a member of the committee that prepared the report.



"We need much more data to determine which sites ought to be pursued and we need to set up a better system of evaluating risks." ("U.S. Said to Lack Data on Threat Posed by Hazardous Waste Sites," *The New York Times*, October 22)

**NOVEMBER** - House Democrats accused Interior Secretary Manuel Lujan Jr. of manipulating the conclusions of a report to Congress that favored development of a geothermal energy plant near Yellowstone National Park, by failing to tell them that the National Park Service had dissented vigorously. Yellowstone's geysers are powered by a vast reservoir of underground heat, a resource developers would like to tap.

The report, compiled primarily by the U.S. Geological Survey, concluded that small-scale geothermal development, such as that planned just outside Yellowstone's border by the Church Universal and Triumphant, would pose little risk to the geysers and hot springs that have made Yellowstone a worldwide attraction. However, Lujan did not give Congress a companion report by the Park Service which argued that any such development could threaten the park. ("Manipulation Charged on Yellowstone Report," *The Washington Post*, November 1)

**NOVEMBER** - Janet Norwood, commissioner of the Bureau of Labor Statistics, testified before the Joint Economic Committee that the Bush administration is studying new jobs data some economists said could mean the government has underestimated the depth of the recession and prospects for recovery. Norwood's comments appeared to provide the first official federal backing for concerns expressed recently by economists from some state governments that the BLS estimates earlier this year of employment and payroll figures were far too optimistic.

Norwood told the committee that the BLS is studying the states' data, and the result could be a lowering of first quarter 1991 employment figures and payroll estimates. Payroll data collected by state governments show a far weaker job market than the BLS estimate, and, if the states' counts hold up, they could lower the BLS estimates of employed people by at least 650,000, she said. The BLS numbers are given to the Department of Commerce, where they are plugged into the government's national economic accounts. While a decline in the payroll numbers does not necessarily mean a decline in the gross national product, it means that "the GNP has been a whole lot weaker than anyone thought," according to a senior congressional economist. ("Federal Jobs Data Called Too Optimistic," *The Washington Post*, November 2)

**NOVEMBER** - There was a pattern of delay or denial affecting nearly every family that lost a serviceman to "friendly fire" in the Persian Gulf War, according to an investigation by the *Washington Post*. The Army, in particular, broke its own rules by concealing basic facts for months from the next of kin, and its efforts to postpone disclosure often led it to stretch the truth. Some families never suspected. Others found out through news reports or enlisted friends of the dead men. Some heard only

rumors and begged for details. Still others, including all the Marine families, learned informally that a "friendly fire" investigation was underway. All had to wait months for the final word.

Senior officers, in interviews, denied that any family had been deceived. They said the delay in informing families was for the families' own good, in order to verify all the facts and synchronize public release of the findings. The families, almost unanimously, replied they were entitled to the truth—as much as the services knew, as soon as they knew it.

Military documents obtained through the Freedom of Information Act, together with interviews with Defense Department officials and the families of 21 "friendly fire" casualties, indicated that local commanders had clear evidence of "friendly fire" in 33 of the 35 cases by the end of March, but an inter-service agreement withheld that information from the families until August. Of 148 U.S. battle deaths in the war, 35 were inflicted inadvertently by U.S. troops. The article contains many specifics about the experience of several families. ("Friendly Fire" Reports: A Pattern of Delay, Denial," *The Washington Post*, November 5)

[Ed. note: In a November 5 hearing before the Senate Select Committee on POW-MIA Affairs, Secretary of Defense Richard Cheney defended the delays in information about "friendly fire" deaths as "just a normal, natural part of the process." ("Casualty Report Delay Called 'Normal'," *The Washington Post*, November 6)]

**NOVEMBER** - In a move likely to provide more access to information, the Food and Drug Administration and the Agriculture Department proposed the most sweeping set of new food labeling regulations in U.S. history. The proposed guidelines will extend nutrition labeling to all processed foods, force a far more complete listing of ingredients, and standardize what previously had been a byzantine set of regulations on health claims by food manufacturers. The rules, which are open for comment and will be finalized at the end of 1992, are intended to make it easier for consumers to cut through what Health and Human Services Secretary Louis Sullivan has called the "Tower of Babel" in supermarkets and identify the most healthful foods. ("Food Label Reforms to Be Unveiled," *The Washington Post*, November 6)

**NOVEMBER** - Former Assistant Secretary of State Elliott Abrams pleaded guilty in federal court to two charges of illegally withholding information from Congress about covert U.S. support for the Contra rebels in Nicaragua. The only State Department official to face criminal charges thus far for covering up key aspects of the Iran-Contra affair, Abrams admitted testifying untruthfully before two congressional committees in October 1986, within a fortnight of the crash of a Contra resupply plane in Nicaragua.

Among the details he held back, Abrams said, was that he

had solicited a \$10 million contribution from the Sultan of Brunei and had been informed by State Department cable that the money was on its way to a Swiss bank account. In entering the misdemeanor pleas, Abrams averted the threat of felony charges and agreed to cooperate with independent counsel Lawrence Walsh in the final stages of Walsh's investigation of the Iran-Contra scandal. ("Abrams Pleads Guilty in Iran-Contra Affair," *The Washington Post*, November 8)

**NOVEMBER** - In late October, James McConnell, Securities and Exchange Commission executive director, stopped distribution of the September/October edition of *SEC Employee News*, which had already been printed. McConnell believed an article critical about "tension around race and gender" within the agency was based on insufficient research and thus was unfair, according to Jessica Kole, special counsel to the executive director. Sexual harassment issues emerged as a major problem for the agency three years ago.

McConnell's decision disturbed some SEC employees, sources said, because recent events indicated to them that serious problems at the agency persist. The agency has been under court order to stop sexual harassment and discrimination since 1988, when it lost a sexual harassment case involving employees in its now-defunct Washington, D.C., regional office. The newsletter article, by SEC equal employment opportunity specialist Janis Belk, said there were numerous concerns in the SEC's regional offices about the handling of racial and gender issues. ("SEC Blocks Newsletter Containing Article on Gender, Racial Issues," *The Washington Post*, November 8)

**NOVEMBER** - An advisory panel told the Food and Drug Administration that silicone-gel breast implants should continue to be available for all women, despite an "appalling" lack of information on the safety of the devices and their effects on long-term health. The panel voted against approving silicone implants made by four manufacturers, but agreed the devices should stay on the market under the same status they have always had while the manufacturers conduct additional research on women who have the devices. The panel also said the FDA should see that women contemplating implant surgery are given more detailed information about the risks and benefits.

Panel members prodded the FDA to demand that the manufacturers quickly produce more detailed studies of the rate of rupture, the amount of silicone—a synthetic polymer—that leaks from the devices, and the long-term effects of chronic seepage, which some have suggested could cause cancer or other illnesses. Breast implants have been on the market for more than 30 years, and more than two million women have them. But because the devices came on the market before the FDA gained authority to regulate medical devices, the agency has never evaluated their safety or effectiveness.

FDA Commissioner David Kessler said the "FDA will make sure the data is collected, and collected expeditiously." Several panel members, however, said they had been disappointed in the

past, when FDA failed in 1982 and 1988 to push the manufacturers to produce more detailed studies. The companies that sought approval for their implants were Dow Corning Wright, Mentor Corp., McGhan Medical Corp., and Bioplasty Inc. Several other manufacturers had been asked to submit safety data to the panel; but rather than comply, they dropped out of the business. "Companies can't say these devices are perfectly safe any more because we now see there isn't enough evidence to establish that," said Sidney Wolfe, director of Public Citizen's Health Research Group. ("Breast Implants Allowed," *The Washington Post*, November 15)

**NOVEMBER** - Acting outside the Constitution in the early 1980s, a secret federal agency established a line of succession to the Presidency to assure continued government in the event of a devastating nuclear attack, current and former United States officials said. The officials refused to discuss details of the plan, the existence of which was disclosed in a television program on the Cable News Network. The CNN report said that if all 17 legal successors to the President were incapacitated, nonelected officials would assume office in extreme emergencies.

The secret agency, the National Program Office, was created by former President Ronald Reagan in 1982 to expand the list of successors and a network of bunkers, aircraft, and mobile command centers to ensure that the government continued to function in a nuclear war and afterward. Oliver North, then a Marine lieutenant colonel and an aide on the National Security Council, was a central figure in establishing the secret program, CNN said.

The CNN report also said the United States had spent more than \$8 billion on the National Program Office since 1982, much of the money on advanced communications equipment designed to survive a nuclear blast. The communications systems were technically flawed, however, and prevented the State Department, Defense Department, Central Intelligence Agency, and Federal Emergency Management Agency from being able to "talk to each other," according to CNN.

Administration officials refused to discuss the secret succession plan or the National Program Office. A leading constitutional scholar who appeared on the CNN broadcast, Prof. William Van Alstyne of Duke University, said the very secrecy surrounding the plan could undermine its credibility if it ever had to be put into effect. Who, he asked, would believe an obscure figure claiming to be President under a top-secret plan no one had ever heard of? ("Presidents' Plan to Name Successors Skirted Law," *The New York Times*, November 18)

**DECEMBER** - In June 1989, the FBI raided the Energy Department Rocky Flats plutonium plant to check reports that workers were burning hazardous waste in an illegal incinerator and violating other environmental laws. Prosecutors, the FBI, and Rocky Flats managers have said little about the progress of the investigation, and no one has been indicted. Most of what is known about the case is coming from Karen Pitts and Jacqueline

Breuer, who have charged in a lawsuit that Rocky Flats officials and supervisors often disregarded safety rules and harassed the two women for talking to federal investigators.

Pitts and Breuer left Rocky Flats in April 1991. Officially they resigned, but they charge in their lawsuit that 19 individuals mistreated and harassed them. Also named as defendants are EG&G Inc., the Energy Department's principal Rocky Flats contractor, and its predecessor, Rockwell International Corp. The Energy Department is not a defendant.

The two women, key witnesses in the 2½-year investigation into alleged illegal activities at Rocky Flats, are telling their stories at public meetings and on radio talk shows, in newspaper and network interviews. They tell of routine safety violations, management indifference to potential disasters, and intimidation of workers who raised questions, and they have become the focus of public debate about the long-running investigation at the troubled plant. ("2 Women at Rocky Flats Plant Tell of Intimidation, Safety Violations," *The Washington Post*, December 28)

**DECEMBER** - In a switch on the problem of less access to government information, a Tampa firm is claiming "instant access" to a wide range of "confidential" computer data, including government data. For fees ranging from \$5 to \$175, Nationwide Electronic Tracking, or NET, promised it could provide customers with data on virtually anyone in the country—private credit reports, business histories, driver's license records, even personal Social Security records and criminal history background.

NET may seem like a boon to companies trying to check out job applicants or even homeowners suspicious of their new neighbor. But some federal officials say it also was evidence of a growing computer-age menace—the fledgling "information broker" industry that some experts fear may pose one of the most serious threats to individual privacy in decades.

Law enforcement officials say that as the demand for personal data grows, information brokers are increasingly turning to illegal methods. In mid-December, NET was identified by the FBI as one player in a nationwide network of brokers and private investigators who allegedly were pilfering confidential personal data from U.S. government computers and then selling them for a fee to lawyers, insurance companies, private employers, and other customers.

The information-broker investigation involved what officials say was the largest case ever involving the theft of federal computer data and was all the more striking because it was essentially a series of inside jobs. Among the 16 people arrested by the FBI in ten states were three current or former Social Security Administration employees (in Illinois, New York and Arizona) charged with selling personal records contained in SSA computers. In effect, law enforcement officials said, information brokers such as NET were bribing the government employees to run computer checks on individuals for as little as \$50 each. Computer checks were being run "on thousands of people," said Jim Cottos, regional inspector general in Atlanta for the Depart-

ment of Health and Human Services, whose office launched the investigation. ("Theft of U.S. Data Seen as Growing Threat to Privacy," *The Washington Post*, December 28)

**DECEMBER** - In an editorial titled, "Say Merry Christmas, America," *Government Technology* editor Al Simmons urged readers to ask their legislators to support two pending House bills that would increase public access to government information. The bills are: HR 2772 introduced by Rep. Charlie Rose (D-NC) and HR 3459 introduced by Rep. Major Owens (D-NY). Simmons called the two legislators "a couple of fearless gents from the old school of representative government who are ready to take on the bureaucracy and the private sector lobby as well."

HR 2772 proposes a WINDO (Wide Information Network for Data Online) to be managed by the Government Printing Office which would act either as a gateway to dozens of federal databases or to provide a GPO online system for direct access to tax-payer supported databases. Simmons wrote, "Further, Rose not only thinks WINDO should be affordable to citizen users, he wants WINDO access without charge to the nation's 1,400 federal depository libraries as a computer extension of the depository library system established more than 130 years ago...."

The Improvement of Information Access Act, HR 3459, would require federal agencies to store and disseminate information products and services through computer networks, and set the price of information products and services at the incremental cost of dissemination.

Simmons took issue with government agencies such as the Bureau of the Census that charge as much as \$250 for a CD-ROM, even though the actual cost is about two dollars. He also pointed out there are "the private sector data vendors who spend a lot of money trying to discourage the idea that government information should be accessible by citizens directly from the government." ("Say Merry Christmas, America," *Government Technology*, December)

Earlier chronologies of this publication were combined into an indexed version covering the period April 1982-December 1987. Updates are prepared at six-month intervals. *Less Access...* updates (from the January-June 1988 issue to the present publication) are available for \$1.00; the indexed version is \$7.00; the complete set is \$15.00. A new compilation is expected in early 1992. Orders must be prepaid and include a self-addressed mailing label. All orders must be obtained from the American Library Association Washington Office, 110 Maryland Ave., NE, Washington, DC 20002-5675; tel. no. 202-547-4440, fax no. 202-547-7363.





## ALA Washington Office Chronology INFORMATION ACCESS

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XVIII

*A 1992 Chronology: January - June*

## INTRODUCTION

During the past eleven years, this ongoing chronology has documented administration efforts to restrict and privatize government information. A combination of specific policy decisions, the administration's interpretations and implementations of the 1980 Paperwork Reduction Act (PL 96-511, as amended by PL 99-500) and agency budget cuts have significantly limited access to public documents and statistics.

The pending reauthorization of the Paperwork Reduction Act should provide an opportunity to limit OMB's role in controlling information collected, created, and disseminated by the federal government. However, the bills that have been introduced in the 102nd Congress would accelerate the current trend to commercialize and privatize government information.

Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued its proposed revision of the circular in the April 29 *Federal Register*. Particularly troubling is OMB's theory that the U.S. Code's definition of a "government publication" excludes electronic publications. Agencies would be unlikely to provide electronic products voluntarily to depository libraries—resulting in the technological sunset of the Depository Library Program, a primary channel for public access to government information.

Another development, with major implications for public access, is the growing tendency of federal agencies to utilize computer and telecommunications technologies for data

collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions which creates a climate in which government information activities are suspect. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JANUARY** - The Army's Strategic Defense Command is taking steps to dismiss a veteran physicist who says he is being punished for his complaints about gross waste and mismanagement in the multibillion-dollar Strategic Defense Initiative. In an affidavit submitted to lawyers for the Government Accountability Project, Aldric Saucier, a civilian scientist at the Pentagon with more than 25 years of government service, said he had an "unblemished record until [he] started challenging 'Star Wars' abuses."

"Star Wars," he said in the affidavit, "has been a high-risk, space age, national security pork barrel for contractors and top government managers."

House Government Operations Committee Chairman John Conyers Jr. (D-Mich.) said his subcommittee on legislation and national security is investigating many of Saucier's allegations. A Conyers aide said the inquiry is just getting started but that at least one of Saucier's charges—about unauthorized destruction of thousands of scientific reports costing millions of dollars—has been corroborated.

The embattled scientist said he repeatedly blew the whistle on examples of waste and mismanagement, such as an unauthorized destruction of 3,000 studies and reports at an SDC-contractor library in Huntsville, Ala. ("Scientist Says Army Seeks to Fire Him for Criticizing SDI," *The Washington Post*, January 10)

**JANUARY** - Rep. Thomas Sawyer (D-Ohio), chairman of the subcommittee on census and population, and the Commerce Department came to an agreement over the release of "adjusted" census figures, ending a dispute that had prompted the panel to subpoena the data. Commerce agreed to turn over half of the population figures, which have been statistically weighted to compensate for persons missed in the 1990 census. Sawyer said the subcommittee needs the data to assess the quality of the census and determine what changes should be made for the 2000 census.

In a letter to Commerce Secretary Robert Mosbacher, Sawyer chided him for halking at the request for information. Mosbacher, who resigned his post in mid-January to manage President Bush's re-election campaign, had ignored the subpoena and sent a representative to inform the subcommittee that the department would turn over only half of the numbers.

Commerce Department officials have argued that it would be irresponsible to turn over the adjusted census figures because they are flawed and their release could disrupt redistricting efforts underway across the country. However, New York City and other jurisdictions have sued to overturn that decision, arguing that the adjusted figures are a fairer representation of the nation's population distribution. ("Accord Reached on 'Adjusted' Census Figures," *The Washington Post*, January 10)

**JANUARY** - A Central Intelligence Agency panel, the Openness

Task Force, established by Director Robert Gates to explore ways to lift the agency's veil of secrecy, has recommended declassifying vast quantities of older documents and making agency officials more accessible to the public. Intelligence officials say the internal panel has sent Gates a list of options that also includes more on-the-record interviews, public speeches, and public testimony to Congress by senior agency officials, as well as the release of new material to complement the current publication of maps, world fact books, and economic reports.

The internal soul-searching stems from the pragmatic concern that in a world where the historic enemy has disappeared, the intelligence community must justify its billion-dollar satellites and thousands of analysts and spies. Under the openness panel's most sweeping recommendations, the CIA would declassify millions of pages of documents, some of them dating to World War I, making them available to the public, perhaps in a computer information bank. ("C.I.A. Study Panel Suggests Openness on Agency Records," *The New York Times*, January 12)

[Ed. note: In May, during congressional testimony, CIA Director Robert Gates expressed determination to release "every relevant scrap of paper in CIA's possession" about the assassination of President John Kennedy to dispel the notion that the intelligence agency or other elements of the government were involved in the murder. ("CIA to Release Some JFK Documents," *The Washington Post*, May 13)

**JANUARY** - Communities made up of minorities—black, Hispanic, and American Indian—experience "greater than average" exposure to some environmental poisons according to the draft report of an Environmental Protection Agency task force. The report, "Environmental Equity," says the environmental poisons include lead, air pollutants, toxic waste, and tainted fish. But, the authors said, race is not as significant a factor as poverty in determining which communities face the highest risk.

A task force of EPA staff members combed government and scholarly reports to determine the extent and source of risk to minority areas, said Robert Wolcott, who heads EPA's water and agriculture policy division. Although there are clear differences in death and disease rates among ethnic groups, the task force was unable to document how much environmental factors contributed to that rate. Nor were data available that categorized people by race suffering from environmentally caused disease. The one exception was childhood lead poisoning.

The task force recommended the development of new data systems to assess risk by race and income, improve procedures for identifying highly polluted areas, to look for ways to reduce risk in hard-hit communities, and to review permits and enforcement practices to assure that all communities are treated fairly.

("Minorities' Pollution Risk Is Debated," *The Washington Post*, January 16)

**JANUARY** - The Food and Drug Administration told the leading manufacturer of silicone gel breast implants to agree to allow the government to make public the confidential new information that contributed to the FDA's voluntary moratorium on the sale and use of implants. A top FDA official said the agency had determined that 90 key studies and memoranda "should be made publicly available" and was prepared to take unspecified steps to allow their release if the company did not cooperate. Normally some of the documents would be treated as confidential commercial information. ("FDA Presses for Disclosure on Implants," *The Washington Post*, January 20)

**JANUARY** - President Bush's senior advisers have recommended that he stop all government agencies from issuing new rules for three months as part of a broad campaign to revive the economy by reducing the burden of federal regulation. "What we envision is a moratorium on proposing new regulations, across the board in every agency, except those rules required by statute or those that stimulate economic growth," a White House official said. The moratorium would affect most of the 4,800 regulations being developed by federal agencies.

White House officials listed seven broad areas in which they now hope to reduce federal regulation on entrepreneurs and business: environmental protection (including fuel economy standards for automobiles); energy (natural gas, electricity); transportation (trucking, ocean shipping, airlines); exports; communications (cellular telephones, cable television); biotechnology, and "access to capital."

Rep. John Conyers Jr. (D-Mich.) and Sen. John Glenn (D-Ohio) have charged that the White House improperly interfered in the rulemaking of federal agencies. ("In Move to Spur Economy, Bush is Urged to Order 90-Day Ban on New Federal Rules," *The New York Times*, January 21)

**JANUARY** - Senate intelligence committee Chairman David Boren (D-Okla.) declared that all government papers on President John Kennedy's assassination should be opened to clear the air on whether federal agencies were involved in the incident. Boren said all government documents, including those now classified, should be open to legitimate historians. "I have no information or knowledge which would lead me to believe that our government agencies were involved in any kind of plot in relation to the death of President Kennedy," Boren said in a statement. The National Archives has said about 2 percent of the documents collected by the official Warren Commission investigation in 1964 remain classified. ("Boren Seeks Opening of Assassination Papers," *The Washington Post*, January 22)

**JANUARY** - New policy guidance from Gen. Carl Mundy to Marine generals and commanding officers told them that family members of friendly fire casualties are "rightfully entitled" to

"all details" of fatal accidents, even when the facts "may embarrass the Marine Corps or reflect negatively on your command." But Mundy, the Marine commandant, stopped short of establishing a deadline for disclosure. Mundy said his guidance responded to news articles about the handling of friendly fire casualties in the Persian Gulf War. Since the war, many families have complained that the Army and Marine Corps withheld the truth for months about how their relatives died.

Mundy, who requested a meeting with a *Post* reporter in November 1991, said then he was surprised to learn that family members would want to know that their loved ones died under friendly fire. He said that if either of his sons were to perish at the hands of American troops, he would want to know only "that they died fighting the enemy." But he said he intended to honor the wishes of families for "accurate and timely information."

The Army, subject to far harsher criticism from families of its 21 friendly-fire fatalities in the gulf war, has issued no similar guidance. The Army has not disclosed results of an internal investigation into alleged deception of several soldiers' families. In mid-January, Maj. Gen. Peter Boylan, acting inspector general, denied a Freedom of Information Act request filed by *The Post* for a copy of the investigation. ("Marines Ordered to Reveal Friendly Fire Death Details," *The Washington Post*, January 23)

**JANUARY** - The American trade deficit is probably \$10 billion to \$20 billion a year smaller than is officially reported because the nation's exports are systematically undercounted, according to a study released yesterday by a panel of business leaders, bankers and academics. According to the 30-month study, performed for the congressionally chartered National Research Council, the true competitive position of U.S. companies is being misrepresented not only by the imprecise trade data, but also by many analysts' failure to take account of the foreign manufacturing operations of U.S. firms.

The report could provide comfort for the White House, which is under fire from Democrats for its handling of trade relations, especially with Japan. Robert Baldwin, a University of Wisconsin economics professor who was chairman of the panel, said U.S. exports to Japan, Germany, and Britain were routinely underreported by about 7 percent during the 1980s. The group called for steps to assure that U.S. exporters promptly report their foreign sales and for increased automation of reporting and tabulating of the numbers. U.S. official said that they have already made many of the changes recommended by the report, but some of the panel's suggestions would require major spending. ("U.S. Trade Deficit Overstated, Report Says," *The Washington Post*, January 29)

**JANUARY** - Thirteen former counsel and staff members of the Warren Commission urged all government agencies, including the FBI and the CIA, to make public all records compiled in investigating the 1963 assassination of President John Kennedy. In a joint statement they said the reasons for secrecy had



dissipated after 28 years and officials should be guided by a bias in favor of public disclosure. The 13 delivered a letter to the Archivist of the United States, Don Wilson, asking his help in releasing the remaining 2 percent of Warren Commission evidence that is still under seal.

Washington lawyer Howard Willens, a spokesman for the group, said they want to dispel charges of a governmental coverup following the assassination and are confident that public disclosure would bear them out on that point, even though debate over what happened in Dallas Nov. 22, 1963, probably will never end. ("Ex-Warren Staffers Urge JFK Data Release," *The Washington Post*, January 31)

**JANUARY** - Rep. Gerry Sikorski (D-Minn.) and other members of a House post office and civil service subcommittee said they were "shocked" by a former special agent's testimony that the Forest Service logged national forests illegally and retaliated against agency whistleblowers. John McCormick, who retired earlier in January, said the agency violated environmental laws, manipulated scientific evidence to benefit the timber industry, and punished workers who raised objections. In sworn testimony, McCormick said the Forest Service covered up internal evidence of misconduct and denied public requests under the Freedom of Information Act, falsely claiming the requested documents did not exist. Sikorski said he will ask the Justice Department to investigate the allegations. ("Panel Chairman to Seek Probe of Forest Service," *The Washington Post*, January 31)

**FEBRUARY** - Marshall Turner of the Bureau of the Census, informed recipients of bureau press releases that "due to budgetary constraints, we will henceforth be able to provide copies of Census Bureau press releases only to members of the press." Other sources for press releases or information of the type provided in press releases were identified in Turner's letter: two commercial information vendors. He also pointed out that some State Data Centers may also provide copies of the press releases. (Letter dated February 1992, from Marshall L. Turner Jr., Chief, Data User Services Division, Bureau of the Census, to Press Release Users)

**FEBRUARY** - A task force commissioned by CIA Director Robert Gates has recommended creation of what would be the world's most exclusive electronic news network, featuring supersecret intelligence reports and the latest information from satellites in space and espionage agents around the globe. The proposed CIA network would be a multimillion-dollar proposition, offering news bulletins six days a week to an elite audience composed initially of fewer than 100 key government officials. "This will be the only news network where the producers are trying to limit their audience," an administration official said.

Gates has favored an instant intelligence news network for years, though an agency official said the director has not yet given the go-ahead to the system. During his confirmation

hearings as CIA director, Gates said such a network was one of the early innovations he had in mind for the agency as a way to put into perspective the instantaneous coverage of the Cable News Network that policymakers now all seem to watch. Lawmakers, however, probably would not be among the early recipients of the proposed system, and it is uncertain whether the network would ever expand to Capitol Hill. ("Clearance Sought for New CIA Network," *The Washington Post*, February 5)

**FEBRUARY** - Thirty years after the first silicone-filled breast prosthesis was implanted in an American woman, a special committee of the Food and Drug Administration will meet to ask whether the devices are safe enough to remain on the market. They will not get a satisfactory answer. In three days of hearings, no one will present definitive long-term studies on the questions that interest the FDA most: How often does the gel inside these implants leak into the body and what happens when it does? These studies have never been done.

Manufacturers said they did their own inhouse testing of silicone in the 1960s and 1970s and did not think any broader study was necessary. The FDA, given the power to regulate implants in 1976, did not even ask companies to submit safety data on them until two years ago. "The reason we are still resolving this issue 30 years later is that there are a lot of vested interests," said FDA Commissioner David Kessler. "There are people who think it is safe and people who think it isn't safe. There is tremendous belief on both sides. But there isn't the data. We have gotten to this point without the data. That's why we are in this difficult situation." ("FDA Set to Begin Hearings on Silicone Breast Implants," *The Washington Post*, February 17)

**FEBRUARY** - In 1978, a U.S. bank examiner gave federal authorities extraordinary examples of the Bank of Credit and Commerce International's troubled loans, nominee shareholders and other problems that would eventually derail the foreign bank. That report and memos from the Central Intelligence Agency were used at a Senate foreign relations subcommittee hearing as fresh examples in a growing body of evidence that officials in the Office of the Comptroller of the Currency, the Treasury, and the Central Intelligence Agency knew about the perils of BCCI years earlier than previously reported, but took no action to inform law enforcement officials or other bank regulators.

Both the 1978 memo from an OCC examiner and a 1985 memo from the CIA that was hand-carried to the Treasury Department are now "lost," according to the testimony of OCC and CIA officials. Before the congressional hearing, the earliest acknowledged government awareness of BCCI's troubles was 1986. The OCC document, prepared by bank examiner Joseph Vaez, apparently disappeared from the OCC's files. Last August, Vaez found his personal copy of the memo in a file in his garage and sent it to the OCC. When Sen. John Kerry (D-Mass.) requested a copy from the OCC, the agency refused

and the subcommittee he chairs subpoenaed the document. "It makes one wonder whether the OCC believes it has something to hide," Kerry said at the hearing. ("U.S. Warned About BCCI in 1978, Panel Told," *The Washington Post*, February 20)

**FEBRUARY** - In a two-part series in the *Los Angeles Times*, Murray Waas and Douglas Frantz, wrote a special report documenting the aid provided to Iraq by the Reagan and Bush administrations. According to the report, in the fall of 1989, at a time when Iraq's invasion of Kuwait was only nine months away and Saddam Hussein was desperate for money to buy arms, President Bush signed a top-secret National Security Decision Directive ordering closer ties with Baghdad and opening the way for \$1 billion in new aid, according to classified documents and interviews.

The \$1 billion commitment, in the form of loan guarantees for the purchase of U.S. farm commodities, enabled Hussein to buy needed foodstuffs on credit and to spend his scarce reserves of hard currency on the massive arms buildup that brought war to the Persian Gulf. Getting new aid from Washington was critical for Iraq in the waning months of 1989 and the early months of 1990 because international bankers had cut off virtually all loans to Baghdad.

Bush's efforts reflected a pattern of personal intervention and support for aid to Iraq that extended from his early years as vice president in the Reagan administration through the first year of his own presidency and almost to the eve of the Persian Gulf War. ("Secret Effort by Bush in '89 Helped Hussein Build Iraq's War Machine," February 24; and "U.S. Loans Indirectly Financed Iraq Military," February 25, in the *Washington Edition/Los Angeles Times*)

**FEBRUARY** - During a review of the controversial program to develop a space nuclear reactor, the House Investigations Subcommittee on Science, Space and Technology uncovered a National Aeronautics and Space Administration "how-to manual" on circumventing the Freedom of Information Act. The outraged chair of the subcommittee, Howard Wolpe (D-Mich.), described the document as an attempt by NASA to subvert not only the FOIA, but the right of Congress to review agency decision-making. Indeed, the manual calls for destruction of documents, which Wolpe points out is a violation of federal law. During the Reagan years, NASA regularly sought an exclusion to the FOIA, but Congress refused. ("NASA Accused of Attempting to Withhold Information on SP-100!" *What's New*, February 28)

[Ed. note: NASA Administrator Richard Truly ordered an investigation of the agency's FOIA procedures following charges that NASA had told workers how to avoid disclosing controversial information. "NASA is strongly committed to full compliance with the law, and we repudiate the portions of this document that are inconsistent with our policy," Truly said. He said he was countermanning the document and was circulating to all senior managers a letter to "remind them that NASA places the

utmost value on openness and honesty in government." ("NASA Chief Says Policy is 'Openness, Honesty'," *The Washington Post*, February 29)]

**FEBRUARY** - The Inspector General of the Environmental Protection Agency said that mismanagement had enabled the agency's largest contractor to gain control of virtually all of its computerized information systems and may have led to millions of dollars in improper payments to the company. In a 205-page report, John Martin, the Inspector General, said the contractor, the Computer Sciences Corporation, a California computer services company, functioned as a private government within EPA by developing and operating its most sensitive computerized information and data retrieval systems without supervision.

The report said that the company, which began working for EPA in the early 1970s, had been so carelessly managed that the company was reviewing and paying its own bills, double billing for its work, charging full-time wages for employees who worked part time, and charging the government for work that was never approved by the agency. The Inspector General said the company may have improperly gained \$13 million of the \$67.9 million it earned last year from EPA.

Computer Sciences is the largest of more than 700 contractors doing work for the agency, and none has more sensitive responsibilities. The company maintains and controls the most highly sensitive data the agency possesses, the Inspector General said, but EPA was not maintaining any program of oversight to make sure that data were secure from unauthorized access or manipulation. The company also had no completed background checks of employees who managed the data, which included sensitive information about cases against polluters, new policies for controlling pollutants, tracking legal cases and agency payrolls.

The government will spend \$87 billion this year on service contracts, according to the General Accounting Office, an investigative arm of Congress. In 1980, the government spent \$25 billion on service contracts. ("E.P.A. Is Called Lax with Contractor," *The New York Times*, February 29)

**FEBRUARY** - The Government Printing Office announced that the decisions of the U.S. Ment Systems Protection Board are no longer published by the board, but are now published privately by West Publishing Co. under the new title *USMSPB Reporter*. ("Whatever Happened To..." *Administrative Notes*, February 29)

**MARCH** - The Pentagon has its answer to the Cable News Network—the Defense Intelligence Network or DIN. For almost 12 hours a day, five days a week, the Defense Intelligence Agency has for the past year been broadcasting top secret reports over the most secure TV news network in the world to a select audience of about 1,000 defense intelligence and operations officers at the Pentagon and 19 other military commands in the United States. One big reason for the urgency of this recent



electronic effort to speed up the delivery of intelligence is that U.S. intelligence agencies have been finding their printed reports going unread by policymakers who have already watched events unfold on CNN.

Still evolving, DIN's encrypted broadcasts can be beamed only to TV sets and special computers in the shielded, compartmentalized quarters where intelligence and operations officers spend their workdays. The system, which so far has cost about \$10 million, did not receive its first formal infusion of money until October 1991, officials said. ("On This Network, All the News Is Top Secret," *The Washington Post*, March 3)

**MARCH** - A Census Bureau demographer who was assigned to update the government's population estimate for Iraq and released her findings to a reporter in January has been told she is to be fired. The information Beth Osborne Daponte gave to Robert Burns, an Associated Press reporter, would have been available to anyone who came to her office and asked for the Iraqi folder for the "World Population 1992" handbook. Daponte said the file disappeared from her desk shortly after Burns' story appeared in *The Washington Post* and is still missing.

Daponte had no access to classified information in preparing her study. She based it instead on a review of literature on casualty modeling and on the gulf war. Her estimates—a total of 158,000 Iraqi dead, including 40,000 direct military deaths, 13,000 immediate civilian deaths, 35,000 postwar deaths in the Shiite and Kurdish rebellions, and 70,000 deaths due to the public health consequences of wartime damage to electricity and sewage treatment plants—fall generally within the middle range of other expert calculations.

Two of Daponte's supervisors later rewrote and released Daponte's report, reducing the number of direct, wartime civilian deaths from 13,000 to 5,000 and eliminating a Daponte chart breaking down the figures for men, women, and children. Daponte had estimated that 86,194 men, 39,612 women, and 32,195 children died at the hands of the American-led coalition forces, during the domestic rebellions that followed, and from postwar deprivation. "I think it's rather scary that if an employee releases public information to the public, they can get fired for it," Daponte said. "My salary had been paid by tax dollars. I thought the public was entitled to know what we had come up with." ("Census Worker Who Calculated '91 Iraqi Death Toll Is Told She Will Be Fired," *The Washington Post*, March 6)

[Ed. note: A related article, "Move to Dismiss Census Staffer Scares Colleagues Into Silence," *Federal Times*, March 23, describes how the attempt to fire Daponte is having a chilling effect on agency employees who deal with the public. Documents obtained by *Federal Times* show that in the last two months, Census Bureau officials have circulated memoranda outlining restrictions on contact with the media. An April 12 article in *The Washington Post*, "Census Bureau Retracts Firing of Researcher," said that the Census Bureau has backed down and said Daponte could keep her job.]

**MARCH** - A group of 19 noted historians, political scientists, and scientists have sent a letter to Energy Secretary James Watkins, protesting Energy's handling of historical documents. According to the scholars, the department's "unabated enthusiasm for withholding records" is making it difficult to answer some of the most important historical, scientific, and public-health questions about nuclear energy that have arisen over the last 50 years.

The scholars contend that the Energy Department has made it difficult to evaluate such issues as the development of nuclear weapons and commercial nuclear power, the course of cold-war diplomacy, and scientific claims ranging from the feasibility of the Strategic Defense Initiative to the safety of nuclear stockpiles. The problem, they say, stems from provisions of the Atomic Energy Act, passed in 1946 and amended in 1954, which treat all information about nuclear weapons as classified.

The scholars maintain that access to DOE records is hampered by two key problems: The department lacks an overall program to declassify archival documents routinely, and it does not comply with a federal requirement that government agencies transfer custody of documents more than 30 years old to the National Archives and Records Administration. In addition, the letter said that many Energy Department records were held by private contractors who work for the agency, and that privileged access to documents was given to historians writing the official history of the federal government's atomic-energy programs.

Bryan Siebert, director of the Energy Department's office of classification and technology policy, says information relating to nuclear weapons is "born classified," and that specific requests for documents must be reviewed according to criteria in 800 department declassification guides. In a written reply to the scholars, Gerald Chappel, acting director of the office of information resources management, said that timetables to declassify records were being developed and should be in place by 1996.

To some extent, the problems that scholars face at the Energy Department are part of broader problems with access to federal records. Unlike many other countries, the United States until recently has not mandated schedules for the release of official documents, but has let individual presidents set records policies. When Congress passed a law last year requiring the Department of State to open all but its most sensitive records over 30 years old, "we got the beginning of a corrective to the closed policy and secrecy about records that evolved during the Reagan-Bush years," says Page Putnam Miller, director of the National Coordinating Committee for the Promotion of History, an alliance of history and archival groups. ("Scholars Protest Agency's Handling of Historical and Scientific Papers," *The Chronicle of Higher Education*, March 11)

**MARCH** - NASA has decided that next year it will shut down the Magellan spacecraft, which is currently mapping Venus, although it will still be gathering essential information. The decision to shut Magellan down was made in a bargaining



session between NASA and the Office of Management and Budget. The amount of money for planetary science in the administration's budget for fiscal year 1993 is so small that NASA has concluded that Magellan has to be sacrificed on behalf of other missions.

Magellan, which was launched in 1989, has now mapped Venus twice, and has just begun its third mapping cycle. Many questions that geophysicists ask about Earth may be answered on Venus. Given the cost of building Magellan and getting it to Venus—about half a billion dollars—most of the NASA scientists think that to turn it off prematurely is penny-wise and pound-foolish. ("The Talk of the Town," *The New Yorker*, March 16)

**MARCH** - In its latest attack on federal environmental regulations, OMB blocked a major health proposal for workers, saying that carrying it out could be so expensive it could force companies to cut wages and jobs, thereby making workers' health worse. The proposed regulation is a major environmental initiative by the Occupational Safety and Health Administration involving standards for air contaminants in agriculture and industry, including construction and maritime work. OMB's decision to suspend consideration of the proposal blocks its adoption because a 1981 presidential order required regulations to be approved by the OMB before going into effect.

OMB's action came at almost the same time as the Bush administration said automobile manufacturers would not be required to install pollution-control devices on new cars to capture gasoline fumes released into the atmosphere by fueling. Instead, the government will require gasoline stations to control fumes through special pumps and hoses. The action comes during a 90-day moratorium on new regulations, but proposals related to health and safety are generally exempted.

OMB's letter blocking the proposed regulations, written by James MacRae, acting administrator of the Office of Information and Regulatory Affairs, "a little noticed but extremely powerful office inside the budget office," said the analysis conducted by the safety administration neglected an "important question" on the permissible exposure limits. The question, MacRae said, was, "How will compliance with the proposed P.E.L. rule affect workers' employment, wages and therefore, health?" MacRae argued that less protection may save more lives than adding regulatory costs to employers.

Representatives of organized labor responded indignantly to MacRae's contention. Sen. Edward Kennedy (D-Mass.), chair of the Senate Labor and Human Resources Committee, said OMB "is saying that healthy working conditions are bad for workers' health," adding, "OMB should stop kowtowing to business, and the Labor Department should get on with its statutory responsibility of issuing these important health standards." ("Citing Cost, Budget Office Blocks Workplace Health Proposal," *The New York Times*, March 16)

[Ed. note: See a related article, "OMB's Logic: Less Protection Saves Lives," *The Washington Post*, March 17]

**MARCH** - The U.S. Information Agency has lost yet another round in its long-running battle over control of film exports. A group of independent filmmakers has been battling the agency since 1985, accusing it of acting as a political censor, refusing to grant tax-free export status to documentary films that USIA reviewers consider "propaganda." Since film taxes in some countries can be heavy, the USIA's power is tantamount to killing some films, the filmmakers alleged. USIA has argued that under an international agreement for the exchange of educational materials, it must review any films before they can qualify for exemption from export duties.

The Center for Constitutional Rights, an advocacy group that represented several small film producers, said the 9th U.S. Circuit Court of Appeals had agreed that legislation Congress passed last October "has effectively invalidated the USIA's criteria for granting educational certificates to documentary films." Most of the rejected films were critical of U.S. government policy, the filmmakers had said. David Cole, a lawyer with the center, estimated that the court case has cost taxpayers between \$300,000 and \$400,000. The filmmakers contend that the USIA's review rules violated their First Amendment free speech rights, and most court rulings over the issue have supported their view. ("Court Pans USIA's Case on Rating Film Exports," *The Washington Post*, March 17)

**MARCH** - Citing industry savings of \$210 million, the Department of Agriculture announced that it was delaying the deadline for mandatory nutrition labeling for more than 1 million processed meat and poultry products. In November 1991, Agriculture proposed that the labels of all processed meats, from hot dogs to chicken pot pies, list information about the amount of calories, fat, cholesterol, and other nutrients. The postponement will give manufacturers an additional year to comply with the regulations, so consumers will not see new labels in supermarkets until May 1994.

The measure, part of the Bush administration's 90-day regulatory moratorium, could also delay manufacturers' compliance with the Food and Drug Administration's long-awaited nutrition labeling law. That would require mandatory nutrition information on labels for all other food products aside from meat and poultry. Ellen Haas, executive director of Public Voice for Food and Health Policy, a consumer advocacy group, called the decision "a campaign present to the food industry at the expense of consumer health."

Agriculture Secretary Edward Madigan said the agency also will propose allowing meat and poultry processors to use nutrition information from computer databases instead of having laboratories chemically analyze their products. The department estimated the savings in lab costs at \$650 million. ("Nutrition Labels Delayed on Processed Meat," *The Washington Post*, March 20)

**MARCH** - The once-secret tapes of the Nixon White House are valuable historical records that the public has the right to hear.

according to a lawsuit filed seeking to force the government to release the tapes. The lawsuit filed in U.S. District Court said the National Archives has taken long enough to catalog the 4,000 hours of tapes, including 200 to 400 hours related to the Watergate break-in June 1972 and the coverup that led to Nixon's 1974 resignation. The Archives has released only 60 hours of Nixon Watergate tapes despite a 1974 law that required them to be opened to public access at the "earliest reasonable date," the lawsuit said.

John Fawcett, assistant archivist for presidential libraries, said in a January letter to Public Citizen's attorney that "seventeen years is not an unreasonable time for public access to sensitive presidential materials." "Let's have the whole record out," said University of Wisconsin Professor Stanley Kutler, who filed the suit along with Ralph Nader's Public Citizen. ("Suit Seeks Quick Release of All Nixon Tapes," *The Washington Post*, March 20)

**MARCH** - Almost every Monday for the past several months, Rep. Henry Gonzalez (D-Tex.), chairman of the House Banking Committee, has been setting the Bush administration's teeth on edge with fiery exposés about its courtship of Iraq before the invasions of Kuwait in August 1990. Gonzalez's "special orders" are delivered to a virtually empty floor. But they are full of excruciating detail—much of it classified "secret" and "confidential." Gonzalez's charges are simple and direct: Senior Bush administration officials went to great lengths to continue supporting Iraqi President Saddam Hussein and his unreliable regime long after it was prudent to do so.

Among the accusations leveled at administration officials is that they kept sharing intelligence information with Baghdad until a few weeks before Iraq's invasion of Kuwait. Then, in the wake of the gulf war when Congress began demanding more information about the prewar conduct of U.S. policy toward Iraq, administration officials tried to hide their embarrassment under a cloak of national security and created what Gonzalez has called a "cover-up mechanism" to keep investigators at bay. Administration officials strenuously contest the accusations of impropriety and illegality, but they plainly would rather not talk about them at all. ("Gonzalez's Iraq Exposé," *The Washington Post*, March 22)

**MARCH** - Here are just a few of the things the government won't tell about the bank and savings and loan failures that are costing taxpayers billions of dollars:

- What Hillary Clinton's law firm got paid for representing an Arkansas S&L before a state commissioner.
- What presidential son Neil Bush paid to settle the government's case against officials of Colorado-based Silverado Savings and Loan Association.
- Details of how insiders at the District's Madison National Bank defaulted on tens of millions of dollars in loans.

"What are they hiding? That's what we're trying to find out," said Sen. Timothy Wirth (D-Colo.), who is pushing for

greater federal disclosure of information about failed institutions. Pending legislation in the Senate Banking Committee requires regulators to make public five years of examination reports by bank regulators on institutions that fail and use taxpayer funds to cover losses. Advocates of the legislation cite the public's right to know because of the billions of dollars in taxpayer money involved in the S&L cleanup. Regulators say they are not hiding anything. They say the confidentiality is needed so that bankers can be honest with regulators and do not try to conceal problems that could become public if the institution fails. ("Shedding Light on S&L Failures," *The Washington Post*, March 24)

**MARCH** - In a three-page article, Alyson Reed writes of the continuing battle over the 1990 census: "People have been brawling over the accuracy of the figures since before the national head count was conducted, and the fights most likely will continue well into next year. On the surface, the struggle over the census is about numbers. How many Americans were missed by the census? How many were counted more than once? Which populations were overrepresented or underrepresented in the final census count?"

In reality, however, the continuing struggle over the census numbers is about political power and money. Among other practical applications, census figures are used to distribute political representation at the federal, state, and community levels. The numbers also determine the amount of federal aid to which each state and/or political jurisdiction is entitled. Moreover, because minorities were missed in far greater numbers than white non-Hispanics, the struggle over the data concerns voting and civil rights issues as well.

No matter how much finetuning is applied to the census process, many observers argue that as long as political appointees control it, achieving the most accurate count will remain secondary to enhancing the political power of the survey's overseers. ("Wrong Number: The Continuing Saga of the 1990 Census," *The National Voter*, March/April)

**APRIL** - Scientists at the Department of Energy's Argonne National Laboratory knowingly published questionable data about the metallurgy of an experimental nuclear reactor, then forced out a colleague who criticized their actions, according to an internal investigation made public. Argonne officials strongly rejected the report.

The investigation grew out of a dispute between Argonne scientists over a report and chart published in an internal monthly magazine about the temperature at which the fuel rods might melt. According to James Smith, a metallurgist at the laboratory, his colleagues rebuffed his attempts to correct their data, circled the wagons when he pressed his case and eventually forced him to resign. According to Argonne officials, Smith was an undisciplined and truculent scientist who was so busy criticizing his colleagues that he could not get his own work done.

In large measure, the investigation upheld Smith. Its 122-page report said the evidence "tends to substantiate" Smith's

charge that the lab "placed a higher value on observing social niceties and maintaining harmony among its personnel than it did on achieving scientific accuracy." The report also validated Smith's charge that the lab "published or presented work that contained errors, unqualified conclusions, or that was of questionable validity" and refused to print corrections when the errors were discovered. ("Argonne Scientists Criticized for Errors, Treatment of Whistle-Blower," *The Washington Post*, April 3)

**APRIL** - A "Topics of the Times" piece in *The New York Times*, said:

Since making a great show of announcing his new policy of openness, Robert Gates, the Director of Central Intelligence, has regrettably said nothing about the overall size of intelligence budgets, past and present. Nor has he revealed the names and functions of all U.S. intelligence agencies, including a few whose very existence is not known to most members of Congress or the public. This information would allow Congress to exercise more informed judgment in allocating the \$30 billion believed to be spent on various intelligence activities by various agencies.

Mr. Gates did promise a welcome new approach to declassifying the documents in its voluminous files. The C.I.A. would, of course, continue to excise any reference to sources and methods of intelligence-gathering. But he strongly implied that the agency would no longer withhold bushels of documents only tangentially related to national security.

So it was reasonable to expect that all or most of the study by the C.I.A. Openness Task Force, which served as the basis for Mr. Gates' new policy, would be made available to Congress and the public. But the C.I.A.'s Information and Privacy Coordinator refused, saying the report "must be withheld in its entirety." Even openness remains a secret at the C.I.A.

("The C.I.A., Open and Shut," *The New York Times*, April 6)

**APRIL** - The Army acknowledged that its glowing claims of success last year for the Patriot missile's performance during the Persian Gulf War were based on faulty data and indicated it is now certain the missile "killed" roughly 10 Iraqi Scud warheads out of more than 80 fired at Israel and Saudi Arabia. A senior Army official said a new study shows the Patriot may have knocked out approximately 24 Scuds. But the study expresses "a high degree of confidence" in only about 10 of those "warhead kills," which were defined as causing an enemy warhead to explode, burn in the air, or become a harmless dud.

During the Gulf War, U.S. officials gave the impression that Patriots had destroyed or weakened most of the Scuds targeted—an impression bolstered by live television images. Since then, the Patriot's performance has become an increasingly controversial issue, in part as a symbol in the debate over the future of the multibillion-dollar Strategic Defense Initiative and

in part because its effectiveness could be an important component of future war-fighting plans. ("Army Cuts Claims of Patriot Success," *The Washington Post*, April 8)

**APRIL** - The Defense Department released its long-delayed official history of the Persian Gulf War. The intricate, 1,300-page report titled, "Conduct of the Persian Gulf War," painted a familiar Pentagon portrait of the victory over Iraq. But the study contained no direct criticism of any policy or operational decision, and it evaded many of the central controversies of the war. There was little or no mention, for example, of the Western role in arming Iraq, the failure of diplomacy to prevent or reverse that country's invasion of Kuwait, the civilian and military death toll, the dispute over the number of Iraqi soldiers who were in Kuwait, the timing of the cease-fire, or the war's role in prompting bloody and unsuccessful uprisings by Kurds and Shiites against Iraqi President Saddam Hussein.

The study was delayed nearly three months past its January 15 deadline by hundreds of interservice and interagency disputes over the way the war was fought and the meanings to be extracted from its outcome. Most disputes, according to officials involved in the drafting, led to neutral compromise language or the deletion of any mention of the disputed subject. Among the casualties of that process was a chapter circulating last winter that discussed the death toll among Iraqis. The report did not even mention a military death toll, and its passing reference to "the apparently low number" of civilian deaths is unsupported by any estimate or evidence. ("Gulf War Failures Cited," *The Washington Post*, April 11)

**APRIL** - The Energy Department's senior intelligence official in 1989 turned aside an early alarm about Iraq's advance effort to develop nuclear weapons on grounds that it did not warrant urgent, high-level Bush administration attention, according to government documents. The alarm was raised by mid-level officials within the department who wanted to brief Energy Secretary James Watkins so he could alert Secretary of State James Baker and other senior policymakers to a problem that many officials now acknowledge was not fully appreciated at that time.

But the proposal for high-level briefings was challenged at the time by deputy assistant secretary of energy for intelligence. Robert Walsh, who testified at a closed congressional hearing in April 1991 that he had considered the evidence put forward by the officials "overstated" and senior policymakers already adequately informed. In fact, the documents released indicated that neither Watkins nor Undersecretary of Energy John Ruck, who was responsible for overseeing weapons-related issues within the department, were made aware of all the evidence behind the alarm until nearly a year later. ("DOE Official Discounted '89 Warning on Iraq's Nuclear Program," *The Washington Post*, April 21)

**APRIL** - Vice President Dan Quayle and other senior adminis



tration officials remained deadlocked with the Environmental Protection Agency over a bitterly contested EPA proposal that the public be notified when companies with pollution permits seek to raise permissible emissions. At stake are not only what the White House says is billions of dollars in potential costs to thousands of American companies but the political consequences of having to rule against the interest of either the business or environmental communities.

In carrying out amendments to the Clean Air Act, the agency contends that the process by which companies seek relaxation of their pollution limits should be open and should include requirements for public notice and comment. "There's a continued disagreement of the issue of public review in the permits process," an administration official said after a White House meeting attended by the principal parties to the months-long dispute. The session included William Reilly, the EPA Administrator, and Vice President Quayle, leader of the Bush administration's aggressive deregulatory program and head of its Council on Competitiveness. ("Quayle and E.P.A. Split on Emissions," *The New York Times*, April 23)

**APRIL** - President Bush will issue an executive order soon making it easier for state and local officials to sell public assets like airports, roads, bridges, and sewage treatment plants to private businesses, White House officials say. Plans for the order are the latest move in a campaign of deregulation and privatization driven in part by the administration's ideology but also aimed at showing a President coping with domestic issues in an election year. In mid-April, the administration announced new steps in a continuing effort to lighten regulation of financial institutions. At the same time, White House officials said President Bush was expected to announce an extension, into the summer, of the 90-day government regulatory moratorium he ordered in January as one step to fight the recession. ("Bush to Make It Easier to Sell Public Property," *The New York Times*, April 26)

**MAY** - In a five-page article, Arthur Rowse documents the results of the deregulatory activities of the Council on Competitiveness headed by Vice President Dan Quayle, and the secrecy surrounding the council.

Rowse says that when President Bush ran a similar office during the Reagan years called the Presidential Task Force for Regulatory Relief, there was some doubt about whether it needed to comply with the Freedom of Information Act, since it was in the White House complex of executive privilege. That doubt was erased in September 1991, when a federal judge ruled that disclosure was required because of its regulatory activities. The Administrative Procedures Act also requires that the public be informed at all stages of rulemaking. But the Quayle council continues to hide essential details about its operations from Congress, the public, and the press.

The author documents the long delays in implementing laws that affect human life and health. Rowse says one reason for

such delays is the secrecy that enshrouds them much of the time. Secrecy is standard operating procedure for the Quayle council. Little of its regulation-bashing would be possible in the glare of publicity. All anyone knows about their activities comes from occasional leads from aggrieved agencies and from efforts of congressional committees to force the information out by holding hearings and issuing reports. Leading that effort has been Rep. Henry Waxman (D-Calif.), who heads a subcommittee on health and environment. ("Deregulatory Creep," *The Progressive*, May)

**MAY** - H. Jack Geiger, an epidemiologist at the City University of New York, and David Rush of Tufts University have conducted a comprehensive review of all published studies about the health of workers exposed to low levels of radioactivity at the Energy Department's nuclear weapons factories. They said the 124 studies from scientific journals—representing most of what is publicly known about the health histories of more than 600,000 people who have worked in bomb factories over the last half century—are marred by flawed data, inconsistent measuring techniques, and suppression of unwanted findings.

As a result, they said, independent scientists lack the information they need to assess the health risks of exposure to low levels of radiation and to set appropriate exposure limits. They did not say that bomb-factory workers are in grave jeopardy, but argued that the Energy Department's refusal to release health data on most of the workers, coupled with inconsistencies in measuring techniques and arbitrary "corrections" of radiation measurements, have made independent risk evaluation impossible.

Presenting the results of a study sponsored by Physicians for Social Responsibility, Geiger and Rush reopened a long-standing argument. For 40 years the Energy Department and its predecessor agencies restricted access to much health data on national security grounds. Under pressure from Congress, Energy Secretary James Watkins sought to defuse this issue three years ago by announcing the records would be made available to independent scientists. He also agreed to let the Health and Human Services Department take over responsibility for supervising research projects. But Geiger said that the agreement with HHS is "like a basketball game plan drawn up by a mad coach" because it still leaves the Energy Department responsible for deciding which projects will be funded. ("Secrecy Said to Impede Research on Radiation Hazards," *The Washington Post*, May 8)

**MAY** - The Office of Management and Budget issued its proposed revision to OMB Circular A-130, Management of Federal Information Resources, in the April 29 *Federal Register* (57 FR 18296-18306).

Public comments are due by August 27. The current circular's heavy emphasis on the use of the private sector to disseminate government information has been of concern to public interest groups and librarians. The proposed circular

appears to soften OMB's stance on the privatization of government information.

However, the library community is likely to find problems with the revision's treatment of the Depository Library Program. OMB asserts that the statutory definition of a "government publication" does not include electronic information products. On the other hand, the Government Printing Office, which administers the program, has a legal finding that it does. Under Title 44 USC federal agencies are mandated to supply the GPO with copies of all "government publications" which are then distributed to the nation's 1,400 depository libraries free of charge. What is disturbing to librarians is that an increasing amount of government information can now only be found in electronic formats. Under the provision of the revised circular, federal agencies would not be required to supply copies of this electronic material to GPO for the Depository Library Program. ("ALA Will Study Document Carefully," *Electronic Public Information Newsletter*, May 8)

[Ed. note: An editorial, "A Document by Any Other Name...." in the May 18 *Federal Computer Week*, stated "a recently released policy directive by the Office of Management and Budget regarding electronic information doesn't make sense to us." The editorial continued: "OMB's theory is that the U.S. Code's definition of a 'government publication' excludes electronic publications. They've decided this because the definition refers to 'individual documents.' OMB doesn't see how electronic files can be called individual documents. It seems to us that OMB is missing the point. The government's obligation is to make information available to the public. It doesn't matter how the information is formatted."]

MAY - Basic information on birth control—removed from a popular health book on order from the administration—will be mailed to federal workers who received the censored version, according to congressional sources. The reversal comes a month after members of Congress criticized the decision to cut the chapter from all copies of "Taking Care of Your Child," a best-selling health book sent free to 275,000 families in the Blue Cross-Blue Shield federal employee program. ("That's One Less State Secret," *The Washington Post*, May 8)

MAY - A federal judge declared unconstitutional a rule requiring that AIDS education materials funded with federal money avoid anything that could be considered offensive. U.S. District Judge Shirley Wohl Kram said the Centers for Disease Control overstepped its authority in creating the rule, which was unconstitutionally vague. The decision was hailed by the attorney for several AIDS groups that, along with New York state, had sued the federal government over the rule. "Federally funded AIDS education will be much more effective reaching the audience it needs to reach," said David Cole of the Center for Constitutional Rights. ("AIDS Education Rule Struck Down," *The Washington Post*, May 12)

MAY - Reporters calling the Census Bureau for information now must determine in advance whether they are playing in the major or minor leagues. According to an April 27 memo, any journalist deemed to be part of the "major media" will be referred to the bureau's public information office, no matter how innocuous the inquiry. "We cannot even give out simple numbers, such as the number of housing units in the U.S. in 1990, nor can we even tell a reporter where to find certain information," says the directive from Daniel Weinberg, chief of the Housing and Household Economic Statistics Division. But if the callers are from the "minor media," Census employees can provide numbers for them.

The article by Howard Kurtz observes: "The press restrictions seem somewhat out of character for an agency whose very purpose is to collect and disseminate information about the nation. For much of its history, the agency has been viewed as a quiet, noncontroversial and apolitical institution of number crunchers. But in recent years, there have been growing questions about whether the bureau and its work could be politicized." Discussing the charges of politicalization of the Census Bureau, Kurtz cites the battle about the adjustment of 1990 census figures, and the attempt to fire a Census demographer who released her estimate of Iraqi deaths in the Persian Gulf War. ("A 'Major' Difference in Census Access," *The Washington Post*, May 12)

MAY - The Census Bureau released a report showing that the percentage of full-time workers who earn less than \$12,195 annually grew sharply in the last decade, despite the economic expansion that brought increased prosperity to the affluent. The report was quietly made public after bureau officials fought for more than five months over how much attention to draw to the finding. Dated March 1992, the report was officially released in mid-May only because government printers had begun last week to distribute it through the mails.

Daniel Weinberg, chief of the bureau's division of housing and household statistics, said he fought unsuccessfully to have the report issued with a news release, highlighting its findings. Asked why there was a sensitivity to its findings, and the resulting several-month delay, Weinberg said: "This is not good economic news. Any administration would be sensitive about economic news." But Karen Wheelless, chief of the bureau's public information office, said political considerations played no role in her decision about when or how to make the report public. She said she decided that its findings were too similar to a report issued in February to merit its own news release.

The dispute over the report, "Workers with Low Earnings: 1964 to 1990,"—however it was caused—will probably mean that it will receive more attention than it otherwise would have. The report found that the percentage of full-time workers with low earnings declined in the 1960s, was stable in the 70s and rose sharply in the 80s. The findings come at a time of sharp partisan debate over questions of income inequality. ("Report Delayed Months, Says Lowest Income Group Grew," *The New*



York Times, May 12)

**MAY** - Bereaved parents of some of the nine British soldiers killed by friendly fire from American warplanes during the Persian Gulf War got sympathy but no promises from U.S. Ambassador Raymond Seitz in their quest to determine why their sons died. The parents are seeking to obtain direct testimony from two American pilots who fired on a column of British armored personnel carriers with air-to-ground-missiles when they mistook the vehicles for Iraqi tanks.

The relatives say they want to clear up discrepancies between the official British account of the incident and the version supplied by the two unnamed pilots and other American sources in written statements. In effect, each country has blamed the other for the error, and the British families believe they are being misled, possibly by both sides, in an attempt to pull an official curtain over an embarrassing incident. ("Britons Confront U.S. Envoy Over Gulf War Friendly Fire Deaths," *The Washington Post*, May 13)

**MAY** - The Bush administration and the chairman of the House Banking Committee appeared headed for a confrontation over access to classified documents about the government's prewar courtship of Iraq. Attorney General William Barr threatened not to provide any more classified records unless Rep. Henry Gonzalez (D-Tex.) promised to protect them from "unauthorized disclosure" and stopped putting choice selections into the *Congressional Record*.

Gonzalez responded with an indignant speech on the House floor, accusing the Justice Department of trying to obstruct a legitimate congressional inquiry and attempting to cover up the details of the failed policy it pursued toward Iraq. Gonzalez maintained that all of the documents and excerpts that he has put in the *Record* involve past policies, not ongoing operations, and he said "none of them compromise, in any fashion whatsoever, the national security of the United States." He has also asked the Judiciary Committee to consider requesting appointment of an independent counsel to investigate the actions of administration officials on Iraq under provisions of the Ethics of Government Act. ("Gonzalez, Barr At Odds Over Iraq-U.S. Data," *The Washington Post*, May 19)

**MAY** - For Albert Casey and Timothy Ryan, the two men in charge of the cleanup of the nation's costly savings and loan crisis, the end is in sight. If Congress keeps the funds coming, they say, there will not be any more failed S&Ls landing on government shelves after the end of the year. Ryan is head of the Office of Thrift Supervision, which decides when a weak S&L needs to be taken over by the government. Casey, head of the Resolution Trust Corporation, has decided to cut in half the work force of his agency, which takes charge after the OTS does its work.

Some members of Congress and many inside the RTC take a different view, however, arguing that the downsizing and a

"fire sale" of RTC assets, along with a slowdown in thrift closings, are timed to suggest during an election year that the politically embarrassing cleanup is close to being completed. Once the election is over, they say, the issue will re-emerge with new force. The RTC has imposed strict prohibitions on employees talking with reporters, and many of those interviewed said they believe they would be fired if quoted by name. ("Rosy Forecasts About Cleanup of S&Ls Come Under Attack," *The Washington Post*, May 18)

**MAY** - Military officials and major news organizations announced agreement on a set of guidelines for future war coverage that media executives hope will lift many of the restrictions that hampered them during the Persian Gulf War. After eight months of negotiations, the Defense Department, key press associations, and top officials from 20 news organizations agreed that "open and independent reporting" will be the "principal means" of coverage during future U.S. wars.

News organizations were frustrated during the war at the military's insistence that combat coverage be limited to small pools of reporters whose movements were controlled by the Pentagon. The nonbinding guidelines say pools will be disbanded "when possible" 24 to 36 hours after a military conflict begins, but can still be used for "specific events."

In a setback for the press, however, the Pentagon refused to drop its insistence on reviewing all stories from the battlefield before they are published. In the war against Iraq, a number of journalists charged that reports embarrassing or unflattering to the Pentagon were changed or delayed for reasons unrelated to military security. Pentagon spokesman Pete Williams said, "The military believes it must retain the option to review news material to avoid the inadvertent inclusion in news reports of information that would endanger troop safety or the success of a military mission. Any review system would be imposed only when operational security was a consideration." ("Wartime News Coverage Guidelines Set," *The Washington Post*, May 22)

[Ed.note: An item in the May 24 *Parade Magazine*, "Still Secret Information": "The Pentagon was so successful at managing news during the Persian Gulf war, it continues some practices today—more than a year later. For example, the anti-American cartoons that ran in Iraqi newspapers during the war still are treated as classified information, reports Jack Anderson, *Parade's* Washington bureau chief. The cartoons are not only stamped SECRET but also NOFORN—which means they cannot even be shared with our allies."]

**MAY** - Despite the collapse of the Soviet Union, the federal government is still placing gag orders on nearly 6,000 inventions that it believes could threaten national security, according to recent data obtained by the Federation of American Scientists, a public interest group. The secrecy orders, imposed by the Patent and Trademark Office under a 1951 law called the Invention Secrecy Act, block patents from being issued and in



many cases prohibit the investors from selling or licensing their technology to anybody except the government—regardless of whether the technology was developed with private or government money.

The biggest growth in secrecy orders has not been those imposed on military secrets, like the blueprints for making nuclear weapons, but from "dual use" technologies that can be used for both commercial and military purposes. These can range from certain kinds of computer hardware to advanced ceramic materials, laser systems, semiconductor manufacturing technologies, and automated process control systems. The newly available data from the Patent Offices, obtained under the Freedom of Information Act, show that the number of new secrecy orders increased steadily from 290 in 1979 to 774 in 1991 and that some of the biggest increases took place in the last three years. The total number of secrecy orders in effect has grown steadily in the last decade, from 3,600 in 1979 to 5,893 in 1991.

No complaints have been heard from companies that have received secrecy orders, which still amount to less than 1 percent of the patents issued each year. But the new numbers surprised and disturbed some patent experts. Steven Aftergood, head of the Project on Government Secrecy at the Federation of American Scientists, said the rise in secrecy orders was at odds with national interests in the 1990s. "It makes no sense," he said. "At a time when the military threat is receding and the economic threat is on the rise, it is anomalous at best that restrictions on new inventions should be skyrocketing."

Robert Garrett, director of the office that oversees secrecy orders at the Patent and Trademark Office, acknowledged that the restrictions were unusual in that they could block the publication of information developed entirely by private individuals. The only comparable law is the one that prohibits people from publishing information about building atomic weapons. But Garrett argued that patents represented a unique source of how-to information, in part because inventors are required by law fully to disclose the details necessary for others to reproduce the invention. He also noted that the collapse of Communism in the Soviet Union and East Europe had not put an end to security threats from countries like Iraq and Libya or from terrorists. ("Cold War Secrecy Still Shrouds Inventions," *The New York Times*, May 23)

**MAY** - A federal judge block a Bush administration plan that permits only doctors to give abortion counseling at federally subsidized family planning clinics. U.S. District Judge Charles Richey declared that the administration's approach is tantamount to amending a 1988 federal regulation and must therefore go through a public comment period before it can take effect. The administration said in March that physicians at 4,000 family-planning clinics receiving federal funds were allowed to discuss abortion with pregnant women. But the administration said it would prohibit nurses at the clinics from doing so. Richey found that nurses historically have provided abortion counseling

services at the clinics and that barring them from doing so amounts to a rule change. The clinics serve 200,000 pregnant women a year.

The Department of Health and Human Services has begun enforcing the administration's policy, but in light of Richey's ruling "we will refrain from doing so," said Michael Astrue, general counsel at HHS. He added that the administration would likely take the case to the U.S. Court of Appeals. He said a judge in a similar challenge in Colorado ruled that the administration's interpretation does not amount to amending the regulations.

The National Family Planning and Reproductive Health Association sued HHS Secretary Louis Sullivan in April, seeking to have the matter made a subject of public comment. Judith DeSarno, an association spokeswoman, said the ruling will "assure that in the short term, poor women are going to have information they need to make informed choices about their lives." ("Judge Halts White House Plan to Limit Abortion Counseling," *The Washington Post*, May 29)

**JUNE** - In three reports issued in December and January, the General Accounting Office said that government agencies are not ensuring the safety of the nation's food supply:

- **USDA.** The U.S. Department of Agriculture "is not providing pesticide residue data need to make key regulatory decisions to help ensure food safety," the GAO said. It added that the data so far collected by the USDA "are not statistically reliable...and will therefore be of limited use...in making decisions on pesticide safety in food products."

- **EPA.** In deciding how to regulate pesticide use, the Environmental Protection Agency is supposed to balance the risks posed by pesticides against their benefits. But, says the GAO, the EPA's estimates of pesticides' benefits are "generally imprecise...potentially misleading...and incomplete."

- **FDA.** The Food and Drug Administration samples imported foods for illegal pesticide residues. It is supposed to use computers to decide how many of which batches of which foods to sample. But the agency "operates at least six different computer systems...that are not integrated with each other, resulting in data gaps, duplicate data entry, and an inability to share information nationally on a timely basis," the GAO aid. "Often," it added, "FDA staff rely on memory and experience in making monitoring decisions...." ("My, GAO, My," *Nutrition Action Healthletter*, June)

**JUNE** - The Energy Department inspector general collaborated with a private company to defraud state and federal governments, a whistleblower told the Senate Governmental Affairs Committee at a hearing called to investigate the effectiveness of IGs throughout government. Sonja I. Anderson revised her testimony to include allegations of collusion. Committee chairman Sen. John Glenn (D-Ohio) and Paul Misso, Energy's assistant inspector general, were surprised by Anderson's strong charges. Misso denied the allegations of collaboration between

agency IGs and the firm, Westinghouse Hanford Company in Washington state. Glenn granted Misso additional time to respond in writing to each charge of corruption by Anderson, now an engineer for Kaiser Engineering, also in Washington.

When Anderson worked for Westinghouse Hanford, she said she reported to the inspector general Westinghouse's deliberate attempts to alter or eliminate appraisal findings at Westinghouse's plutonium reprocessing plant in Hanford. Anderson also said she reported deliberate attempts to falsify environmental discharge records and to tone down the extent of leakage of radioactive water and mineral waste. Westinghouse, she charged, repeatedly put the public and its employees in jeopardy.

"The [IG's office] has omitted and ignored relevant evidence, withheld documents from this committee, failed to investigate potential contractor misconduct, and otherwise conducted its investigations in a manner designed to shield the contractor from liability under state and federal law," Anderson said. When Washington state demanded access to the file on the leaking tank, "Hanford purged the file system," Anderson said. Anderson said she was harassed by management and forced to leave her job, and that information she gave to the IG was altered when given to the Governmental Affairs Committee for an earlier hearing.

Another witness, Marsha Allen, former chief of the housing management division of Walter Reed Army Medical Center, testified that she was retaliated against when she refused to "take illegal actions, falsify documents, operate [her] division contrary to regulatory guidance, and misappropriate funds." ("Inspectors General Slammed for Breaching Confidentiality," *Federal Times*, June 1)

**JUNE** - The Labor Department said that 2.2 million payroll jobs were lost in the last recession, a figure that is one-third higher than the government's previous job-loss estimate. Officials said they are still at a loss to totally explain how such a huge error could have been made, but William Barron, acting commissioner of the Bureau of Labor Statistics, said that there was "absolutely nothing that would support" a charge that politics influenced the government's statistics-gathering process.

Private economists said the announcement went a long way toward answering last year's puzzle of why confidence surveys showed Americans so fearful about the future when the government's economic statistics were depicting a mild recession. ("Recession Job Losses Higher Than Reported," *The Washington Post*, June 4)

**JUNE** - Air Force officials were close-mouthed about the classified launch of a Titan II rocket from Vandenberg Air Force Base in California on April 25. But the veil of secrecy was not as impregnable as the Air Force might have hoped. In fact, information on both the launch and its payload had been publicly disclosed three days previously by a most unlikely source: Tass Radio, an English-language news service in Moscow. Tass's scoop was described in this month's issue of "Secrecy &

Government Bulletin," a newsletter put out by the Federation of American Scientists, which has been campaigning for greater openness in government programs.

Maj. Dave Thurston, an Air Force spokesman, said that notwithstanding Tass's reporting efforts, the secrecy surrounding the Vandenberg launch was justified and remains so today. The Tass scoop probably came from a reliable source: The Russian government itself, which is routinely notified in advance of U.S. satellite launches as a precaution against nuclear war. ("The Shroud of Secrecy—Torn," *The Washington Post*, June 5)

**JUNE** - Iran-contraprosecutors, investigating former Defense Secretary Caspar Weinberger's possible role in the scandal, began presenting evidence before a new grand jury, a day after the House voted to turn over key documents. The prosecutors went before a federal grand jury that had been hearing other criminal cases. The case results from disclosures that money paid by Iran for secret purchases of U.S. arms was funneled to Nicaragua to finance the U.S.-backed rebellion by contra forces. The prosecutors won a victory on June 4 when the House voted to turn over details of the deposition Weinberger gave June 17, 1987, to the special House committee that investigated the Iran-Contra scandal.

Rep. Lee Hamilton (D-Ind.), chair of the committee, told the House that the prosecutors said in a letter they were investigating whether Weinberger made false statements under oath and deliberately withheld information from the panel. Weinberger's attorney, Robert Bennett, has released a polygraph test that Weinberger recently took in which it was determined that he answered truthfully in denying that he had engaged in a coverup to protect then President Reagan, that he had lied, and that he had withheld information from investigators. ("New Grand Jury Hears Evidence on Weinberger," *The Washington Post*, June 6)

**JUNE** - The U.S. government knew that some notorious terrorist groups were operating freely from Iraq during 1982 to 1990 when Washington officials said publicly that Iraq was not providing a haven for such groups, according to newly declassified State Department documents given to Congress. The documents, evidently based on U.S. intelligence reports, state that the Abu Nidal, Abul Abbas, and May 15 terrorist organizations were allowed to operate from Iraq or to maintain headquarters there despite repeated protests by the Reagan and Bush administrations.

Until 1982, Iraq had been included on a U.S. government list of nations supporting terrorism; the list was established as a means of prohibiting certain high-technology exports to such countries. But the Reagan administration removed Iraq from the list principally because, officials said at the time, the Abu Nidal organization had been expelled by Baghdad. In the documents, provided by a U.S. official to *The Washington Post*, the Reagan and Bush administrations subsequently took note of Iraq's extensive and continuing terrorist ties and sent several secret demarches to Baghdad but opposed congressional calls to put

Iraq back on the list of countries supporting terrorist acts. To do so would have interrupted several billion dollars in U.S.-Iraqi economic trade.

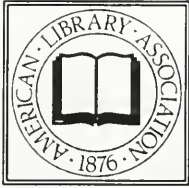
Not until September 1, 1990, following a policy review prompted by Iraq's invasion of Kuwait a month earlier, did Undersecretary of State Lawrence Eagleburger declare that "Iraq is a country which has repeatedly provided support for acts of international terrorism." By then, U.S. trade with Iraq had been halted by a presidential order and a U.N.-backed international embargo designed to force Iraq's withdrawal. ("U.S. Aware of Iraqi Terrorism," *The Washington Post*, June 6)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Ave., NE, Washington, DC 20002-5675; tel. no. 202-547-4440, fax no. 202-547-7383. All orders must be prepaid and must include a self-addressed mailing label.





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December 1992

# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XIX

*A 1992 Chronology: June - December*

## INTRODUCTION

During the past 12 years, this ongoing chronology has documented administration efforts to restrict and privatize government information. A combination of specific policy decisions, the administration's interpretations and implementations of the 1980 Paperwork Reduction Act (P.L. 96-511, as amended by P.L. 99-500) and agency budget cuts have significantly limited access to public documents and statistics.

The pending reauthorization of the Paperwork Reduction Act should provide an opportunity to limit OMB's role in controlling information collected, created, and disseminated by the federal government. However, the bills that were introduced in the 102nd Congress would accelerate the current trend to commercialize and privatize government information.

Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued its proposed revision of the circular in the April 29 *Federal Register*. Particularly troubling is OMB's theory that the U.S. Code's definition of a "government publication" excludes electronic publications. Agencies would be unlikely to provide electronic products voluntarily to depository libraries—resulting in the technological sunset of the Depository Library Program, a primary channel for public access to government information.

Another development, with major implications for public access, is the growing tendency of federal agencies to utilize computer and telecommunications technologies for data

collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions which creates a climate in which government information activities are suspect. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JUNE** - Former Defense Secretary Caspar Weinberger was indicted on June 16 on charges that he lied repeatedly about his knowledge of the Iran-contra affair and obstructed investigators by concealing existence of extensive notes he had taken at crucial points in the scandal. A federal grand jury returned five felony counts against Weinberger, making him the highest-ranking Reagan Administration official to be indicted in the 5½-year investigation conducted by independent counsel Lawrence Walsh.

In a bitter statement to reporters, Weinberger said, "I am deeply troubled and angry at this unfair and unjust indictment.... I vigorously opposed the transfer and sale of arms to Iran and fought it at every turn inside the administration." Walsh's top prosecutor, deputy independent counsel Craig Gillen, said that the indictment was not about what side Weinberger took on the 1985-86 shipments of arms to Iran in return for the release of American hostages held by pro-Iranian militants in Lebanon. Rather, he said, it dealt with Weinberger's alleged concealment of a huge amount of information, including more than 1,700 pages of personal diary notes, when investigators most needed them.

The Iran-contra scandal involved the Reagan Administration's covert arms-for-hostages sales to Iran, its secret military supply line to the contra rebels in Nicaragua and its diversion of profits from the Iranian arms sales to the contra cause. According to the indictment, Weinberger's notes, discovered in the Library of Congress by prosecutors in the fall of 1991, depict former President Ronald Reagan as repeatedly being warned in December 1985 that an arms shipment to Iran he had approved the previous month was illegal. Reagan has always maintained in official testimony that he was not aware of the shipment until early the next year. The Weinberger papers, as described in the indictment, provide new details about high-level Iran-contra meetings that included not only Reagan but Secretary of State George Shultz, and then-Vice President Bush.

Gillen declined to tell when he first located Weinberger's notes in the Library of Congress. Weinberger had placed them there after he resigned to facilitate the writing of his memoirs. Under an "agreement of deposit" with the library, he was to have control over access to the records. ("Weinberger Indicted on 5 Counts," *The Washington Post*, June 17)

**JUNE** - A study, *For Their Eyes Only*, released by the Center For Public Integrity detailed how retired public officials squirrel documents and records away from public scrutiny. Among them: former Defense Secretary Caspar Weinberger who controls public access to 13,000 documents from his Pentagon files at the Library of Congress. Former Secretary of State George Shultz, leaving office in 1989, had 60,000 classified documents transferred to the Hoover Institution at Stanford University, where they are out of reach to independent researchers. Former Nixon Administration Secretary of State Henry Kissinger turned over

his files to the Library of Congress, but keeps iron-clad control over them.

The control these and other former officials exercise over once-classified documents was sanctioned by a 1982 executive order, signed by then-President Ronald Reagan. Although legal, the control raises questions about how much the public should be allowed to know about the lives and records of public officials, said Steve Weinberg, an author, investigative reporter and editor who wrote the report. "What these cases tell me," said Weinberg, "is that our view of officials as being public has been turned on its head. The way these men keep their papers away from the public indicates that they don't consider them public at all. They think they own history."

The report also shows how other retired public officials, including former Presidents Lyndon Johnson and Gerald Ford, arranged to keep their files out of the hands of researchers. Weinberg asserted that the actions of Shultz, Kissinger, and Weinberger are egregious because all three signed lucrative contracts to write memoirs in which they used the material denied to other researchers. As a result, said Weinberg, the three former Administration officials are controlling how history will be recorded. They are preventing others from checking the accuracy of what they write, he said. ("Ex-Officials Often Shield Their Files," *The Washington Post*, June 18)

**JUNE** - Members of the Senate Foreign Relations Committee have struck an unusual agreement to hold closed-door hearings into allegations that the Reagan campaign in 1980 conspired with the Iranian government to delay release of 52 Americans held hostage in the American Embassy in Tehran. Sources familiar with the investigation said the decision to hold closed hearings on the "October surprise" was an attempt to address two major concerns: the Democrats' desire for a full airing of the affair, and the Republicans' fear that public hearings would be transformed into an election-year "witch hunt" unfairly smearing the Bush and Reagan Administrations. ("Senators Agree to Close 'October Surprise' Hearings," *The Washington Post*, June 24)

**JUNE** - The Bush Administration abruptly ordered researcher Robert Gallo to cancel his first public discussion of the controversy surrounding his laboratory's role in the discovery of the AIDS virus. Gallo, a senior researcher at the National Cancer Institute, was to answer questions about the longstanding dispute between France and the United States over who first identified the virus that causes acquired immune deficiency syndrome. The dispute between French and U.S. researchers over who discovered the AIDS virus dates from 1984, and Gallo had refused to comment publicly on accusations about taking credit for the work of a French scientist, Luc Montagnier. At stake are millions of dollars in royalties both sides share from sales of a blood test to detect the virus.



An Administration source said the National Cancer Advisory Board, which was sponsoring the discussion, was told it should have delayed holding a public discussion until a final report on the investigation of Gallo's laboratory is completed in a few months. Last year, Gallo acknowledged that the virus he used in 1983 to develop a blood test for AIDS was likely one sent to him by France's Pasteur Institute where Montagnier worked, and said it must have contaminated other virus cultures used in his lab. Currently, the United States and France divide the royalties equally, but the Pasteur Institute has said it is entitled to all of the estimated \$50 million that may result from sales of an AIDS blood test developed using the virus. ("HHS Blocks Comment by AIDS Scientist," *The Washington Post*, June 24)

[Ed. note: The final report of the Department of Health and Human Services found AIDS researcher Robert Gallo committed "scientific misconduct" in connection with one sentence he wrote in a scholarly paper published eight years ago. His attorney said he will appeal the findings. ("New HHS Report Faults AIDS Researcher," *The Washington Post*, December 31)]

**JUNE** - Commerce Department documents released June 23 raised questions about whether aides to former Secretary Robert Mosbacher knew that department employees improperly altered records on U.S. sales to Iraq before they sent the records to Congress in late 1990. The documents appear to challenge the department's contention that no official higher than a now-departed undersecretary, Dennis Kloske, knew workers were changing documents to disguise the shipment of militarily useful equipment and technology to Iraq before it invaded Kuwait.

The disclosures are likely to lead to intensified demands for appointment of an independent counsel to investigate whether Administration officials broke laws against misleading Congress. The Justice Department is already conducting a criminal investigation, but a number of Democrats on the House Judiciary Committee argue an independent counsel is necessary because the inquiry could lead to Mosbacher, now serving as general chairman of President Bush's re-election campaign. ("New Data at Odds With Commerce Dept. Stand on Sales to Iraq," *The Washington Post*, June 24)

**JULY** - Retired Admiral William Crowe labeled as "absolutely outrageous" news media reports that accuse the former chairman of the Joint Chiefs of Staff of covering up the truth behind the downing of an Iranian airliner by a U.S. warship four years ago. Recent reports on the ABC News program "Nightline" and in the July 13 issue of *Newsweek* magazine assert that the USS Vincennes had been operating illegally in Iranian territorial waters when it fired two anti-aircraft missiles at the unarmed civilian airplane in July 1988, killing 290 people.

The report portrayed the captain of the Vincennes, Capt. Will Rogers III, contributing to a series of blunders that led the crew to its mistaken conclusion that the ship was under attack. The news investigation said that the Vincennes and other U.S.

warships in the region had been fighting a "secret war" against Iran that went well beyond their publicly acknowledged mission of protecting neutral shipping from attacks by Iranian gunboats. Crowe subsequently approved an elaborate "pastiche of ommissions, half-truths and outright deceptions" to mask the true circumstances of the downing, *Newsweek* said. Crowe heatedly denied that. "I just reject and am offended by the idea that this was an orchestrated coverup," Crowe said. "Granted, we were feeling our way. Granted, we made some mistakes. But to leap from that to an orchestrated coverup to deceive the American people—it simply isn't true." ("Adm. Crowe Denies Coverup in 1988 Downing of Iranian Airliner," *The Washington Post*, July 7)

[Ed. note: The July 13 *Newsweek* article, "The Inside Story of How an American Naval Vessel Blundered into an Attack on Iran Air Flight 655 at the Height of Tensions During the Iran-Iraq War—and How the Pentagon Tried to Cover Its Tracks after 290 Innocent Civilians Died," concludes:

The Navy might have gotten away with all these deceptions had it not been for the slow grinding of international law. A lawsuit by the Iranian government has now forced Washington to admit, grudgingly, that the Vincennes was actually in Iranian waters—although Justice Department pleadings still claim the cruiser was forced there in self-defense. The admission is contained in fine print in legal briefs; it has never received public attention until Crowe, confronted with the evidence, conceded the truth last week on "Nightline." Crowe denies any cover-up; if mistakes were made he told *Newsweek*, they were "below my pay grade." Rogers continues to insist that his ship was in international waters.

Additionally, Admiral Crowe, testifying before the House Armed Services Committee on July 21, delivered a 27-page point-by-point response to reports that the military had precipitated the incident in which the Vincennes shot down the airliner and then lied about critical details. ("Cover-Up Denied in Downing of Iranian Passenger Jet in '88," *The Washington Post*, July 22)]

**JULY** - Senior Navy officials tried to alter the language of a report concerning the assault of 26 women last year, apparently to make the incidents seem less offensive, Pentagon officials say. The office of the Naval Inspector General prevailed in keeping most of the original wording in the report, but only after contentious debates with superiors, Navy officials said. The inquiry was one of two by Navy agencies into the events and subsequent cover-up at last year's convention in Las Vegas of the Tailhook Association, a group of active-duty and retired naval aviators. ("Officials Say Navy tried to Soften Report," *The New York Times*, July 8)

**JULY** - Rep. Henry Gonzalez (D-Texas), who has been highly critical of the Bush Administration's friendly relations with Iraq

before the 1990 invasion of Kuwait, said that a White House official in late 1989 discussed the criminal investigation of an Atlanta bank's loans to Iraq with the federal prosecutor supervising the case, possibly intervening improperly in the inquiry. Gonzalez charged that the telephone call from someone in the White House to Gail McKenzie, an assistant United States attorney in Atlanta, was part of a pattern by the White House to prevent the disclosure of information that would draw attention to the Administration's conciliatory policy toward Iraq before its August 1990 invasion of Kuwait.

Gonzalez also revealed the existence of a previously undisclosed Central Intelligence Agency report circulated to Administration officials on November 6, 1989, two days before the Administration approved \$500 million in Agriculture Department loan guarantees for Iraq. The report indicated that Banca Nazionale del Lavoro, the primary lender to Iraq under the United States credit program, had paid for Baghdad's weapons programs. "The report indicates that several of the B.N.L.-financed front companies in the network were secretly procuring technology for Iraq's missile programs and nuclear, biological and chemical weapons programs," Gonzalez said. ("White House Knew of Possible Fraud," *The New York Times*, July 8)

**JULY** - U.S. District Judge Royce Lamberth accused Bush Administration officials of trying to "thwart" the prosecution of former CIA clandestine services chief Clair George by ignoring court deadlines for declassifying information needed for trial. The judge's ire was directed at members of the Interagency Review Group, a Bush Administration panel of intelligence specialists whose job is to censor or clear documents that the government or defense wants to use at trial. Lamberth said the IRG was trying at the last minute to reclassify details that had already been cleared for use in the George trial. George, formerly the CIA's deputy director for operations, faces trial on nine counts of perjury, false statements, and obstruction of congressional and grand jury inquiries into the Iran-contra affair. ("Assailing Delay, Judge Sees Effort to 'Thwart' CIA Ex-Aide's Trial," *The Washington Post*, July 14)

**JULY** - In a new twist to a battle between the Energy Department and physicist Dr. P. Leonardo Mascheroni, FBI agents seized from him several copies of a report that absolves him of mishandling state secrets. The federal report, made public eight months ago, belatedly has been deemed secret. Private experts say the case is one of a growing number in which federal secrecy rules, meant to protect national security, have been misused for what seem to be political ends. "It's an abuse of classification to stifle debate," said Steven Aftergood, editor of the *Secrecy and Government Bulletin*, published monthly by the Federation of American Scientists.

Mascheroni, dismissed from the Los Alamos National Laboratory in 1988 amid a dispute over how to advance laser fusion, says he was dismissed because he criticized the laser fusion program and advocated an unorthodox plan. In November

1991, the top security official in Los Alamos for the Department of Energy, William Risley, came to Mascheroni's defense. Risley reported that Mascheroni had been treated unfairly and that the scientist's claims were generally correct. The laboratory's charges of security violations were "trumped up," Risley wrote, identifying officials who "put false information into the security system." Risley gave Mascheroni a copy of the report, but on June 22, FBI agents came to Mascheroni's home and seized copies of the report, saying it had been classified secret. ("U.S. Invokes Secrecy in Fight With Rebel Scientist," *The New York Times*, July 19)

**JULY** - During most of the negotiations on a free trade agreement that would bind the economies of the United States, Canada, and Mexico together into a regional trading bloc, the Bush Administration has classified all negotiating texts in an effort to forestall public debate until the agreement is complete. But information is leaking out from many people involved directly and indirectly in the negotiations. Trade negotiators from the three countries have struck thousands of compromises during the past year. These deals, typically made with little or no public debate, will affect scores of industries throughout the continent.

During most of the negotiations, these deals stayed secret because all three countries classified thousands of pages of negotiating documents and conducted their talks with the secrecy and security once reserved for wartime military operations. With the trade talks entering their final weeks, the broad outlines of the secret arrangements—and the remaining squabbles—are beginning to leak out. United States trade representative Carla Hills and her office's North American affairs section have imposed strict secrecy on the free-trade talks for fear that public debate would limit the ability of each country to compromise and strike the best possible deal. Only a handful of copies of the incomplete agreement have been given to Congress, and those are being kept in special, high-security reading rooms and in the safes of several congressional aides with the necessary security clearances. Even other government departments involved in the negotiations have been given information only about their sections of the free-trade accord and not about the overall agreement. ("Trade Pact Details Are Emerging," *The New York Times*, July 20)

**JULY** - The United States and Saudi Arabia, which have long rejected the widespread belief that they work together to influence the world oil market, have in fact cooperated extensively on oil issues for many years, State Department documents and government legal papers confirm. During the Reagan and Bush Administrations, the documents show, the Saudis sometimes informed the United States in advance of key moves they planned to make at meetings of the Organization of Petroleum Exporting Countries and consulted U.S. officials about marketing initiatives.

U.S. officials have often discussed the price of oil with the Saudis and other friendly producers, the documents demonstrate,

not asking for any particular price but emphasizing the negative consequences if prices were to move outside a certain range. This appears to contradict repeated assertions by the Reagan and Bush Administrations that they never express views about the price of oil because they believe it should be determined solely by market forces. According to the State Department documents, the U.S. government has commented extensively on the price of oil in private conversations with Saudi officials. U.S. and Saudi officials have discussed the implications of oil prices for a broad range of interests, including the stability of Texas banks and the level of Saudi support for U.S.-backed rebels in Afghanistan.

The documents were obtained under Freedom of Information Act proceedings by Edwin Rothschild, energy policy director of the consumer group Citizen Action, a longtime critic of the U.S.-Saudi relationship. According to Rothschild, this evidence of U.S. diplomatic efforts to influence oil prices in the 1980s shows that the Administration's free-market rhetoric is "nonsense." He said the Reagan Administration—with then-Vice President Bush as its point man—manipulated the world oil market to keep prices higher than they should have been in the late 1980s, at a "cost [to] American consumers of billions of dollars in higher gasoline and heating oil bills." ("U.S. Tries to Influence Oil Prices, Papers Show," *The Washington Post*, July 21)

**JULY** - Iran-contra prosecutors disclosed the belated discovery of two boxes of covert CIA records under the desk of the custodian of documents for the agency's directorate of operations. It was not clear how many of the 2,000 pages that were found may be relevant to the Iran-contra scandal, but at least some of the information, according to prosecutors, is relevant to the trial of Clair George, former chief of the CIA's clandestine service. Prosecutors learned of the existence of the documents July 10 while conducting an interview of the official custodian of documents for the CIA's director of operations. ("More CIA Papers Found Before Trial of George," *The Washington Post*, July 22)

**JULY** - Lawyers for John Demjanjuk accused the Justice Department of withholding crucial evidence showing that Demjanjuk was not the savage executioner "Ivan the Terrible" at the Nazis' Treblinka death camp in Poland. Demjanjuk's lawyers maintained that the department had for years withheld evidence that would have cleared their client, showing that he was the victim of mistaken identity. The lawyers said that while the prosecutors were seeking the deportation of Demjanjuk they had improperly failed to disclose the existence of testimony of guards at Treblinka indicating that another man, Ivan Marchenko, was Ivan the Terrible. Marchenko was last seen alive in 1944, and his fate is unknown. Demjanjuk was stripped of his American citizenship in 1981 and deported to Israel in 1986 to stand trial as a war criminal. In 1988 he was sentenced to death, and is now awaiting the results of an appeal to the Israeli

Supreme Court. ("U.S. Accused of Concealing Evidence on 'Ivan,'" *The New York Times*, July 28)

**JULY** - Former CIA official Alan Fiers admitted under cross-examination that he lied repeatedly about the Iran-contra affair, then last year made a deal with special prosecutors to avoid facing felony charges. Fiers, the chief prosecution witness at the trial of Clair George, said he realized his plea bargain would force him to turn on old colleagues but protecting his future was more important to him. Former chief of the CIA Central American Task Force and now a lobbyist for W.R. Grace & Co., Fiers was allowed to plead guilty in July 1991 to two misdemeanor counts of withholding information from Congress after promising to cooperate with prosecutors in any future proceedings. ("Witness Against Spy Chief Admits Lying to Hill About Iran-Contra," *The Washington Post*, July 31)

**AUGUST** - The Census Bureau postponed deciding whether to use population figures that have been adjusted to compensate for the census undercount, yielding to the pleas of political leaders whose states stand to lose federal funding. Census spokeswoman Karen Wheelless said the matter would be opened to public comment, and a public hearing will be held at the Suitland Federal Center on August 21. The comment period ends August 28. "We've decided we do need some public input on this process," Wheelless said.

At issue is whether the Census Bureau population estimates are based on the results of the headcount conducted in 1990, or on a second set of population figures weighted to take into account persons missed in the census. ("Census Bureau Delays Move Affecting Funds," *The Washington Post*, August 5)

**AUGUST** - After five years of investigation into the Iran-contra affair, prosecutors have told lawyers for former Attorney General Edwin Meese 3d that he is a subject of their inquiry. Nonetheless, a lawyer for Meese said that the former Attorney General faces no immediate danger of being charged with a crime. Disclosure of Meese's status came after recent news reports indicating that the investigation has recently shifted its focus to re-examine the roles of Meese and others at what prosecutors have called the "highest levels" of the Reagan Administration.

Lawyers for former President Ronald Reagan said that he was not under scrutiny and was regarded as a witness in the investigation, a sign that after more than five years the prosecutors had not found that Reagan engaged in any criminal conduct. Lawyers for George Shultz, the former Secretary of State, have said that Shultz is a subject of the inquiry. ("Meese Is Termed a Subject in Iran-Contra Inquiry," *The New York Times*, August 13)

**AUGUST** - Three major health organizations say Vice President Quayle's Council on Competitiveness is using its powers to "reshape, rewrite or eliminate" federal regulations in behalf of



special interests that want to circumvent open governmental processes. The American Heart Association, the American Cancer Society, and the American Lung Association charged in a July 31 letter to President Bush that the Council on Competitiveness "wields tremendous political and regulatory powers" and does so out of the public eye.

The council reviews regulations on air pollution, food labeling, access for the disabled, and other issues, ordering changes if it finds the rules would unnecessarily burden individuals and small businesses. "Our three organizations represent millions of Americans whose views are not being heard by the council because it seeks to conduct its business under standards which do not lend themselves to 'open' government," the letter said. Replying for the President, Roger Porter, chief assistant for economic and domestic policy, cited a Supreme Court decision supporting the Administration's right to explore alternatives "in a way many would be unwilling to express except privately." ("3 Health Groups Criticize Quayle Panel," *The Washington Post*, August 21)

**AUGUST** - More than half the charts used by commercial vessels and pleasure ships in U.S. waters are based on information that is at least 50 years old, according to a National Oceanic and Atmospheric Administration official. Testifying at an investigative hearing into the August 7 grounding of the luxury liner Queen Elizabeth 2 off the Massachusetts coast, Capt. Donald Suloff, deputy director of NOAA's survey branch, said charts of the area were based on a 1939 survey. NOAA issues the official charts to be used aboard all vessels plying U.S. waters. He said surveys are usually updated only upon request because NOAA has only five ships for the entire U.S. coastline. "It's basically a lack of resources," said Lt. Cmdr. John Wilder of NOAA's geodetic survey department. ("Sea Charts Seen Badly Outdated," *The Washington Post*, August 27)

**AUGUST** - Bush Administration claims that its freeze on new government regulations will save businesses up to \$20 billion in 1992 are merely "an election-year gambit," two watchdog groups have charged. Public Citizen and OMB Watch contend, in a recent report, that "dozens" of health and safety, civil rights, and environmental regulations have been seriously weakened or eliminated due to the 210-day-old regulatory freeze and that the Administration has failed to substantiate its claims about the economic benefits. In response to Freedom of Information Act requests filed by the two groups, federal regulatory agencies failed to provide justifications for their economic claims, the groups said. "None of the agencies provided information about 'cost savings' in a form even remotely understandable," the report said. ("Regulatory Freeze Figures Disputed," *The Washington Post*, August 31)

**SEPTEMBER** - A *New York Times* editorial asked, "What did George Bush know about the Iran-contra affair and when did he know it?" Answer: "...a lot, and early. The President plausibly

denies being 'in the loop' of the arms-for-hostage Iranian operation or the illicit supply of rebels in Nicaragua. But at least in general, he knew about those colossal follies and, it appears, did nothing to stop them."

The editorial points out that the latest indication that the President was "plugged in" is a memorandum registering a complaint by former Secretary of Defense Caspar Weinberger to former Secretary of State George Shultz in 1987. President Bush was saying publicly he hadn't known of their strong objections to the Iran dealings. "He was on the other side," said Weinberger. "Why didn't he say that?" What does Bush say about that memorandum now? A spokeswoman argues that Bush did not attend the meetings at which the *strongest* objections were raised. In a recent television interview Bush said misleadingly that he did not think Secretaries Shultz and Weinberger doubted his word. "And I have nothing to explain," he went on. "I've given every bit of evidence I have to these thousands of investigators. And nobody has suggested that I've done anything wrong at all." ("Vice President Bush's Vice," *The New York Times*, September 19)

**SEPTEMBER** - President Richard Nixon decided in 1973 to complete the U.S. withdrawal from Vietnam despite strong indications that some U.S. prisoners of war had not been returned, senior officials of his Administration testified in congressional hearings. The officials told a Senate panel that Nixon had little choice but to continue the U.S. withdrawal, acting as if North Vietnam had carried out its promises to release all prisoners it held and to ensure that prisoners held by Laos also would be freed. "The president decided not to scuttle the [Paris] agreement [with North Vietnam] over the MIA issue," said Winston Lord, then a senior aide to National Security Adviser Henry Kissinger and later ambassador to China. "It was a very tough decision."

Although Nixon declared in March 1973 that "all of our American POWs are on their way home," the former officials who were questioned said this assertion was probably not supported by evidence available at the time. For most of a long day of testimony before the Senate Select Committee on POW-MIA Affairs, no Nixon Administration official challenged an idea that once seemed almost unthinkable but is rapidly becoming the accepted view: Some Americans known to have been alive in Vietnamese or Laotian custody did not come home with their comrades in the spring of 1973, and in the absence of confirmed knowledge about specific individuals in specific places, Nixon went ahead with the withdrawal of U.S. forces because there was no alternative. ("Nixon Knew of POWs, Aides Say," *The Washington Post*, September 22)

**SEPTEMBER** - Buried among 1,700 pages of notes written by then-Defense Secretary Caspar Weinberger during the Iran-contra affair is one referring to a January 1986 meeting at which Weinberger voiced opposition to covert arms sales to Iran in the presence of George Bush, then the Vice President. The note,

which appears to contradict Bush's repeated assertion that he was never present when either Weinberger or then-Secretary of State George Shultz objected to the arms sales, is among classified documents being reviewed for possible use in Weinberger's upcoming trial. ("Bush 'Out of the Loop' on Iran-Contra?" *The Washington Post*, September 24)

**SEPTEMBER** - According to Richard Secord, chief logistics officer for the Reagan Administration's dealings with Iran, then-Vice President George Bush became an influential "advocate" of sending arms to Tehran each time a U.S. hostage in Lebanon was released. Secord's allegation appears in his autobiography, *Honored and Betrayed*, and challenges Bush's repeated claims that he did not participate in shaping the Iran initiative. White House spokesman Judy Smith dismissed Secord's assertion as "absolutely false," adding "there's no truth to them whatsoever." ("Secord Book: Bush Became Arms-for-Hostages Advocate," *The Washington Post*, September 25)

**SEPTEMBER** - Before the federal government accepted a plea agreement with the contractor running an illegally polluted nuclear bomb factory, the grand jury hearing the case so badly wanted to indict the people who ran the plant that it wrote the indictments itself, a member of the jury has said. But the prosecutor blocked the grand jury, the juror said, and ultimately, no individuals were charged. In a breach of the secrecy that usually surrounds grand jury proceedings, *Westword*, a weekly Denver newspaper, published an account of the 2½-year grand jury inquiry into accusations against the operator of Rocky Flats, Rockwell International, its executives, and officials of the Department of Energy, which owns the plant.

Rockwell, which ran the plant for 15 years, pleaded guilty in March to 10 violations of environmental laws, including five felonies. The company agreed to pay an \$18.5 million fine. No employees of Rockwell or officers of the Energy Department were charged for their roles in the pollution at the plant in the northwestern suburbs of Denver, where for three decades plutonium triggers for thermonuclear bombs were made. ("Jury Fought Prosecutor on Bomb Plant," *The New York Times*, September 30)

**OCTOBER** - The House of Representatives passed, and sent to the White House for signature, a comprehensive bill calling for the disclosure of virtually all the government's files on President John F. Kennedy's assassination and setting up a review board to track them down. The records, many still secret, are held by Congress, federal agencies, and presidential libraries and include everything from CIA and FBI reports to newspaper clippings and tax returns. ("Bill to Release JFK Files Moves to White House," *The Washington Post*, October 1)

**OCTOBER** - Seventy-six new regulations prepared by the Environmental Protection Agency are being held up by the White House, some in violation of congressional deadlines, according

to a confidential EPA report dated September 22. The stalled regulations include some of the major provisions of the 1990 Clean Air Act intended to control smog, reduce acid rain, protect the ozone layer, and reduce toxic air pollutants. "The administration is holding up numerous rules, which is illegal, and which is not consistent with the goal of protecting human health and the environment," said a senior EPA official. ("EPA Report Says White House Stalls 76 Regulations," *The Washington Post*, October 1)

**OCTOBER** - Russia is offering for sale photographs from powerful space cameras meant for spying. Espionage photos of Washington show features like the Capitol, the White House, and the Pentagon. Private experts say the declassifications of Moscow's best spy photographs may pressure the American government to be more forthcoming about opening its own surveillance archives.

The space photographs are superior to those Moscow has sold since 1987, which already have far better resolution than any offered commercially in the West. The new ones can resolve, or "see," objects slightly smaller than two meters across. The less-sharp images Moscow has been selling for years have five-meter resolution. The best commercial images taken by the French SPOT satellites have a resolution of 10 meters and the ones of the American Landsat satellite have 30-meter resolution. The new photos are being marketed by Central Trading Systems of Arlington, Texas, and sell for \$3,180. The photographs are sent from Moscow via Federal Express. In comparison, images from the French SPOT satellites cost \$700 to \$3,000. Those from the American Landsat system cost \$200 to \$4,000.

Dr. Peter Zimmerman, a reconnaissance expert at the Center for Strategic and International Studies, said Moscow's new initiative would "put political pressure on the U.S. to declassify imagery that might be socially useful" for disaster relief and scientific studies. On a limited basis, the Central Intelligence Agency is beginning to let certain scientists examine its reconnaissance records for clues of environmental change. ("Russia Is Now Selling Spy Photos from Space," *The New York Times*, October 4)

**OCTOBER** - Sen. Larry Pressler (R-N.D.) described to his colleagues how the commercialization of the Landsat operation by the Reagan Administration in the mid-1980s had "a deleterious effect on uses of Landsat data in American colleges and research institutions" because the high cost of Landsat data inhibited its use by the scientific and academic communities. "Erratic funding for the program, coupled with the high cost of data, \$4,400 per scene, have resulted in restricted use of the data and caused concern...over the future of the program. This concern is shared by State and local government officials and environmental organizations." (October 7 *Congressional Record*, pp. S17140-2)



**OCTOBER** - CIA Director Robert Gates launched a broad internal investigation into what Administration officials described as the agency's apparent failure to provide timely and accurate information to Congress and the Justice Department about a politically sensitive bank scandal. Gates' move came as U.S. officials disclosed that the agency uncovered 1989 documents that cast new doubt on the government's longstanding contention that the scandal was solely caused by officials of the Atlanta branch of an Italian bank, Banca Nazionale del Lavoro.

This contention has been challenged by attorneys for the former head of BNL's Atlanta branch, the chief defendant in a criminal case arising from the scandal. The attorneys have alleged that the loans were authorized by Rome and that Washington has concealed evidence of Italian complicity to avoid embarrassing a key ally. The issue is considered sensitive because the bank is owned by the Italian government and the fraud—involving more than \$4 billion in loans and loan guarantees that helped Iraq buy weapons and food before the Persian Gulf War—is the largest in U.S. banking history. ("CIA Begins Inquiry in BNL Case," *The Washington Post*, October 8)

**OCTOBER** - Senate Intelligence Committee Chairman David Boren (D-Okl.) criticized plans by the Justice Department and the FBI to work together in probing potential misconduct by department officials in the Banca Nazionale del Lavoro scandal. Other lawmakers called on Attorney General William Barr to appoint an independent counsel to take over the department's probe. Sen. Howard Metzenbaum (D-Ohio) said that "only an independent investigation can assure...that the executive branch is not covering up major misconduct in its handling of the [BNL] affair." Metzenbaum cited press reports that FBI Director William Sessions and his wife Alice have come under investigation by the Justice Department for possible ethics violations, just as Sessions began his own inquiry into the role played by two senior Justice Department officials in the BNL case last month. ("Boren Criticizes Plans for Justice-FBI Probe of Alleged Misconduct in BNL Case," *The Washington Post*, October 14)

**OCTOBER** - In his latest attempt to put the Iran-contra affair behind him, President Bush said that he and his staff have answered thousands of questions about the scandal and insisted that he was not present at a key January 1986 meeting on the Iran initiative, contradicting two former Cabinet secretaries. ("Bush Bristles at Queries on Iran Initiative," *The Washington Post*, October 14)

**OCTOBER** - First reports surfaced of the search of presidential candidate Bill Clinton's passport and citizenship files by State Department officials. The State Department said they were processing Freedom of Information Act requests, calling them "time sensitive" because of the impending presidential election. ("Aide Sought Prompt Search of Clinton File," *The Washington Post*, October 15)

[Ed. note: Within a week, Acting Secretary of State Lawrence Eagleburger, asserting that "there has been and will be no coverup," ordered the State Department's inspector general to investigate. After first saying that "there is no inappropriate behavior at all in this," department spokesman Richard Boucher amended his comments and acknowledged that officials had deviated from department rules and mistakenly expedited FOIA requests regarding Clinton. Boucher, however, blamed the errors on "low-level people" who he contended were not acting under political pressure. ("Eagleburger Orders Investigation Into Handling of Clinton File Requests," *The Washington Post*, October 20)]

**OCTOBER** - Public health surveillance systems are inadequate to detect threats from new diseases and the re-emergence of old ones, the National Academy of Sciences said in a report issued in Washington in mid-October. It said the sudden appearance of new diseases like AIDS and the resurgence of old ones like tuberculosis that can kill millions of people around the world are inevitable despite the great advances in medicine. Authors of the report said they were sending a "wake-up call to doctors, medical schools, government officials and the public to end complacency over infectious diseases."

The report sharply criticized the base of the national system for reporting certain communicable diseases to the Federal Centers for Disease Control in Atlanta. "Outbreaks of any disease that is not on C.D.C.'s current list of notifiable illnesses may go undetected or may be detected only after an outbreak is well under way," the report said. Although current United States and international surveillance efforts can do well in detecting known communicable diseases, they fall short in their ability to detect new threats, the report said, adding, "There has been no effort to develop and implement a global program of surveillance for emerging diseases or disease agents." ("Surveillance of Diseases Is Deficient, Report Says," *The New York Times*, October 17)

**OCTOBER** - Rep. Doug Barnard (D-Ga.) accused the Justice Department of deliberately prolonging, until after the election, a criminal investigation into altered Commerce Department records about exports to Iraq. Chairman of the Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs, Barnard made his comments in testimony prepared for a Senate Banking Committee hearing. "It has been a year and three months since Justice opened its investigation," Barnard said he "can only conclude that this matter is too sensitive to decide before the upcoming presidential election." The investigation into the altered records is the sole, active criminal investigation sparked by actions related to U.S. policy toward Iraq before the 1991 Persian Gulf War.

On a related matter, a spokesman for the Agriculture Department denied allegations, reported to Congress, that department officials had shredded documents related to U.S. loan guarantees granted Iraq before the Persian Gulf War. House



Banking Chairman Henry Gonzalez (D-Texas) cited the allegations in a letter asking Secretary of Agriculture Edward Madigan to remove all shredders from offices that helped oversee loan guarantees. ("Justice Accused of Delaying Probe of Altered U.S. Files," *The Washington Post*, October 28)

**NOVEMBER** - A note by former Secretary of Defense Caspar Weinberger, released October 30 in his Iran-contra indictment, provides the most direct contradiction to President Bush's statements that he was "out of the loop" when the plan to sell arms to Iran was formulated. The January 7, 1986, note makes clear that Weinberger considered the deal for sending 4,000 antitank missiles to Iran in exchange for the release of five American hostages as an arms-for-hostages swap. He also writes that he and former Secretary of State George Shultz objected to it and that Bush was present and apparently showed his approval. For the several days before the election, Bush has argued there is nothing new about the Weinberger note. ("Roots of Bush's Iran Credibility Gap," *The Washington Post*, November 2)

**NOVEMBER** - The Department of Education informed ERIC users that the Department permitted the contractor that produces the ERIC database tapes to copyright the ERIC database and to collect fees for commercial and academic usage. The plan proposed by the ERIC contractor calls for implementation of usage fees during 1993 through a "Database Licensing Agreement," a new contract instrument executed between the contractor and each organization that will receive either the entire database or updates to it in magnetic tape or machine readable form. (Letter from Robert M. Stonehill, director, Educational Resources Information Center to ERIC User, November 3)

[Ed. note: In a December 16 article, "Department Weighing Plan to Copyright Information Data Base," *Education Week* called the ERIC proposal "a dramatic shift from past practice." The article said the proposal faces stiff opposition from education and library groups, which contend that it would restrict access to information by driving up the cost. The House of Representatives passed legislation, which was not considered by the Senate, that would have prohibited the department from copyrighting the database.]

**NOVEMBER** - A federal appeals court ruled that American taxpayers must pay former President Richard Nixon what could amount to millions of dollars in compensation for presidential papers and tape recordings that have been kept under government control. A panel of the U.S. Court of Appeals overturned a federal judge's ruling last year that the papers and tapes were the property of the American people and that the government does not owe Nixon any money for taking them. The court held that Nixon was entitled to compensation for his papers under the "takings clause" of the Fifth Amendment, which provides that the government may not take a person's property without just compensation.

Lawyers for the former President argued that because all previous presidents treated their papers as personal property after they left office, Nixon reasonably had the same expectation and must be compensated for being deprived of his rights. Lawyers for the government argued that Nixon was only a custodian of the records, which legally were U.S. property. In 1978, Congress made all future presidential papers property of the government. Nixon's presidential collection contains 42 million items, including tape recordings of most conversations conducted in the Oval Office, the Cabinet room, the Lincoln Sitting Room, the President's private office in the Executive Office Building and on telephones at Camp David.

The case now goes back to U.S. District Judge John Garrett Penn for a trial on the issue of how much the records are worth. The government has the options of seeking a rehearing by the panel or asking the full appeals court to hear the case. It can also appeal to the Supreme Court. ("Court Rules For Nixon on Records," *The Washington Post*, November 18)

**NOVEMBER** - The chief White House counsel, C. Boyden Gray, has told President Bush's aides that they may destroy telephone logs and other personal records during the transition as they prepare to leave the government. Congressional staff say the legal opinion will hinder their investigation of the search through President-elect Bill Clinton's passport files. Telephone calls between the State Department and the White House have emerged as a potentially valuable source of evidence for congressional investigators trying to find out whether the White House was involved in the search for information that might have damaged Clinton's presidential campaign.

Gray told White House employees that the 1978 law prohibiting destruction of "Presidential records" did not cover "'non-record' materials like scratch pads, unimportant notes to one's secretary, phone and visitor logs or information notes (of meetings, etc.) used only by the staff involved." Historians and archivists said that the requirements of federal law were more complicated than Gray had indicated. In some cases, they said, telephone and visitor logs are covered by the law and should be preserved.

In a separate action, Judge Charles Richey issued a temporary order preventing the Bush White House from destroying computer records before leaving office. The Bush Administration argues that the computer tapes in question are not records, do not have to be preserved and are not subject to the Freedom of Information Act. Judge Richey said that if tapes are erased at the end of the Administration, the public's right of access to such electronic records "will be irreparably lost." Plaintiffs in the case include the National Security Archive, the American Library Association, and the American Historical Association. They argued that the Bush Administration did not have adequate guidelines for federal employees to decide which records must be saved.

The tapes in question include copies of electronic mail sent through the White House computer system in the last four years.

They cover topics including the budget, drug enforcement, science and technology policy, United States relations with Iraq, and foreign trade negotiations. ("Bush's Lawyer Says Aides May Destroy Records," *The New York Times*, November 21)

[Ed. note: In a statement filed in December in U.S. District Court, the White House said the court's order does not cover records of individuals and offices whose "sole responsibility is to advise the president." Bush Administration lawyers said that they are free to destroy virtually all records of the Vice President, the chief of staff, and the Council of Economic Advisers. ("White House Disputes Impact of Tapes Order," *The Washington Post*, December 10)]

**NOVEMBER** - The National Security Agency has reversed itself and declassified two cryptography texts that it previously had insisted were secret even though they were available in public libraries. The manuals were written by a founder of the security agency and make up two volumes of a book on military code-breaking. John Gilmore, a California cryptographer, requested the volumes in a FOIA request. Gilmore believes that widespread access to coding and code-breaking technologies will make it easier to protect personal privacy in the electronic information age. His logic is that they more that is known about code-breaking, the easier it will be for individuals to design computer codes that would be almost impossible to break. "These are textbooks on relatively simply cryptographic techniques," Gilmore said, adding that the techniques had been "known for centuries."

The dispute is one of a series between the security agency and independent cryptographic experts and business executives over how closely the government should guard the technologies used to protect national secrets and break enemy codes. As more and more information has been stored and exchanged electronically, there has been growing pressure from United States computer companies to make coding technology available. ("In Shift, U.S. Spy Agency Shrugs at Found Secret Data," *The New York Times*, November 28)

**NOVEMBER** - Rep. Jack Brooks (D-Texas) chairman of the House Judiciary Committee, asked the Attorney General to warn his employees not to inappropriately destroy documents. The request joins a chorus of official and unofficial requests that William Barr take pre-emptive action to prevent destruction of documents that relate to a variety of scandals that have touched the Justice Department in the past 12 years, including the theft of Inslaw software. Inslaw owner Nancy Hamilton said she has received a number of calls from sources inside Justice who say officials are allowing or ordering destruction of documents that could shed light on her company's dispute with Justice.

Brooks' committee this summer issued a report (H.Rept. 102-857) capping a three-year investigation that concluded that Justice officials may have stolen software developed by the Washington-based computer company. Barr refused a request by

the committee to seek appointment of an independent prosecutor in the case, relying instead on an investigation by a "special counsel" who reports to him. The Justice Department is the subject of numerous allegations of wrongdoing, and those concerned about shredding of documents in the department say they are afraid proof of wrongdoing will be destroyed. The Justice Department itself is the agency in charge of enforcing U.S. laws relating to government document destruction. ("Warning to Justice: Don't Destroy Inslaw Data," *Washington Business Journal*, Week of November 30-December 6)

**DECEMBER** - According to Steven Garfinkel, director of the Information Security Oversight Office, the cold war gave birth to a government culture of secrecy and clandestine activity that had never existed before to any great degree, except in wartime. Government officials classify almost seven million documents a year. But with the cold war's end, some are asking whether all this secrecy is still needed. Steven Aftergood, editor of the *Secrecy and Government Bulletin* published by the Federal of American Scientists, said that government secrecy had often prevented Congress and the public from "paying attention to abuses, wasted money, failed programs" and that "a whole realm of government is beyond any pretense of democratic decision-making."

But even with the cold war over, Garfinkel and Aftergood say the government has offered no plans to reduce the number of materials stamped secret each year. "I think it's fair to say that no one's talking yet about changing anything," Garfinkel said. "It looks like this cold war institution is going to be institutionalized beyond the cold war." ("Giving Up Secrecy Is Hard to Do," *The New York Times*, December 2)

**DECEMBER** - In a victory resulting in more information to the public, the Bush Administration reached agreement on the final details of its ambitious overhaul of the nation's food labeling rules, breaking a bitter, month-long deadlock between the Department of Health and Human Services and the Agriculture Department over the scope and direction of the new regulations. The White House decision represents a victory for HHS Secretary Louis Sullivan and Food and Drug Administration Commissioner David Kessler on the critical issue of how nutritional information will be presented on the back panel of packaged foods. Both men had fought attempts by the USDA and the meat industry to remove a section of the proposed label that told consumers what percentage of a standard daily allowance of fat and cholesterol was found in the food product they were buying. ("Food Label Agreement Reached," *The Washington Post*, December 3)

**DECEMBER** - A 32-page article by Paul Brodeur in *The New Yorker* documents the high incidence of cancer at a school in Fresno, California. The school is close to two high-voltage transmission lines that run past the school. Teachers, parents, and students were unaware of the hazard posed by working and

going to school close to transmission lines until an article appeared in the Fresno *Bee* about an attempt by the Bush Administration in December 1990 to delay the release of a report compiled by the Environmental Protection Agency, which linked residential and occupational exposure to the alternating-current magnetic fields given off by power lines with the development of cancer in children and adults. The article is a case study in the difficulties concerned teachers faced in trying to convince California state health officials and utility executives that there is a link between cancer incidence and long-term exposure to the strong magnetic fields that are given off by power-frequency magnetic fields. ("The Cancer at Slater School," *The New Yorker*, December 7)

**DECEMBER** - The first independent study of the health records of 35,000 workers at a government bomb plant in Washington State presents a new, more sinister picture of the risks of small doses of radiation. This finding, by 86-year-old Dr. Alice Stewart, a pioneer in radiation epidemiology, follows her 14-year struggle to regain access to the health data. For decades, the federal government had limited access to scientists of its choosing, who generally concluded that the radiation exposure had done little harm. Dr. Stewart's study concludes that 200 of the workers have lost or will lose years of their lives because of radiation-induced cancer. This contradicts earlier government-sponsored studies that found no additional cancer deaths among employees at the Hanford nuclear reservation.

In 1976, Dr. Stewart and other researchers completed a study of Hanford workers for the Energy Department and presented their conclusions that low doses of radiation had caused an increase in the number of cancers. The department rejected the findings, stopped paying for their research and cut their access to the workers' health records. Their access was restored as part of a new policy of openness by Energy Secretary James Watkins in 1990. By then, the Hanford plant had been closed because of environmental and safety problems.

The study, covering 1944 to 1986, has been accepted for publication in March 1993 by a scientific journal, *The American Journal of Industrial Medicine*. ("Pioneer in Radiation Sees Risk Even in Small Doses," *The New York Times*, December 8)

**DECEMBER** - Attorney General William Barr rejected congressional demands for an independent prosecutor to investigate whether the government had committed a crime in a bank fraud case involving loans to Iraq. He asserted that the Justice Department had acted properly in every aspect of the politically contentious case. Barr's refusal to seek a judicially appointed prosecutor in the case involving the Atlanta branch of the Banca Nazionale del Lavoro followed the recommendation of Frederick Lacey, his own counsel. Congressional Democrats blasted Barr's decision and Judge Lacey's seven-week investigation, saying it white-washed serious issues and left important questions unanswered. ("U.S. Won't Seek New Inquiry Into Iraq Loans," *The New York Times*, December 10)

[Ed. note: President-elect Bill Clinton said after he took office he would consult with his Attorney General to decide whether to ask the courts to name an independent prosecutor to examine allegations that Bush Administration officials covered up efforts to help Iraq build up its military in the years before the invasion of Kuwait. ("Clinton Says He'll Consider Inquiry Into Bank Case Involving Iraq," *The New York Times*, December 11)]

**DECEMBER** - Clair George, former CIA official, was found guilty of two felony counts of lying to Congress about his knowledge of the Iran-contra scandal. In essence, the jurors found that George gave crafty and misleading answers in the final months of 1986 to two congressional committees. ("Ex-Spy Chief Is Convicted of Lying to Congress in Iran-Contra Case," *The New York Times*, December 10)

**DECEMBER** - Seymour Hersh wrote an 18-page article for *The New Yorker* based on secret tape recordings in the National Archives that the former President has successfully blocked from public release. A plot was revealed that had never been made public. Nixon and his aide, Charles Colson, in 1972 plotted to link the man who tried to kill Alabama Gov. George Wallace with Democratic presidential candidate George McGovern. According to the article, Nixon and Colson decided to send former CIA operative E. Howard Hunt to Milwaukee to plant McGovern campaign literature in the apartment of Arthur Bremer, the man who shot Wallace. The trip was canceled when the FBI, to Nixon's dismay, sealed the Bremer apartment.

Hersh maintains that the Watergate tapes that have been released amount to 60 hours—less than two percent of those processed by the National Archives—and all of them had been subpoenaed. "All this means that Richard Nixon is winning one of the most significant battles of his life after Watergate: he is keeping the full story of what happened in his White House from the public and, in doing so, is defying the clear intent of Congress and the Supreme Court. The former President has invested millions to hire a team of skilled attorneys...[who] have orchestrated a delaying action inside the National Archives since 1977." ("Nixon's Last Cover-Up: The Tapes He Wants the Archives to Suppress," *The New Yorker*, December 14)

[Ed. note: See also: "Tapes Tie Nixon to Anti-McGovern Plot," *The Washington Post*, December 7; and "Article Describes More Nixon Tapes," *The New York Times*, December 7)]

**DECEMBER** - The General Accounting Office asked the White House to turn over copies of computer messages, phone logs, and other files from Chief of Staff James Baker, and aides, Margaret Tutwiler and Janet Mullins, as part of a broadening congressional investigation into the State Department's pre-election search through President-elect Clinton's passport files. Congressional committees recently became concerned when Bush Administration lawyers argued in a lawsuit that the White House had no obligation to preserve computer tapes containing electron-



ic mail and other internal messages by White House aides. ("GAO Seeks Files of Baker, Aides in Passport Probe," *The Washington Post*, December 16)

**DECEMBER** - A preliminary Justice Department investigation uncovered evidence that White House aide Janet Mullins may have helped "encourage and direct" the pre-election search of President-elect Clinton's passport files and then lied about her involvement to State Department investigators. The department's evidence prompted a three-judge panel to issue an order giving independent counsel Joseph diGenova broad authority "to fully investigate and prosecute" the passport search case and "all matters and individuals whose acts may be related." Although Mullins, special assistant to the President for political affairs, is the only person named, the order in effect gives diGenova the power to conduct a wide-ranging inquiry that is almost certain to reach into the upper levels of the Bush White House. At least two of Mullins's colleagues, Chief of Staff James Baker and assistant to the President for communications Margaret Tutwiler, have hired criminal lawyers to represent them in connection with the probe. ("Bush Aide, Passport Case Linked," *The Washington Post*, December 22)

**DECEMBER** - Special prosecutors accused former Defense Secretary Caspar Weinberger of seven more lies about the Iran-contra scandal that they said they want to prove at his trial in January. In a filing with U.S. District Judge Thomas Hogan, the prosecutors disclosed new notes of Weinberger's that not only seem to contradict his previous statements but also give additional information about the evolution of the scandal itself. The prosecutors said all seven false statements were "closely related" to the four-count indictment against Weinberger and were important to show that he had a motive to lie to congressional investigators in 1986 and 1987 and to keep lying later on to investigators for independent counsel Lawrence Walsh. ("Weinberger Charges Expanded," *The Washington Post*, December 22)

**DECEMBER** - President Bush pardoned former Defense Secretary Caspar Weinberger and five other former government officials involved in the Iran-contra affair because "it was time for the country to move on." Pardoned with Weinberger were former Assistant Secretary of State Elliott Abrams, former Reagan National Security Adviser Robert McFarlane, and former CIA officials Clair George, Alan Fiers and Duane Clarridge.

Independent counsel Lawrence Walsh angrily declared that Bush's action meant that "the Iran-contra coverup, which has continued for more than six years, has now been complete." But Walsh gave notice that he was still not finished with his investigation, indicating that he is now focusing on Bush himself. Walsh disclosed that he had learned for the first time on December 11 that Bush had "his own highly relevant contemporaneous notes" about the Iran-contra affair, which he "had failed to produce to investigators...despite repeated requests for such

documents." He said Bush was still handing over these notes, a process that "will lead to appropriate action." In an interview on "MacNeil/Lehrer NewsHour," Walsh went further, saying Bush is "the subject now of our investigation." Walsh said the President may have "illegally withheld documents" from Iran-contra investigations. ("Bush Pardons Weinberger in Iran-Contra Affair," *The Washington Post*, December 25)

[Ed. note: Following is independent counsel Lawrence E. Walsh's written statement in response to the presidential pardons in the Iran-contra scandal:

President Bush's pardon of Caspar Weinberger and other Iran-contra defendants undermines the principle that no man is above the law. It demonstrates that powerful people can commit serious crimes in high office—deliberately abusing the public trust—without consequence. Weinberger, who faced four felony charges, deserved to be tried by a jury of citizens. Although it is the president's prerogative to grant pardons, it is every American's right that the criminal justice system be administered fairly, regardless of a person's rank and connections.

The Iran-contra coverup, which has continued for more than six years, has now been completed with the pardon of Caspar Weinberger. We will make a full report on our findings to Congress and the public describing the details and extent of this coverup.

Weinberger's early and deliberate decision to conceal and withhold extensive contemporaneous notes of the Iran-contra matter radically altered the official investigations and possibly forestalled timely impeachment proceedings against President Reagan and other officials. Weinberger's notes contain evidence of a conspiracy among the highest-ranking Reagan administration officials to lie to Congress and the American public. Because the notes were withheld from investigators for years, many of the leads were impossible to follow, key witnesses had purportedly forgotten what was said and done, and statutes of limitation had expired.

Weinberger's concealment of notes is part of a disturbing pattern of deception and obstruction that permeated the highest levels of the Reagan and Bush administrations. This office was informed only within the past two weeks, on December 11, 1992, that President Bush had failed to produce to investigators his own highly relevant contemporaneous notes, despite repeated requests for such documents. The production of these notes is still ongoing and will lead to appropriate action. In light of President Bush's own misconduct, we are gravely concerned about his decision to pardon others who lied to Congress and obstructed official investigations.

("Walsh: 'The Iran-Contra Coverup...Has Now Been Completed,'" *The Washington Post*, December 25)]

**DECEMBER** - The White House promised to make public "everything" in President Bush's files to counter charges by 5

independent counsel Lawrence Walsh that the President was continuing a coverup of the Iran-contra affair when he pardoned former Defense Secretary Caspar Weinberger and five others. Bush said repeatedly during the recent election campaign that he had disclosed everything he knew about the Iran-contra affair to Walsh's investigators. ("President to Disclose 'Everything,'" *The Washington Post*, December 26)

**DECEMBER** - President Bush hired former Attorney General Griffin Bell to represent him in the continuing investigation of his withholding his notes on the Iran-contra affair from 1987 to 1992. ("Bush Hires Lawyer in Iran-Contra," *The Washington Post*, December 31)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Ave., NE, Washington, DC 20002-5675; 202-547-4440, fax 202-547-7363. All orders must be prepaid and must include a self-addressed mailing label.





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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XX *A 1993 Chronology: January - June*

## INTRODUCTION

For the past 12 years, this ongoing chronology has documented Administration efforts to restrict and privatize government information. Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued its proposed revision of the circular in the April 29, 1992, *Federal Register*. Particularly troubling is OMB's theory that the U.S. Code's definition of a "government publication" excludes electronic publications. Agencies would be unlikely to provide electronic products voluntarily to depository libraries—resulting in the technological sunset of the Depository Library Program, a primary channel for public access to government information.

Another development, with major implications for public access, is the growing tendency of federal agencies to utilize computer and telecommunications technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers

promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions which creates a climate in which government information activities are suspect. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JANUARY** - Griffin Bell, the attorney representing former President George Bush in dealings with Iran-contra independent prosecutor Lawrence Walsh, said in an interview that he hoped to send the prosecutor a second batch of notes that Bush took during White House meetings on the arms sale to Iran. The President sent the first set of such notes in December, five years after Walsh had asked him to turn over any of his documents

relevant to the Iran-contra affair.

The long delay between that request and Bush's response to it led Walsh to say in December that in failing to disclose earlier to the prosecutor's office that he had kept any such notes, the President had engaged in "misconduct." Speaking after Bush's pardon of former Defense Secretary Caspar Weinberger and five other Iran-contra defendants, Walsh also said the President was

now a "subject" of the Iran-contra inquiry. ("Bush's Deposition Was Videotaped, Lawyer Says," *The New York Times*, January 3)

**JANUARY** - The Senate Select Committee on POW/MIA Affairs toned down its criticism of former President Richard Nixon and his Secretary of State, Henry Kissinger, after protests from both men. The committee, investigating the handling of missing American servicemen in Southeast Asia, permitted Kissinger and his attorney, Lloyd Cutler, to read portions of a draft report on December 28 and then changed some of the document's conclusions.

Reportedly, the draft report criticized Nixon and his top aides for failing to get a full accounting of American military personnel at the end of the Vietnam War. Some MIA advocates were enraged that Kissinger was allowed access to the report before its public release and that some of its findings were changed as a result of his comments. Many of these people have for years accused Kissinger and other government officials of participating in a cover-up to keep the public from learning the truth about the 2,264 Americans who have never been accounted for.

Cutler and former aides to Nixon say it is true that Nixon and Kissinger did not get a full accounting from the Vietnamese of American servicemen who were missing in Vietnam, Cambodia or Laos. But these aides say Congress must shoulder some of the blame by pulling the rug from underneath the Nixon Administration. ("Kissinger Protest Changes Report," *The New York Times*, January 11)

**JANUARY** - The American intelligence community knew that a British company was buying military-related equipment for Iraq as early as 1987, nearly three years before the firm and its U.S.-based subsidiary were ordered shut by export authorities in both countries, according to U.S. government sources. The disclosure confirms suspicions by some lawmakers in Washington and London last year about the secret U.S.-British exchange of data on Iraq's arms procurement network before the 1991 Persian Gulf War. It also again raised questions about why officials in both countries stood by idly as Matrix Churchill supplied Baghdad with machine tools of value to Iraq's nuclear weapons program.

The CIA disseminated information about Matrix Churchill to policymakers in the Reagan and Bush Administrations beginning in December 1987, just two months after the firm was purchased by an Iraqi-controlled company, according to government sources. The secret data exchange was hinted at in a February 5 report by the Senate Select Committee on Intelligence about the Bush Administration's mishandling of intelligence information about Iraq. The report said multiple raw intelligence reports received by the CIA "described the activities of Matrix Churchill as part of the Iraqi world-wide procurement network."

Rep. Henry Gonzalez (D-Tex.), the Banking Committee chairman who for several years has investigated U.S. ties to Iraq, cited the Senate report's disclosures in alleging that the

CIA misled Congress about the extent of the intelligence agency's knowledge about Matrix Churchill. The agency told Gonzalez in a November 1991 letter that it had located only two classified reports on the firm. ("CIA Knew of British Iraq Deal," *The Washington Post*, January 15)

**JANUARY** - U.S. District Judge Charles Richey rejected a last-minute Bush Administration attempt to begin destroying most computerized White House records, and warned in a sharply worded order against any effort to evade his mandate. The National Security Council had been planning to start erasing the records on its computers to provide a "clean slate for the incoming Administration," according to court papers. Justice Department lawyers, representing the White House, contended that the court was impeding "the present Administration's ability to leave office with its records dispatched to appropriate federal document depositories consistent with the law."

Calling that argument "incomprehensible," Richey said there was an important difference between paper copies of White House computer messages, memos, and electronic mail and the electronic records, "because the paper copies do not necessarily disclose who said what to whom and when." Administration lawyers indicated they intend to appeal the ruling to the U.S. Court of Appeals.

The dispute is an outgrowth of a Freedom of Information suit brought four years ago by Scott Armstrong, the National Security Archive, and others (including the American Library Association). Computer records of the Reagan White House already are covered by existing orders, and the Bush White House is seeking to destroy only those it generated. ("Judge Warns White House About Erasing Computers," *The Washington Post*, January 15)

**JANUARY** - A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit ordered departing White House and National Security Council officials to make portable back-up copies of records stored in their personal computers before deleting the materials from the machines. Only after the millions of electronic messages—e-mail—and other electronic records are preserved in full on back-up disks or tapes can officials erase them from the internal hard drives of machines that will be inherited by their replacements in the Clinton Administration, the court ruled.

The case is the first to apply the 50-year-old Federal Records Act to electronic communications. The White House had argued that as long as paper copies were made of e-mail materials, the electronic versions in the computers could be erased. Richey, however, noted that printed copies seldom contain all the information that was in the computer, such as who besides the named recipient received a copy of a memo and when it was received.

"The question of what government officials know and when they knew it has been a key question in not only the Iran-contra investigations, but also in the Watergate" probe, said the judge,

who was appointed to the bench by President Richard Nixon. ("Bush Officials Ordered to Preserve Copies of Computer Records," *The Washington Post*, January 16)

**JANUARY** - On January 15, the White House released excerpts of a long-secret diary President Bush started the day after covert arms sales to Iran were first disclosed in November 1986 and in which he said, "I'm one of the few people that know fully the details." That private statement of Bush's knowledge while Vice President was made on November 5, 1986, months before a newspaper interview in which Bush said he had been "out of the loop" on the covert dealings with Tehran to gain the release of American hostages then being held in Lebanon by pro-Iranian terrorists. The excerpts show Bush professing less and less knowledge as the furor over the Iran-contra affair intensified.

The 45 pages of diary excerpts relating to the Iran-contra scandal were selected by Bush's lawyer, Griffin Bell, as relevant to the long-running investigation of the affair by independent counsel Lawrence Welsh. Bell said Bush "apparently was not aware of the [Walsh] request for diaries," but even if he had been, "his present view is that" he would not have had to turn them over. According to Bell, Bush believes that because the diary entries "post-dated the relevant events of Iran-contra...and were his personal, political thoughts." Walsh plans to question Bush, White House counsel Boyden Gray, and others about the failure to tell about the diary's existence until December 1992. The Iran-contra prosecutor also wants to interview Bush about the cover-up of the scandal that Walsh says began in November 1986. ("Diary Says Bush Knew 'Details' of Iran Arms Deal," *The Washington Post*, January 16)

**JANUARY** - An internal investigation by the Central Intelligence Agency has concluded that its officials were responsible for not providing information from the Justice Department to the prosecution in a politically charged case involving bank loans to Iran, government officials said. A report of the investigation, which is classified and has not yet been released, lays much of the blame on the CIA, largely absolving the Justice Department for its behavior. The two agencies engaged in a public dispute, in the fall of 1992, over which was responsible for failing to provide information crucial to the prosecution of an official of an Atlanta branch of Banca Nazionale del Lavoro.

CIA Director Robert Gates said, "The report found no evidence of misconduct or willful withholding of documents." But he said the report detailed mistakes by senior agency officials and instances of poor judgment. It also concludes that part of the problem is the agency's complex system of maintaining its files. Gates said he had ordered a large-scale overhaul of the agency's information retrieval systems. ("Report Blames C.I.A. Officials For Lapses in Iraqi-Loan Case," *The New York Times*, January 20)

**JANUARY** - Jack Anderson and Michael Binstein report that, "While the State Department broke speed records in an election-

eve search for dirt on Bill Clinton, it was running 17 years behind schedule in living up to a congressional mandate to declassify documents 30 years old or older." During a meeting in November 1992, a group of historians was first informed that the State Department would take until 2010 to comply with a 1991 law requiring the release of classified documents by next October. When Congress first imposed the two-year deadline, it was hailed as a victory for the public's right to know, and a blow to the culture of classification that grew with the Cold War. According to sources with access to the archives, the vast majority are not harmful to national security but invaluable to historians. ("State Dept. Lags on Declassifying Papers," *The Washington Post*, January 28)

**JANUARY** - Former President George Bush misrepresented his role and knowledge of the arms-for-hostage dealings with Iran in 1985 and 1986, according to memoirs by former Secretary of State George Shultz. In an excerpt from the memoirs appearing in *Time* the week of January 31, Shultz describes an encounter with Bush on November 9, 1986, six days after a Beirut magazine first disclosed the secret arms-for-hostage deals:

I put my views to him [Bush]: I didn't know much about what had actually transpired, but I knew that an exchange of arms for hostages had been tried on at least one occasion. Bush admonished me, asking emphatically whether I realized there were major strategic objectives being pursued with Iran. He said he was very careful about what he said.

"You can't be technically right: you have to be right," I responded. I reminded him that he had been present at a meeting where arms for Iran and hostage releases had been proposed and that he had made no objection, despite the opposition of both Cap [then-Defense Secretary Caspar W. Weinberger] and me. "That's where you are," I said. There was considerable tension between us when we parted.

Shultz adds in the memoirs that he was "astonished" to read an interview Bush gave to *The Washington Post* nine months later in which Bush said he had never heard Shultz or Weinberger express their strong opposition to the arms sales—that he was "not in the loop." According to Shultz, "Cap called me. He was astonished too. 'That's terrible [Weinberger said]. He [Bush] was on the other side. It's on the record. Why did he say that?'"

Shultz's new disclosure confirms and amplifies a contemporaneous Weinberger note released four days before last November's presidential election. The note said that at a meeting on January 7, 1986, in the White House, the deal was described as arms-for-hostages, Bush approved of it, and Shultz and Weinberger were opposed.

In his memoirs, Shultz provides a picture of a stubborn President Reagan who doggedly convinced himself he was not trading arms for hostages. "To him reality was different," Shultz writes. On the Iranian arms sale and "other issues...[Reagan] would go over the 'script' of an event, past or present, in his mind, and once that script was mastered, that was the truth—no



fact, no argument, no plea for reconsideration could change his mind." ("Shultz Memoirs Say Bush Misstated Arms-for-Hostages Role," *The Washington Post*, January 31)

**FEBRUARY** - Responding to calls for greater disclosure, officials of the John F. Kennedy Presidential Library are attempting to speed declassification of White House tapes recorded secretly more than 30 years ago. The library, part of the National Archives, has been stymied because the National Security Council requires transcripts before it can perform declassification procedures, but the library is under orders from the National Archives not to transcribe the tapes.

The library holds 248 hours of tapes recorded secretly in the Oval Office, along with 12 hours of recorded telephone calls. The materials originally were considered the President's personal property, and the property of his heirs. Now, federal law makes the tapes government property. Library spokesman, Frank Rigg, said the library did not withhold materials from the public or from scholars on its own initiative, and he denied persistent complaints that the library acts as an agent for the Kennedy family. William Johnson, the library's chief archivist, said the library honors restrictions imposed by donors. ("Library Moving to Release JFK Tapes," *The Washington Post*, February 3)

**FEBRUARY** - The Senate Select Committee on Intelligence released a report that said the CIA and the Justice Department mishandled a probe of illicit loans to Iraq during the past three years by failing to pursue intelligence leads or exchange and disseminate classified information bearing on the case. Serious errors in judgment by CIA and Justice Department officials and poor administrative practices kept prosecutors from learning of information that bore on the central question of who was responsible for \$4 billion in fraudulent loans made to Iraq from 1985 to 1989 by the Atlanta branch of an Italian government-owned bank, Banca Nazionale del Lavoro, according to the Senate report.

The Senate report said that some CIA officials, who claimed to be acting on the advice of officials at the FBI, decided to block distribution to the Justice Department of some classified documents about the case. The documents were considered politically embarrassing to the government or potentially damaging to the government's prosecution of the director of BNL's Atlanta branch, Christopher Drogoul.

One of these documents was a December 1990 intelligence report, partially disclosed in the Senate report for the first time. The intelligence report, from an unidentified agency, contained an unverified allegation that "U.S., Italian, and Iraqi officials had engaged in unlawful conduct in connection with the BNL-Atlanta loan case." The Senate inquiry did not substantiate this claim, but criticized the executive branch's failure to provide this report to federal prosecutors investigating the case in Atlanta.

Attributing these foul-ups to errors in judgment by CIA and Justice Department officials, the Senate report said a four-month study of classified government information had not turned up any

evidence of criminal wrongdoing by career officials or political appointees in the Bush Administration, which supervised the federal probe. ("Report Faults CIA, Justice Dept. in BNL Probe," *The Washington Post*, February 6)

**FEBRUARY** - Independent counsel Lawrence Walsh laid out "new and disturbing facts" that he said showed top government officials lied about then-President Ronald Reagan's knowledge of a possibly illegal arms-for-hostages shipment to Iran in November 1985. In a report to Congress, Walsh made public much of the documentary evidence that he said he would have used at the trial of former Defense Secretary Caspar Weinberger, whom then-President George Bush pardoned December 24. Citing notes written by Weinberger and a top aide to then-Secretary George Shultz, Walsh said Weinberger "opposed disclosing the arms sales to the public and acquiesced as other Administration officials provided information to members of Congress and to the public that Weinberger knew to be false."

Walsh made his presentation in a voluminous "Fourth Interim Report to Congress," including 49 pages of Weinberger's long-secret notes about the Iran-contra affair and a two-inch stack of exhibits that Walsh said he would have used at trial. The independent counsel promised more details will be provided in his final report.

Weinberger's lawyer, Robert Bennett, issued a blistering statement accusing Walsh of releasing "a work of fiction...that is all old stuff which is not supported by the evidence." Bennett attacked Walsh as "a bitter man trying to rehabilitate a damaged reputation."

In his report, Walsh expanded on the sharp criticism he initially directed at Bush when the pardon was announced, and pointed out there is no precedent over the past 30 years for a President's pardoning someone who has been indicted but has not yet come to trial. Walsh said he was submitting the report to correct the "misconceptions" that Bush used as justifications for the Weinberger pardon. ("Walsh Report Details Evidence Against Weinberger," *The Washington Post*, February 9)

**FEBRUARY** - Hillary Rodham Clinton's new policymaking role on the presidential health-care task force is being questioned by Rep. William Clinger Jr. (R-Penna.), who believes she may be violating federal rules governing advisory committees. Clinger has asked the General Accounting Office to review whether Hillary Clinton, who was appointed by her husband to head the President's Task Force on Health Care Reform, is allowed to conduct any of the group's meetings in private.

White House general counsel Bernard Nussbaum has told Clinger he believes Hillary Clinton's participation does not violate the Federal Advisory Committee Act, which says that task force meetings must be conducted in public if any members of the task force are not employees of the federal government. Hillary Clinton is not a government employee, but the White House contends that she also is not the type of "outside influence" the statute was enacted to guard against.

The federal statute requires that advisory committee meetings be held in public unless the committee "is composed wholly of fulltime officers or employees of the federal government." ("GOP Congressman Questions Hillary Clinton's Closed-Door Meetings," *The Washington Post*, February 10)

**FEBRUARY** - The CIA's mishandling of information about a bank scandal involving loans to Iraq has led to internal changes that will give the agency an enhanced and possibly controversial role in future U.S. law enforcement activities, according to CIA officials and independent experts. The internal revisions are aimed at breaching—without destroying—the political and bureaucratic barriers that traditionally have prevented the intelligence agency from assisting domestic law enforcement investigations. The barriers were erected to prevent the CIA from becoming involved in spying on U.S. citizens at home.

Under the reforms, officials said, the CIA could be requested by federal prosecutors to collect evidence needed to bring indictments against foreign corporations or individuals for violations of U.S. laws. It also could be ordered to share more fully any information in its files relating to such investigations.

The changes grew out of recommendations by CIA Inspector General Frederick Hitz, who concluded in January that "systemic, procedural, and personal shortcomings" at the agency had ruined its collaboration with law enforcement officials probing \$4 billion in illicit loans to Iraq by the Atlanta branch of the Italian-owned Banca Nazionale del Lavoro.

The National Security Act of 1947, which established the CIA, states that "the agency shall have no police, subpoena, law enforcement powers, or internal security functions." A spokesman for Sen. Dennis DeConcini (D-Ariz.), who chairs the Senate Select Committee on Intelligence, said that "evaluating and possibly expanding opportunities for cooperation" between the CIA and domestic law enforcement agencies is one of the Senator's top priorities. ("Changes at CIA Will Give Agency Wider Role in Law Enforcement," *The Washington Post*, February 10)

**FEBRUARY** - The Justice Department said that it is considering a criminal investigation of the Archivist of the United States, Don Wilson, for potential conflicts of interest and thus may not be able to "adequately represent" him in a civil suit over the same controversy. The dispute involves Wilson's approval Jan. 19 of an agreement giving George Bush "exclusive legal control" of computerized records of his presidency. Wilson subsequently announced his leaving the government to become executive director of the George Bush Center at Texas A&M University, raising questions about whether he had a conflict of interest in signing the records agreement. ("Justice Dept. Weighs Criminal Investigation of U.S. Archivist," *The Washington Post*, February 24)

**FEBRUARY** - The U. S. intelligence community is worried that China may have revived and possibly expanded its offensive

germ weapons program, according to current and former government officials. The officials said that if true, the Chinese effort would violate Beijing's nine-year-old pledge of adherence to an international treaty barring development, production, and stockpiling of toxin and biological agents and the weaponry to deliver them. Officials said U.S. concerns about China are partly based on evidence that China is pursuing biological research at two ostensibly civilian-run research centers that U.S. officials say are actually controlled by the Chinese military.

Under President George Bush senior White House officials repeatedly removed a strong expression of concern about a suspected Chinese germ weapons program from unclassified versions of an annual report on arms proliferation that the intelligence community prepared for Congress. Only in January, did the intelligence report, which is required by law, state for the first time in an unclassified passage that "it is highly probable that China has not eliminated its BW [biological warfare] program" since agreeing to do so in 1984. Bush approved the little-noticed report on January 19, his final full day in office, before sending it to the House and Senate committees on foreign affairs.

The White House deleted this conclusion about China's activities—a conclusion representing a consensus of all relevant U.S. agencies—from both classified and unclassified versions of the report in 1991 and 1992, officials said, causing some intelligence analysts to accuse the White House privately of political censorship. The White House "was concerned about the foreign policy sensitivity of revealing this information" during congressional debates about maintaining U.S.-China relations and renewing most-favored-nation trade status to China, said one senior intelligence officer who participated in discussions of the matter. The official said that intelligence suspicions were publicized this year "only because those who were concerned about China policy took their fingers off" the report.

Two former White House officials who were involved in deleting the passage said, however, that they were motivated not by politics but by uncertainty that the charge was true. They said the Chinese government vigorously denied the allegation when questioned by a senior Bush Administration official last year. ("China May Have Revived Germ Weapons Program, U.S. Officials Say," *The Washington Post*, February 24)

**MARCH** - Federal officials have discovered that the government no longer collects the data needed to set a health budget for each state. President Clinton promised to set such a budget during the 1992 campaign. The discovery forecloses one method of controlling health costs and forces the Clinton Administration to seek other ways of achieving the same goal, perhaps through direct federal regulation of prices in the health-care industry.

Members of the President's Task Force on National Health Care Reform discovered in late February that the government stopped collecting state-by-state data on health spending ten years ago. The federal government tabulated health spending by state from 1966 through 1982, but has not compiled state data since

then, apparently because federal officials did not need such information to run the Medicare and Medicaid programs for the elderly and the poor. ("Health Data Sought By Clinton Is No Longer Collected," *The New York Times*, March 1)

**MARCH** - The Clinton Administration said a federal law that prohibits advisory committees from meeting in secret is unconstitutional, and it asked a federal judge to throw out a request that Hillary Rodham Clinton's task force on health-care reform hold open meetings. In a memo filed in U.S. District Court in Washington, the Justice Department said that the law, enacted to prevent special, private interest groups from exerting a secret influence on government decision, impairs the President's authority. In addition, the Justice Department said the law should not even apply to the task force because of what it called "the First Lady's unique status inside our government."

In late February, the Association of American Physicians and Surgeons, American Council for Health Care Reform, and the National Legal & Policy Center asked U. S. District Court Judge Royce Lamberth to issue a temporary restraining order against Hillary Clinton, several Cabinet officials, and her task force. The organizations alleged that the law requiring open meetings applied to the task force because Hillary Clinton is neither a public official nor a public employee. That status is important, the groups said, because the law, enacted during the 1970s, says that any advisory committee that is not wholly composed of federal employees must open its meetings to the public. ("Justice Dept. Says Open-Meeting Law Is Unconstitutional, Impairs President," *The Washington Post*, March 4)

**MARCH** - U.S. District Judge Royce Lamberth on March 10 said Hillary Rodham Clinton should be considered like any other "outsider" working for the White House, and therefore certain meetings of the health-care task force she heads must be open to the public. The ruling represented a political setback for the Administration as it lost an early court test. "While the court takes no pleasure in determining that one of the first actions taken by a President is in direct violation of [the law], the court's duty is to apply the laws to all individuals," Lamberth wrote.

However, as a practical matter, the ruling is not expected to change the way the health-care proposal is developed. Lamberth, who was appointed by President Reagan in 1987, said the staff-level "working groups" developing the plan need not hold open meetings, and the task force may meet behind closed doors to formulate policy to present to the President. Fact-gathering sessions of the task force must be open. "What he's done is really gutted the act" by defining the meetings that must be open in a way that "enables us to do the important things in private," said a senior White House official. ("First Lady Is a Government 'Outsider,' Judge Rules," *The Washington Post*, March 11)

**MARCH** - Rep. Robert Torricelli (D-N.J.), chair of the Foreign Affairs Subcommittee on Western Hemisphere, charged that the

Reagan Administration lied to Congress for years about the Salvadoran armed forces' complicity in murder, and he said that "every word uttered by every Reagan Administration official" about the observance of human rights in El Salvador should be reviewed for perjury. Torricelli's comments marked the latest turn in a renewed controversy about whether the Reagan Administration covered up abuses by the Salvadoran military to gain congressional approval of \$6 billion in aid during the 1980s. The issue arose again following the release of a report by a United Nations-sponsored commission that investigated rights abuses in El Salvador's 12-year civil war. ("Reagan Administration Accused of Lies on El Salvador," *The Washington Post*, March 17)

**MARCH** - The Clinton Administration appealed a U.S. District Court ruling that certain meetings of the President's health-care task force must be open to the public because its chair, Hillary Rodham Clinton, is not a government employee. In a brief filed on March 22, the Justice Department argued that the First Lady "functions in both a legal and practical sense as part of the government." The action is extraordinary because it subjects the job of the First Lady, already groundbreaking in this Administration, to scrutiny by a court.

In its brief, the Justice Department said, "The First Lady's role on the Task Force is that of a public servant, the functional equivalent of an officer or employee for purposes of the" 1972 Federal Advisory Committee Act. The brief cited the "long-standing tradition of public service by the Presidents' spouses," including Sarah Polk, Edith Wilson, Eleanor Roosevelt, Rosalynn Carter, and Nancy Reagan. "The Justice Department feels that the court made substantial errors both in interpreting and in applying the principles of constitutional law," said a statement issued by the department. "The department believes this case has implications beyond the health-care task force for the President's ability to seek advice." The health-care task force and the 500-plus members of its technical working groups have operated largely in secret since beginning work in January. The official task force, which includes six Cabinet secretaries and several senior White House officials, is scheduled to hold its first meeting—which will be open to the public—at the end of March. ("Health Task Force Ruling Appealed," *The Washington Post*, March 23)

**MARCH** - In a 17-page article, Seymour Hersh documents how the world was "on the edge of a nuclear exchange between Pakistan and India, as both nations continued their tug-of-war over control of the state of Kashmir," whose status has been in dispute since 1947 when the British Empire collapsed in India. According to Hersh, in the spring of 1990, Pakistan and India faced off in the most dangerous nuclear confrontation of the post-war era. And while the Bush Administration successfully averted disaster, it kept the crisis secret, even from Congress, as it also kept secret the extent of Pakistan's covert nuclear purchases inside the United States.



Seymour observed:

An obvious explanation for the high-level quiet revolves around the fact, haunting to some in the intelligence community, that the Reagan Administration had dramatically aided Pakistan in its pursuit of the bomb. President Reagan and his national-security aides saw the generals who ran Pakistan as loyal allies in the American proxy war against the Soviet Union in Afghanistan: driving the Russians out of Afghanistan was considered far more important than nagging Pakistan about its building of bombs. The Reagan Administration did more than forgo nagging, however; it looked the other way throughout the mid-nineteen-eighties as Pakistan assembled its nuclear arsenal with the aid of many millions of dollars' worth of restricted, high-tech materials bought inside the United States. Such purchases have always been illegal, but Congress made breaking the law more costly in 1985, when it passed the Solarz Amendment to the Foreign Assistance Act..., providing for the cutoff of all military and economic aid to purportedly non-nuclear nations that illegally export or attempt to export nuclear-related materials from the United States.

("On the Nuclear Edge," *The New Yorker*, March 29)

**APRIL** - The Commerce Department's inspector general said the Bush Administration misled Congress in the summer of 1992 by sending lawmakers a department analysis of then-pending cable TV legislation that was based largely on data supplied by a trade group lobbying against the bill. Inspector General Francis DeGeorge said the department's cable report "showed bias" and could "endanger the fundamental trust" that Congress places in statistical analyses produced by Commerce officials.

Controversy over the analysis began just as the House was to vote on legislation re-regulating cable TV prices. Commerce officials sent Congress documents showing that passage of the bill would likely saddle the cable industry with added administration costs of between \$1.27 billion and \$2.81 billion. Commerce officials told Congress that the cost data was "prepared by" the National Telecommunications and Information Administration. The report rested primarily on information provided by the National Cable Television Association, an industry trade group, and by a consulting firm hired by them. Both the Bush Administration and the NCTA were lobbying against the bill, which became law in October after Congress overrode President Bush's veto.

The department's use of the industry data came to light after the NCTA mailed cable subscribers circulars falsely alleging that Commerce had concluded that the legislation would add as much as \$51 to every household's cable bill. The inspector's report said the NCTA "exploited" Commerce's credibility. "What disturbed us was that the cable industry was able to virtually rent the prestige of the U.S. government," said Rep. Edward Markey (D-Mass.), the author of the House cable bill. ("Bush Administration Accused of Misleading Hill on Cable Bill," *The Washington Post*, April 1)

**APRIL** - At the National Archives, researchers and archivists are quarreling about matters of literally historic proportions. To the researchers, the National Archives and Records Administration is more than the repository of the nation's most important historical documents. It is the place where decisions are made today about what documents to save out of the torrent of information pouring out of federal offices, a task that has grown ever more complicated with the explosion of computer-generated information.

Growing numbers of historians complain that the archives are not keeping up with the times. They and other critics of the archives, including Congress and several federal watchdog groups, say that over the last decade the agency has been too passive in seeking to preserve important federal records and has failed to develop a policy concerning preservation of electronic data. They also say that the archives have sometimes foundered under political pressure. The critics say that such a weakness could simply mean the loss of material for future historians, or, at its most venal, it could allow officials to cover up crimes, distorting history. "Historians care very much about the preservation of our historical legacy," said Page Miller, director of the National Coordinating Committee for the Promotion of History, "and this is something that they can get fighting mad about." ("Battle to Save U.S. Files From the Delete Buttons," *The New York Times*, April 11)

**APRIL** - The Clinton Administration appealed the ruling of U.S. District Judge Charles Richey that White House computer files must be preserved, arguing: "The act does not require that every scrap of information be saved." The appeal continued: "To require preservation of information for potential criminal investigations or historical research, places undue emphasis on what this court identified as only one purpose of the act." ("Administration Appeals Judge's Ruling on Files," *The Washington Post*, April 18)

**MAY** - Independent counsel Lawrence Walsh may have to close down his 6½-year inquiry into the Iran-contra affair without questioning former President George Bush about withholding from investigators his secret diary about the scandal. Walsh's office was engaged in backstage negotiations over the conditions sought by Bush's attorneys for any questioning, but these have apparently ended in an impasse. Unless a voluntary agreement is reached, Walsh's only alternative would be to obtain a secret grand jury subpoena, but that could be challenged in the courts and lead to still more delays in winding up the investigation. Bush's lawyers were unwilling to permit as wide-ranging an interview as Walsh and his prosecutors wanted.

One of Bush's lawyers, Wick Sollers, said that Bush has been cooperating with prosecutors in providing documents "regarding the diary issue," without invoking any claims of privilege. He said the last batch of records, from former White House counsel Boyden Gray's office, was retrieved from Bush library holdings in College Station, Texas, and turned over to

Walsh's office within the last week. ("Bush, Iran-Contra Probers at Odds Over Final Interview," *The Washington Post*, May 4)

**MAY** - The Pentagon is worried that a federal judge in Washington will spill the secrets of the Air Force's F-117A jet, one of the Pentagon's most secret weapons. The Defense Department would prosecute any foreign spy who revealed the F-117A's stealth technology, which bears the highest security classification. Judge Robert Hodges Jr. of the Court of Federal Claims is trying to force the Pentagon to reveal secrets about this technology in a massive lawsuit against the government by defense contractors McDonnell Douglas Corp. and General Dynamics Corp.

No one can recall a case such as this one, in which a defendant in a lawsuit has threatened the plaintiffs with felony charges if they speak to their own attorneys about something. In this case the U.S. government, the defendant, has threatened to file felony charges—unauthorized release of classified data—against company employees who have high-security clearances and who give information about super-secret stealth technology to their employers' attorneys. The Air Force is appealing the judge's direct order that it answer questions about the F-117A, the stealthy B-2 bomber and a stealthy cruise missile called the Tri-Service Standoff Attack Missile. This is prompting a legal showdown that could determine whether a judge can force the government to reveal secrets, lawyers said.

The companies say the government is stalling their multibillion-dollar lawsuit. And Judge Hodges has accused the government for months of delaying release of information.

At issue is the cancellation of contracts worth billions of dollars. The government said the firms were at fault and owed it \$1.4 billion in payments advanced to them. The firms said it was the government's fault, and sued to collect \$1.6 billion they had lost. With \$3 billion at stake, there is no mystery why the firms have spent \$30 million on the case. The government has released 1 million pages of documents, and another million are coming. The companies' lawsuit is based on the long-held doctrine that someone who contracts with another is obligated to explain facts needed to do the job. But the government contends it was not obliged to tell the firms how to do the job—"that's what the government was buying," a federal attorney said. ("In Stealth Court Fight, Only the Ire Is Open," *The Washington Post*, May 9)

**MAY** - In federal court, the Clinton Justice Department defended as proper a controversial agreement giving former President George Bush exclusive legal control of the computerized records of his presidency. White House communications director George Stephanopoulos said the decision to support the agreement was based on a determination that, like Bush's White House, the Clinton White House does not want a succeeding, potentially unfriendly administration pawing over its computer memos. The agreement, signed by then-Archivist Don Wilson on January 19, hours before Bush left office, enabled the outgoing Administra-

tion to move thousands of tapes from the National Security Council and other White House offices to the National Archives just before Clinton was sworn in.

U.S. District Judge Charles Richey listened skeptically to the government's claims that the transfer was intended to preserve the materials in line with court orders it issued in early January. Justice Department lawyer David Anderson said that the hurried transfer of tapes was "not perfect," but he maintained that the flaws in the operation—such as the "accidental" overwriting of several back-up tapes—fell far short of contempt. The plaintiffs, led by Scott Armstrong, founder of the nonprofit National Security Archive, argued that the last-minute transfer of Bush records, which included records from the Reagan era, was carried out for political, not preservationist, reasons and that the operation has endangered the tapes. ("Justice Officials Back Transfer of Bush Records," *The Washington Post*, May 18)

**MAY** - Twenty-one years after the Watergate break-in, the conspiratorial voice of Richard Nixon was heard again on tape, plotting to deflect blame. The government made three hours of the 4,000 hours recorded by Nixon's secret White House taping system available for the first time to public listening at the National Archives. The 25 conversations cover the weeks immediately before and after June 17, 1972, when five White House-sponsored burglars wearing surgical gloves made a post-midnight foray into the offices of the Democrats.

The National Archives, which holds Nixon's 42 million papers and tapes in a warehouse in Alexandria, Virginia, allowed reporters to listen to the tapes in a windowless room. The public now has the same access. No transcripts exist and no copies of the tapes are allowed to be made. Nixon has fought for years—and spent \$3 million—to keep the content of the tapes secret and to regain custody of them. ("Three Hours of Secret Nixon Tapes Are Made Public," *The Washington Post*, May 18)

**MAY** - Judge Charles Richey cited the White House and the Archivist of the United States for contempt of court for failing to carry out his order to preserve the computer records of the Bush and Clinton Administrations. Judge Richey said Bush Administration officials had damaged some of the back-up computer tapes of the National Security Council that he had ordered preserved. He also ruled that the Clinton Administration had failed to write proper guidelines to preserve new White House computer records adequately.

Judge Richey said if the Administration failed to take steps by June 21 to preserve the new and older computer files, he would begin imposing heavy fines on the defendants named in a suit seeking to protect official records. Under the civil contempt order he entered today, Judge Richey said that the fines on the defendants would start at \$50,000 a day for the first week. That would double the next weeks to \$100,000 a day and double again the week after that, to \$200,000.

A spokeswoman for the White House said that it was disappointed by the contempt citation and that the Administration

was writing stronger guidelines to protect its records. The precise contents of the computer records have never been made public. But in past instances White House computer tapes have been known to hold vast amounts of significant and trivial information.

In his opinion, Judge Richey said he did not have the authority to rule on an agreement by the former Archivist, Don Wilson, that gives former President George Bush the exclusive legal control of the computerized records of his Presidency. ("A Judge Issues Contempt Order in Archives Case," *The New York Times*, May 22)

**MAY** - A unanimous Supreme Court rejected the Justice Department's sweeping assertion that all sources supplying information to the Federal Bureau of Investigation in a criminal investigation should be treated as "confidential" and thus exempt from disclosure under the Freedom of Information Act. Congress never gave the FBI a blanket exemption of that type, either in the original Freedom of Information Act in 1966, or in later amendments, Justice Sandra Day O'Connor wrote for the court. She said that while the government did not have to demonstrate that a direct promise of confidentiality had been given, it had at least to be able to demonstrate that it was reasonable to infer under the circumstances that the information had been provided with an expectation of confidentiality. The case before the court, *U.S. v. Landano*, grew out of a long-running effort by a New Jersey man, Vincent Landano, to prove his innocence of the murder of a Newark police officer, for which he was convicted in 1976. ("Justices Limit Shielding Sources Who Aid F.B.I.," *The New York Times*, May 25)

**MAY** - In late 1992, the Justice Department spent \$29,233 copying thousands of pages of documents for the personal archives of former Attorney General Dick Thornburgh, government auditors have found. Asked if he thought it was proper to ask the Justice Department to pay nearly \$30,000 to copy his personal papers, Thornburgh said, "Beats me. I don't know what it costs....That's the department's call."

In the final months of the Bush Administration, Justice Department and FBI employees were told to photocopy 89 boxes of documents and 149 reels of microfilm so they could be shipped to a Pittsburgh warehouse where Thornburgh keeps his personal papers. Included were copies of documents from highly sensitive law enforcement investigations.

Recently granted limited access to the Thornburgh archives, General Accounting Office auditors found folders on some of the most controversial matters during his 1988-1991 tenure—among them the Iran-contra affair and Inslaw, the Washington computer firm that has alleged it was the victim of a massive department-wide conspiracy to steal its software. Additionally, the auditors said they found three file folders with non-sensitive "original" documents that "should have been retained" by the Justice Department. ("Justice Dept. Spent \$29,233 Copying Papers for Thornburgh," *The Washington Post*, May 31)

**MAY** - President Clinton is more than four months late in complying with the law calling for disclosure of most secret records about the assassination of President John Kennedy, but aides say he will get around to it "shortly." The law requires Clinton to make nominations to a special five-member review board that will be in charge of the process, especially the ticklish questions of what constitutes an "assassination record" under the statute Congress enacted last year and whether it can still be kept secret.

Recommendations for the board first went to the White House when George Bush was President. But as Clinton moved in, aides say, the paperwork moved out. Recommendations required by the law from the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association were boxed up to be sent to College Station, Texas, along with millions of other documents destined for the future George Bush presidential library. "The paperwork got shipped off campus, and we had to get it resubmitted," said deputy White House press secretary Lorraine Voles. ("JFK Assassination Records Caught Up in Transition," *The Washington Post*, May 31)

**JUNE** - President Clinton's announcement on May 31 that he had ordered the declassification of all but a tiny fraction of military documents on Americans who did not return from the Vietnam War represents only a small change from Bush Administration policy. In July, President Bush ordered the declassification of 200,000 pages of State Department papers and 2,600 pages of Central Intelligence Agency materials related to the 2,260 American servicemen listed as unaccounted for in the Vietnam War, Administration officials said today. The officials added that in 1991 Congress ordered that the military declassify 1.5 million pages of Defense Department documents.

One major difference is that Mr. Clinton's order set a date—Veterans Day, Nov. 11—for the documents to be made public. In contrast, Mr. Bush's order asked that the documents be released as soon as possible. So far, about 100,000 pages of military documents, 100,000 pages of State Department papers and "several hundred" pages of C.I.A. reports have been made public, a White House official said today. The official added that they had received few complaints about the pace of declassification.

("Clinton's Order on M.I.A. Data a Small Shift," *The New York Times*, June 2)

**JUNE** - In an "Outlook" article, Tom Blanton, of the National Security Archive, wrote of the need to overhaul the U.S. government's enormous secrecy system. The good news is that in April President Clinton ordered the first post-Cold War review of the secrecy system—a move that could result in the release of millions of currently secret documents and a wholesale rewriting of 20th-century American history. The bad news is that the bureaucrats doing the reviewing are the mostly career



officials who built the system, the U.S. equivalent of the former Soviet Union's *nomenklatura*, and the least likely source of necessary major change. Blanton observed, "The secrecy system, in short, is well fortified against President Clinton's good intentions."

Blanton believes change in the secrecy system is long overdue. "The U.S. government remains the envy of the world for its openness, but on the most sensitive government information America is rapidly losing its competitive advantage. And to the Russians, no less." He says that the dirty little secret of the post-Cold War era is that the wall has not fallen here at home. Historians actually have more access to KGB and Politburo documents on the Soviet invasion of Afghanistan in 1979 than to CIA documents on the U.S. overthrow of Mossadegh in Iran in 1953.

Blanton concludes that without "radical surgery on the secrecy bureaucracy, the Clinton Administration, like its predecessors, will continue to generate useless secrets, at enormous cost to the taxpayers and to our democratic system of government. And if that argument won't work, let's try a more familiar one. In acceding to the request of Russian scholars, President Yeltsin announced that the Kremlin's Presidential Archive will be handed over for declassification beginning this summer. When it comes to dismantling the culture of secrecy, how about we at least stay ahead of the Russians?" ("Canceling the Classifieds," *The Washington Post*, June 6)

JUNE - U.S. District Judge Charles Richey refused to grant a

stay of his civil contempt citation against the Clinton White House and the acting Archivist of the United States for failing to preserve and protect computer tapes during the Reagan and Bush Administrations. Richey said the defendants have "dilly-dallied, done little, and delayed for the past five months rather than make serious efforts to comply" with his orders to preserve the electronic federal records at issue. "The crux of this lawsuit is the preservation of the history of this country beginning with the Administrations of President Reagan and Bush and, more specifically, the preservation of electronic records," Richey said. Those records include e-mail and logs containing information that Richey said "historians and others need to know about what essential people in the government knew and when they knew it."

The Administration contended that meeting Richey's June 21 deadline to preserve and repair the tapes "would result in significant and irreparable disruption of White House operations." It secured a June 15 hearing date before the U.S. Circuit Court of Appeals here and asked Richey to stay his contempt order while the case is on appeal. Richey refused, saying the government has admitted that preserving the approximately 300 tapes in immediate need of copying is "possible if no unforeseen problems arise." He said a stay would be "particularly inappropriate in this case" because the defendants caused their own difficulties by transferring almost 6,000 tapes on January 19-20 from the White House, which was equipped to make copies, to the Archives, which is not. ("Administration Loses Ruling on Computer Tapes," *The Washington Post*, June 9)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Ave., NE, Washington, DC 20002-5675; 202-547-4440, fax 202-547-7363. All orders must be prepaid and must include a self-addressed mailing label.



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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXI

*A 1993 Chronology: June - December*

## INTRODUCTION

For the past 13 years, this ongoing chronology has documented Administration efforts to restrict and privatize government information. Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued a revision of the circular in the July 2, 1993, *Federal Register*, changing its restrictive interpretation of the definition of "government publication" to which ALA had objected in OMB's draft circulars.

In their first year in office, the Clinton Administration has improved public access to government information. The President signed P.L. 103-40, the Government Printing Office Electronic Information Access Enhancement Act, which will provide electronic government information to the public through the Depository Library Program. Government information is more accessible through computer networks and the Freedom of Information Act. The Administration's national information infrastructure initiatives include government stimulus for connectivity and applications in health care, education, libraries, and provision of government information.

However, there are still barriers to access. For example, a legal challenge was raised over what records the President's Task Force on National Health Care Reform was required to maintain. Controversy resulted when the White House decided the hundreds of members of the task force were allowed to meet in secret because they were not covered under public meeting laws. National Performance Review recommendations to "reinvent government" to have every federal agency responsible for disseminating information to the nation's 1,400 depository libraries could result in a literal "tower of babel" as the Ameri-

can public would be forced to search through hundreds of federal agencies for publications they need.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JUNE** - An editorial in *The New York Times* cautioned President and Mrs. Clinton to "ask themselves whether Clinton voters sent them to Washington to damage open government, by both example and litigation." The editorial concerned the decision in federal court that Hillary Rodham Clinton is "the functional equivalent of an assistant to the President" and not, under certain laws, a private citizen. Thus, her advisors in the development of a health plan may legally continue to hide their work from public inspection. The newspaper observed: "It doesn't mean that they should do so. They're still free to open their deliberations, thus honoring campaign pledges of open government."

Mrs. Clinton is the only person not on the public payroll of the Cabinet-level task force on health reform that she headed. But the U.S. Court of Appeals, relying heavily on Congress's appropriations for the staff of the First Lady, found her a public servant for the purposes of the Federal Advisory Committee Act, passed in 1972 to let the public in on meetings of private groups that use meetings with federal officials to press private agendas. ("A Very Private Public Servant," *The New York Times*, June 29)

**JULY** - The investigation of independent counsel Joseph diGenova into possible criminal activity by Bush White House and State Department officials has been split into two separate investigative tracks as diGenova's staff looks into the pre-election search of President Clinton's passport files. Attorneys for Steven Berry, former acting assistant secretary of state for congressional affairs and currently a minority employee of the Senate Foreign Relations Committee, have refused to respond to a subpoena for records. In sealed motions and hearings before Chief U.S. District Judge John Garrett Penn, they have argued that the independent counsel inquiry was based on notes of Berry telephone conversations in September and October 1992 that were illegally overheard by State Department employees. Neither diGenova nor Berry attorney, Theodore Olson, would discuss the matter.

The independent counsel investigation was ordered last December following allegations that one or more senior officials in the Bush White House lied to State Department inspector general personnel about the unusual search of passport and consular files. The diGenova inquiry also was supposed to determine whether Bush officials illegally disseminated information from Clinton's files. ("Clinton Passport File Inquiry Hits Snags," *The Washington Post*, July 8)

**JULY** - The Clinton Administration's welfare-reform planners issued a press release to pledge their "open and collaborative process" and promised to consult many "real people" and provide "a series of working papers" to anyone interested. The article continued, however: "As a practical matter, the welfare planners, whose task is to draft legislation fulfilling President Clinton's campaign promise to 'end welfare as we know it,' are

likely to conduct their most important business in private." The openness of the welfare planners was contrasted with the secrecy of the Task Force on National Health Care Reform. ("Clinton's Welfare Planners Vow an Open Process," *The New York Times*, July 9)

**JULY** - John Lane, chief information officer of the Securities and Exchange Commission, said it would cost too much for the government to offer information from the Electronic Data Gathering, Analysis and Retrieval (EDGAR) system directly over Internet as requested by the Taxpayer Assets Project, the public-interest group that has been battling the SEC for general public access to EDGAR data. Responding to a request from Rep. Edward Markey (D-Mass.), chairman of the House Energy and Commerce Committee Subcommittee on Telecommunications and Finance, SEC officials calculated that it would cost \$775,000 the first year they began making the system's data accessible on Internet. Each subsequent year would cost about \$400,000. Lane said the cost to taxpayers would be less if the agency sells EDGAR data to third-party vendors that would, in turn, sell it to Internet users. "If we wait and do nothing, the market will begin to take over," Lane said. "It would not be necessary for us to put EDGAR data on the Internet today."

James Love, director of the Taxpayer Assets Project, accused Lane of bowing to the interest of Mead Data Central, which is the EDGAR subcontractor that will sell the data to third-party vendors for a profit. "John Lane has no commitment to data users," Love said. "He should wake up and smell the coffee and figure out that he works for the government and not Mead Data Central." Love said the SEC's calculations indicate that Internet access to EDGAR data would cost less than 20 cents per document. He said a typical vendor would charge much more—between \$10 and \$50 for online access to a financial report. He added that the projected costs for allowing access to data via Internet are minor when compared with the \$100 million price of installing EDGAR. "The whole purpose of the system is to provide disclosure," Love said.

EDGAR, which went online in 1993, will receive financial data from 15,000 U.S. businesses when it becomes fully operational in 1996. ("SEC Exec Calls Internet Access to EDGAR Too Expensive," *Federal Computer Week*, July 12)

[Ed. Note: An October 22 *New York Times* article, "Plan Opens More Data to Public," reported that the National Science Foundation is financing a test that will make the EDGAR online database of financial data available free via the Internet computer network. The project, financed with a \$660,000 two-year grant, is being undertaken by the Stern School of Business at New York University and a small Washington company, the Internet Multicasting Service.]

**JULY** - In April 1993, the Defense Department commissioned



two studies on how to carry out President Clinton's intention to lift the military's ban on homosexuals. One, conducted by a panel of generals and admirals, led to new policy. But the Pentagon is refusing to make public the other one, a \$1.3 million report by the Rand Corporation, a research group with longstanding ties to the military. Executive summaries of the Rand report, "Homosexuals and U.S. Military Personnel Policy: Policy Options and Assessment," as well as briefing slides presented to Secretary of Defense Les Aspin, were provided to *The New York Times* by individuals who felt the study should be made public.

The Rand report concluded that gay men and lesbians could serve openly in the armed forces if its proposed policy were given strong support from the military's senior leaders, and it offered a detailed plan for carrying out the President's order. But it was the study by the panel of generals and admirals, who maintained that open homosexuality would undermine discipline and combat readiness, that prevailed. Aspin said that he tried to draft a plan closer to President Clinton's original promise to lift the ban entirely, but that the compromise that eventually emerged was the best he could negotiate with the Joint Chiefs, whose support was essential to win approval in Congress. ("Pentagon Keeps Silent on Rejected Gay Troop Plan," *The New York Times*, July 23)

**AUGUST** - On June 30, U.S. Court of Appeals Judge Norma Holloway Johnson ordered the Department of Education to release documents from its 1986 review of Maryland's special-education programs. The decision, resulting from a case brought by the Maryland Coalition for Inclusive Education, could increase the public's access to information about how states comply with federal laws. The parent-advocacy group took the Department to court in 1989 after its requests to see a draft report and other documents from the federal agency's 1986 monitoring review of Maryland were refused.

Federal officials claimed the documents were exempt from scrutiny under the "deliberative process" privilege of the Freedom of Information Act. That privilege allows public agencies to withhold documents that are prepared before a legal or policy determination is made. But the judge said the privilege did not apply in this case because no policy was being considered, rather the materials at issue "assess how well existing policies are being implemented by the state of Maryland." Mark Mlawer, the executive director of the advocacy group, praised the judge's decision. "What this does is insure that the Department of Education can no longer shut parents and advocates out of the compliance process," he said. ("E.D. Ordered to Release Papers in Special-Ed. Case," *Education Week*, August 4)

**AUGUST** - The General Accounting Office reported that it had found "questionable" the accuracy and reliability in three federally funded annually drug use surveys, widely regarded as the government's best barometers for measuring progress in the war on narcotics. The three surveys the GAO criticized are the

National Household Survey on Drug Abuse; the High School Senior Survey, which tracks drug use patterns and trends in public and private high schools; and the Drug Use Forecasting project, which studies drug use among those charged with crimes and is used by local law enforcement agencies in planning anti-drug abuse and treatment programs.

The GAO said it found "methodological problems" that skewed the validity of the surveys, resulting sometimes in overly conservative estimates of drug use and sometimes in exaggerated estimates. GAO recommended that self-reporting data should be validated by objective techniques, such as testing of hair samples, and that surveys should be redesigned so that nonwhites are adequately sampled.

Rep. John Conyers Jr. (D-Mich.), chairman of the House Committee on Government Operations, said that the GAO results confirmed his long-held suspicion that such surveys have misdiagnosed the extent of the nation's drug problem. "Our national drug control strategies are based on unsubstantiated and insufficient information," said Conyers, who released the report. The surveys cost more than \$17 million annually. ("Validity of Drug Use Surveys Questioned," *The Washington Post*, August 4)

**AUGUST** - The Internal Revenue Service pledged to strengthen safeguards set up to ensure taxpayer records are kept confidential after being assailed by members of the Senate Governmental Affairs Committee over a breakdown in computer security that allowed IRS workers to browse through tax records. The testimony of IRS Commissioner Margaret Milner Richardson followed the release of a report that showed almost 370 of the agency's employees in the Southeast Region have been investigated or disciplined for creating fraudulent tax refunds or browsing through tax returns of friends, relatives, neighbors, and celebrities.

Addressing Richardson, committee Chairman John Glenn (D-Ohio), said, "I feel very strongly about protecting the integrity of the tax system, and I told you we will not tolerate anything that will impinge on that integrity or the credibility of the American people." But Richardson rebuffed a suggestion by Sen. David Pryor (D-Ark.) that the IRS notify the taxpayers whose files were improperly reviewed. "I'm not sure there would be a serious value to that in terms of tax administration or in connection with what I see as protecting the taxpayers' rights," she said. Pryor told her he would continue to press for taxpayer notification: "I'm going to really come down hard.... I think anyone that we can identify whose files have been browsed for no official reason, I think that taxpayer needs to know."

Few details emerged at the hearing on how IRS regional employees created bogus refunds. An IRS investigative report released by the committee said that four employees are facing criminal prosecution. "In one case," the IRS report said, "an employee prepared over 200 fraudulent tax returns and monitored the refunds" on IRS computers. The report suggested that the fake refunds cost the government more than \$300,000. In

answering questions, Richardson pointed out that IRS's internal audit staff had uncovered the employee violations and shared the information with the General Accounting Office. The IRS audit examined the Integrated Data Retrieval System, a database of taxpayer accounts used by 56,000 IRS workers nationwide. Richardson said the IRS is developing a "comprehensive review" of computer security issues that will improve the agency's ability to detect "inappropriate use." ("Accused of Failing to Protect Data, IRS Says It Will Buttress Safeguards," *The Washington Post*, August 5)

**AUGUST** - Former President Richard Nixon won a court order that blocks the National Archives from releasing four hours of White House conversations taped during July and August 1972 following the Watergate break-in. The injunction granted by U.S. District Judge Royce Lamberth could mean it will be several years before the Archives releases new tapes of conversations secretly recorded during the Nixon presidency. The Archives had announced it would release the tapes, which contain portions of 39 separate conversations, in two stages on August 13 and August 26.

Judge Lamberth said the Archives could not release the four hours of taped conversations until it complied with a 1979 agreement with Nixon in which the agency promised to return to Nixon all private or personal taped material and to release the tapes as an "integral file segment." That agreement, Lamberth said, means the Archives must release all of its Nixon tapes—about 4,000 hours in length—at one time. Nixon's lawyer, R. Stan Mortenson, told Lamberth yesterday the Archives has not returned any private material since the Archives took custody of the tapes in 1977.

Lamberth's ruling is the second major court victory Nixon has won in the past year in his long struggle to prevent the tapes from being disclosed. In November 1992, the U.S. Court of Appeals ruled that because Nixon had a property interest in the tapes and his official papers, the government must pay him for keeping the material under government control. That case is pending. The new ruling came in a separate case brought by a history professor and the Public Citizen group to force the Archives to speed its release of the tapes. Nixon's lawyers intervened, alleging that releasing the new segments would violate Nixon's right to privacy and his rights under his agreement with the Archives. ("Nixon Wins Court Order Blocking Release of Tapes by Archives," *The Washington Post*, August 10).

**AUGUST** - A federal appeals court rejected Clinton Administration appeals and held that the government must preserve hundreds of thousands of White House computer messages and memos from the Reagan and Bush presidencies. The three-judge panel unanimously rejected the government's contention that electronic materials do not have to be saved and that only paper printouts need to be kept under federal law. Electronic materials and their paper versions cannot accurately be termed copies

when frequently they are "only cousins—perhaps distant ones at that," the court said. Too much important information, such as who sent a document, who received it and when it was received can be gleaned only from the computer record, the judges said.

The decision was reached in a case originally filed in 1989, *Armstrong v. Executive Office of the President*, in which the American Library Association is one of the plaintiffs. "This ruling is a breakthrough for government accountability in the electronic age," said Tom Blanton, the National Security Archive's executive director. The group's founder, Scott Armstrong, said it also "sends a clear message" to the Clinton White House, which is still operating under Reagan-and Bush-era guidelines.

The ruling affirms a January 1993 decision by U.S. District Judge Charles Richey, who ordered preservation of nearly 6,000 magnetic tapes and hard disks made at the White House in the Reagan and Bush Administrations and held that White House plans to destroy most of them were unlawful. The chief lawyer for the plaintiffs, Michael Tankersley, called the ruling "a landmark victory" that will affect every government agency. Up to now, he said, very few have regarded their computer records as subject to the Federal Records Act or Freedom of Information Act. ("Court Orders Computer Memos Saved," *The Washington Post*, August 14)

**AUGUST** - In an op-ed piece, Arthur Oleinick and Jeremy Gluck of the School of Public Health at the University of Michigan maintained that the Bureau of Labor Statistics grossly underestimates the seriousness of workplace injuries—as measured by missed workdays—by a factor between four and nine. For example, their data suggested that, as a result of injuries that occurred in 1986, American workers will miss up to 420 million workdays. But the federal statistics on injured workers maintained that these workers will lose only about 47 million workdays from those accidents. The authors say that for policy makers who must curb the many dangers of employment, the federal survey results are critical. It is just as important as the data about car accidents and design problems that inspired the nation's automotive safety laws.

The authors' contend that this gross inaccuracy about important health and safety data carries ominous implications for public policy, particularly when the nation is on the brink of health reform. Those who shape economic or health policies will believe the job injury problem is only a fraction of what it really is—and treat it accordingly. The reasons for the woeful underestimations are the source and timing of the federal data. In the first half of each year, the BLS asks a sampling of employers to report the number of job-related injuries, and the missed work time, that their workers experienced in the year before. The situations of two groups present great difficulties and are the likely cause of the badly flawed estimates: workers who are still on the mend at survey time, and workers who have returned to work by then but later suffer relapses.

The authors survey focused on Michigan in 1986 and used

worker compensation records to calculate workday absences. These after-the-fact records avoid the "dangerous" predictions of the federal data. By their measures, for injuries incurred in 1986, Michigan workers missed between 7.5 million and 16.1 million workdays. The corresponding federal number for these injuries is 1.9 million days. ("Faulty Data Play Down Job Injuries," *The New York Times*, August 15)

**AUGUST** - Officials in the "Star Wars" project rigged a crucial 1984 test and faked other data in a program of deception that misled Congress as well as the Soviet Union, four former Reagan Administration officials said. The deception was designed to feed the Kremlin half-truths and lies about the project, the officials said. It helped persuade the Soviets to spend tens of billions of dollars to counter the American effort to develop a space-based shield against nuclear attack. But the deceptive information originally intended for consumption in the Kremlin also seeped into closed briefings that helped persuade Congress to spend more money on strategic defense, according to the former Reagan Administration officials. The test also deceived news organizations, which reported it widely. A military officer said the use of deception should be seen in the context of the cold war, when disinformation was a weapon used by both sides.

The former officials said the deception program was approved by Caspar Weinberger, the Secretary of Defense from 1981 to 1987. Weinberger would not confirm or deny that he had approved the deception. But he said that Congress was not deceived and that deceiving one's enemies is natural and necessary to any major military initiative. In June 1993, the General Accounting Office completed eight classified reports that concluded the Pentagon had deliberately misled Congress in the 1980s about the cost, the performance, and the necessity of the most expensive weapons systems built for nuclear war against the Soviet Union. The reports did not cover the missile defense project. ("Lies and Rigged 'Star Wars' Test Fooled the Kremlin, and Congress," *The New York Times*, August 18)

**AUGUST** - U.S. District Judge John Garrett Penn has ruled that the 1992 monitoring of phone conversations by the Operations Office of the State Department was unlawful, according to informed sources. Penn's sealed opinion came in response to one of several motions filed in connection with the inquiry by independent counsel Joseph diGenova into possible criminal activity by Bush White House and State Department officials in the pre-election search of President Clinton's passport files. The ruling did not block the continuing inquiry but could slow it down with further closed-door legal maneuvering. The monitoring was done without the knowledge of those overheard, which is what made it unlawful. The State Department continues to monitor certain phone conversations with the knowledge of officials. ("Ruling on Phone Monitoring May Slow Passport File Probe," *The Washington Post*, August 19)

**AUGUST** - The Defense Department said it would investigate new allegations that the Reagan Administration deliberately falsified the results of an early test of technology for a ballistic missile defense system. A former Army official involved in the test has denied the allegations, but Secretary of Defense Les Aspin said in a statement that "any allegation that the Congress has been misled raises serious questions." Aspin said Deputy Secretary of Defense William Perry will conduct an inquiry into how the 1984 test was conducted and "how it was reported to Congress." The program, which so far cost \$30 billion, never produced a viable weapon for defending against a missile attack against the United States. ("Pentagon to Probe Missile Test Allegations," *The Washington Post*, August 19)

**AUGUST** - The Central Intelligence Agency will make public to the National Archives 90,000 pages of documents relating to the 1963 assassination of President John Kennedy, far more than previously reported, a CIA spokesman said. The 90,000 pages of CIA documents to be made public include records from the Warren Commission and the House Committee on Assassinations. Papers from the Kennedy, Johnson, and Ford presidential libraries, including records from the Rockefeller Commission that reported in 1975 on improper CIA activities in the United States, will also be made public. In all, 37,000 pages of Kennedy assassination documents in the CIA's possession remain secret: 20,000 pages from the House committee; 7,000 that include information being withheld by other agencies, like the Federal Bureau of Investigation; and 10,000 pages that the CIA itself refuses to disclose.

In 1992, Congress ordered that nearly all documents on the Kennedy assassination be sent to the National Archives for public disclosure. The law requires a description of documents withheld and reasons for withholding them. It also requires a review by a presidential panel that could compel disclosure. President Clinton has not appointed that panel, which Congress required to be set up last January. Some 150,000 microfilmed pages of assassination-related material, mostly indices and appendices, are being withheld subject to discussions with the yet-to-be-appointed panel, the CIA said. ("C.I.A. to Release 90,000 Pages On Kennedy's Assassination," *The New York Times*, August 20)

**AUGUST** - In an August 20 press release, the Commodity Futures Trading Commission announced that, beginning October 1, it will no longer publish the *Commitments of Traders Report* (COT). The publication contains data on open interest for commodity futures markets in which five or more traders hold positions equal to or above the reporting levels established by the CFTC. The CFTC will continue to gather and compile the data biweekly, but will no longer be distributing it directly to the public. Rather, COT data will be made available routinely by the CFTC to intermediaries including the *Computer Information Delivery system*, *Reuters* and *Knight-Ridder* news wire services, *Pinnacle Data Corporation*, and *The Futures Industry Institute*.



Historical COT data will still be available from the CFTC, libraries, U.S. futures exchanges, as well as private vendors. For further information about historical COT data, contact Cynthia Neuwalder of the CFTC's Public Affairs Office at 202-254-8630. (Advisory, Office of Communication and Education Services, Commodity Futures Trading Commission, August 20)

**SEPTEMBER** - The following excerpted testimony was presented by the General Accounting Office before the House Subcommittee on the Civil Service. Nancy Kingsbury, director of Federal Human Resource Management, Issues General Government Division, GAO, presented the testimony:

Since July 1992, we have issued reports dealing with federal employees' awareness of whistleblower protection, the effectiveness of the Whistleblower Protection Act of 1989, and agencies' implementation of the whistleblower statutes. Overall, our work has shown that despite the intent of the 1989 act to strengthen and improve whistleblower protection, employees are still having difficulty proving their cases. Employees are not aware of their right to protection, and agencies are not informing them of this right.

...in March 1993 we reported that there were wide disparities in how the 19 agencies we reviewed had implemented the whistleblower statutes. Some agencies had informed employees about their whistleblower protection rights, but most agencies had neither informed their employees nor developed policies and procedures for implementing the 1989 act.

Under 5 U.S.C. 2302(c), the head of each department and agency is responsible for preventing prohibited personnel practices, including whistleblower reprisal. However, no explicit requirement exists in the whistleblower statutes for OSC [Office of Special Counsel] or the agencies to inform employees about their right to protection from reprisal or where to report misconduct. OSC, to its credit, has attempted to spread the word about employees' rights to be protected from reprisal. However, as OSC officials acknowledge, they had limited success in eliciting the support of the agencies to inform employees of what their rights are under the law and how to go about exercising them....

To address these problems, we recommended in our recently issued reports that Congress consider amending the whistleblower statutes and to inform employees periodically of their right to protection from reprisal and where to report misconduct.

("Examining the Impact of the Whistleblower Protection," *PA TIMES*, September 1)

**SEPTEMBER** - The Justice Department's inspector general concluded that federal prison officials unfairly disciplined an inmate during the 1988 presidential campaign for spreading allegations that he once sold marijuana to Dan Quayle. The report by Inspector General Richard Hankinson said inmate Brett Kimberlin "was treated differently and held to a stricter standard

of conduct...as a result of his contacts with the press to promote his allegations." But Hankinson said there was "conspiracy to silence" Kimberlin when Quayle was running for Vice President.

Hankinson concluded that officials at the Federal Correctional Institution in El Reno, Okla., who put Kimberlin in a special lock-down cell just before the 1988 election were reacting to the extraordinary intervention of then-Bureau of Prisons' Director J. Michael Quinlan. Quinlan had canceled a November 4, 1988, prison news conference at which Kimberlin planned to make public his allegation about Quayle. Quinlan also ordered Kimberlin to be placed in a special detention cell that night.

The Associated Press obtained the report under the Freedom of Information Act. The investigation was sought by Sen. Carl Levin (D-Mich.), who said in a report that Bureau of Prisons actions were politically motivated. But Hankinson's report said: "There is no evidence to support the allegations that political forces or persons outside the Bureau of Prisons influenced the decision to either grant or subsequently deny Mr. Kimberlin access to the press." Kimberlin, who is serving a 51-year sentence on charges including drug conspiracy and eight Indiana bombings, has been in jail since 1980. ("Quayle Accuser's Treatment Faulted," *The Washington Post*, September 11)

**SEPTEMBER** - An editorial in *The New York Times* discussed a battle in the House of Representatives over an "obscure device known as the discharge petition." Ordinarily, a bill must go through committees before reaching the floor. The discharge petition allows a member to move a bill directly to the floor by getting a majority of members to sign a petition. The names of the signers are kept strictly secret from the public until the magic number of 218 members is reached—making it easier for the House leadership to twist arms to get members to add or withdraw their names. Rep. James Inhofe (R-Okla.) has questioned the secrecy of the petition process, which allows members to block legislation in Washington while telling constituents they support it.

In early September, Inhofe obtained the required 218 signatures on a discharge petition to kill such petitions' secrecy provisions. Supporters of the current rule, like House Rules Committee Chairman Joe Moakley (D-Mass.), contend that ending the secrecy will make members even more susceptible to pressures from special-interest lobbyists and invite ill-considered "flavor-of-the-month legislation" that appeals to public whims. But the editorial said "the public has a right to know where their representatives stand on issues." ("Secrecy Sideshow in the House," *The New York Times*, September 15)

**SEPTEMBER** - Documents security within the Justice Department and FBI is so lax that congressional investigators were unable to track classified papers moving between the two agencies, according to a report by the General Accounting Office. The study also found that the FBI failed to take disciplinary action for many of the 4,400 violations that its own security patrols uncovered at FBI headquarters over a three-year period.

The GAO report, prepared for the House Government Operations Subcommittee on Information, Justice, Transportation, and Agriculture, noted that safeguarding classified and sensitive information is an absolute necessity in the law enforcement area.

Rep. Gary Condit (D-Calif.), the subcommittee chairman, wrote to Attorney General Janet Reno and FBI Director Louis Freeh that while procedures have been established to control and track classified documents, "compliance with the procedures is in some cases so inadequate that the GAO was unable to track documents to insure that they had reached their intended recipients....A classified document could be lost, stolen or simply vanish into thin air leaving the department unable to identify and hold accountable those responsible for the lapse." ("Agency Papers Ill-Protected, GAO Says," *The Washington Post*, September 17)

**SEPTEMBER** - The Central Intelligence Agency has decided to release edited versions of secret documents about major covert operations from 1950 to 1963. Thus, according to an editorial in *The New York Times*, much more may be learned about the 1953 coup that re-enthroned the Shah of Iran, the 1954 overthrow of an elected leftist president in Guatemala, and the Bay of Pigs debacle in 1961.

The editorial opined "...the main reason for secrecy is less to protect U.S. security than to preserve the tattered myth of omniscient clandestine services." And it will be past time if the CIA truly delivers. Also promised are secret estimates of Soviet strength from 1950 to 1983, and open publication of "Studies in Intelligence," the agency's in-house journal. But the proof will be in the performance; skeptics remember that in 1991 the agency with much ado formed an "Openness Task Force"—whose report was promptly classified.

Secrecy is not just a way of life at spy agencies; it is a state religion. The National Archives is steward to 325 million classified documents, including still-secret files dating to World War I. When documents are declassified, key passages are often blacked out, on the pretext of protecting sources and methods. But keepers of these secrets are equally protective of evidence of gross misjudgments and abuse of power. Under existing rules, it will take 19 years for the National Archives just to review State Department records for the 1960s. The editorial said: "It's up to Bill Clinton, that reinventor of government, to assure the removal of this incredible, outdated wall of paper between citizens and their supposed servants." ("The Secret War Over Secrecy," *The New York Times*, September 19)

[Ed. Note: An article, "CIA Declassifies Pre-1960 Soviet Studies," in the October 1 *Washington Post*, said the CIA announced that it has declassified virtually all of its major studies of the Soviet Union prior to 1960 and sent them to the National Archives, where the documents will be available to the public beginning the second week in October.]

**SEPTEMBER** - The Pentagon's secret reconnaissance office

ignored specific congressional instructions in May and signed a new multi-billion-dollar contract for a classified espionage program for a spy satellite, the House Appropriations Committee has reported. The Pentagon had not obtained the permission of congressional committees for the contract. In an unusually blunt, if guarded, discussion in a report accompanying the military budget bill for fiscal year 1994, the Appropriations Committee said it was "dismayed" that the Defense Department had ignored its instructions to keep Congress informed about the program. The report called for a comprehensive review of how spy satellites and other costly intelligence programs are being managed.

"The need to limit access to intelligence programs due to their sensitive nature does not provide program managers relief from complying with specific congressional direction," the report said. "Nor should it limit the public's right to know when specific congressional direction is ignored, without revealing any program specifics." ("Pentagon Is Found to Have Ignored Congress on Spy Satellite," *The New York Times*, September 24)

**SEPTEMBER** - The Supreme Court has retaliated against a California professor who copied and is selling audio tapes of courtroom arguments by telling the National Archives not to let the man copy any more argument tapes without the permission of the marshal of the Court. Peter Irons, a political science professor at the University of California at San Diego, will be presumed to be a commercial user "in light of his actions and his willingness to violate the agreements he signed" when he received the copies of the tapes that make up his six-cassette package titled, "May It Please the Court."

Irons has contended that he was right to break his promise to make only private use of the tapes because the current limits on commercial use violate the First Amendment. Susan Cooper, a spokeswoman for the Archives, said today that the Archives had filled about 1,000 requests for copies over the years and had supplied copies to most major law libraries. ("Justices Quash Entrepreneur's Move on the Court," *The New York Times*, September 26)

[Ed. Note: An article, "Supreme Court Eases Restrictions on Use of Tapes of Its Arguments," in the November 3 *New York Times* said that public access to audio tapes of the Court's arguments would be available from the National Archives without restriction. Beginning immediately, members of the public could obtain copies of the tapes for any purpose, including broadcast and commercial reproduction. For people who bring their own recording equipment to the Archives, there will be no charge for copying the tapes. Otherwise, the Archives will make copies on request for \$12.75 for each one-hour tape. The action means that no one entrepreneur is likely to make a large profit, since the material will be freely available. At the same time, public access to the workings of the Court will almost certainly be enhanced. One publisher is said to be planning to offer the Supreme Court arguments on a CD-ROM, or compact computer disk, format.]



**SEPTEMBER** - Trying to establish a post-cold-war policy for classifying government documents, the Clinton Administration is considering a proposal intended to give the public easier access to sensitive information but still allow officials considerable discretion to withhold some secrets. The proposal was drafted by a committee of government officials ordered by President Clinton in April to design a new system for the United States to keep its secrets. A major part of the proposal is to declassify virtually all government documents after 40 years.

Steven Garfinkel, director of the Information Security Oversight Office and the head of the committee that drafted the proposal, said that if the provision were included in the final policy, it would mean the immediate release of "hundreds of millions of documents" that have never been declassified. He said the National Archives estimated that it had 300 million to 400 million classified documents dating from the World War I era to 1956. Other government agencies also have large numbers of documents, he said.

The Clinton draft proposal has attracted critics. In an op-ed article, "Secrets and More Secrets," on September 30 in *The New York Times*, Tom Blanton of the National Security Archive, and Steven Aftergood of the Federation of American Scientists, wrote that the 40-year period for declassifying virtually all documents was far too long. They said President Nixon had set a 30-year period and President Carter 20 years. Garfinkel disputed that view. He said that while Nixon let the classified status of documents last 30 years, his order dealt only with documents from the date of the order in 1972. Any documents from 1942 or earlier were not automatically released but had to be reviewed for possible declassification. Carter's order allowed agency heads to make such wide exceptions, Garfinkel said, that more than 90 percent of the documents were not affected by the disclosure plan. ("New Proposal Would Automatically Limit Secrecy," *The New York Times*, September 30)

**OCTOBER** - President Clinton gave federal agencies greater authority to write regulations on pollution, safety, business practices, and the like without White House intervention, saying his executive order would "eliminate improper influence, secrecy and delay." The move is meant to reverse the pattern under Presidents George Bush, Ronald Reagan and Jimmy Carter, who ordered their staffs to scrutinize and frequently to overrule the agencies, often with an eye to making regulations more palatable to business.

Under the Administration's plans, the Office of Management and Budget will continue to review the most significant regulations to see that they do not put undue burdens on those they affect, but in most cases the crucial decisions will be entrusted to the agencies that are responsible by law for drafting the regulations. ("President Moves to Loosen Grip of White House on Regulations," *The New York Times*, October 1)

**OCTOBER** - In a report on the February 28 raid of the Branch Davidian compound in Texas, the Department of Justice

concluded that law enforcement officials botched virtually every aspect of their plan to capture David Koresh, then misled investigators and Congress about their mistakes. In a detailed report of mistakes and mendacity in the top ranks of the Bureau of Alcohol, Tobacco and Firearms, the department offered new information about the law enforcement operation. The report said that senior agency officials went to even greater lengths than previously believed to deceive investigators and Congress. It said officials had changed a written record of the plan after the raid in a self-serving way, and then lied about the alterations. ("In Davidians' Trial, Defense Could Hinge on U.S. Officials' Admitted Lies," *International Herald Tribune*, October 2-3)

**OCTOBER** - A former head of the Forest Service's whistleblower unit said the agency regularly denied the existence of documents to thwart attempts by the public to get them under the Freedom of Information Act. In one case, John McCormick said his superiors rewrote an incriminating report before giving it to someone who sought it under the federal law guaranteeing broad public access to government documents.

McCormick, who retired under pressure in 1992, said he is prepared to testify in a court case in Portland, Ore., about widespread irregularities in the agency's handling of FOIA requests from 1989 to 1991. He said he knew of at least 25 cases in which agency officials denied the existence of documents they knew they had. He said many of the cases involved documents relating to government logging operations that violated environmental laws or reprisals against workers who resisted orders to break the laws. "I put those records in the files. I can lead the Justice Department and the General Accounting Office right down to the basement there and open up their eyes," he said. "We take all of these allegations very seriously," Agriculture Department spokesman Tom Amontree said. Amontree said the department had no evidence FOIA requests have been falsified but "anybody caught doing anything like that will be dealt with severely."

In a related development, a GAO report released in early October said that government investigators found "over 180 alleged incidents of interference and retaliation" against Forest Service law officers who investigate alleged wrongdoing within the agency and the timber industry. ("Ex-Official Says Agency Hid Data From Public," *The Washington Post*, October 6)

**OCTOBER** - General Accounting Office officials testified that they had to assign several staff members over several days to laboriously hand copy White House personnel information because of Clinton Administration resistance to their requests during a probe into White House personnel practices. Republicans accused the White House of engaging in a pattern of sloppy or inadequate record-keeping that makes it impossible for the public or Congress to apply any standards of fiscal or ethical accountability.

GAO's Nancy Kingsbury told Congress that the White House refused several times to allow the GAO to transfer personnel



information on computer discs. Instead, the White House allowed GAO staff members access only to hand copy the information on paper. It then had to be put on GAO discs, which engaged "several staff members over a couple of weeks." White House director of the Office of Administration Patsy Thomasson said that the Administration was concerned about maintaining privacy, and Lorraine Voles, a White House spokeswoman, said the intent was not to throw roadblocks in front of the investigation but to protect the records. She noted that the GAO concluded that it had gotten the information it needed.

The GAO report found that the White House engaged in sloppy bookkeeping in the early weeks of the Administration, back-dating personnel appointments, giving retroactive salary adjustments, and allowing double-dipping—the collecting of payments from both the White House and presidential transition team. The White House has said all the practices were inadvertent, tied to the heavy load of work in the first weeks, and have been corrected or are being corrected. ("GAO Faults Sloppy Personnel Record-Keeping by White House," *The Washington Post*, October 23)

**NOVEMBER** - In a five-page article in the magazine, *National Parks*, authors Bill Sharp and Elaine Appleton concluded the National Park Service is hampered by a lack of knowledge about the ecological makeup of the parks. They wrote that most people think that national parks have been thoroughly studied for years, and that they are immutable preserves with species well understood. This notion is not only wrong but dangerously misleading. Quite simply, the National Park Service suffers from an embarrassing lack of knowledge about the species in its parks. And as the 1992 *Science in the National Parks* study states, "Informed resource management is impossible without science in its broadest sense—that is, the acquisition, analysis, and dissemination of knowledge about natural processes and about the human influences on them."

The Clinton Administration has ambitious plans to change this through a program of shared science called the National Biological Survey. Interior Secretary Bruce Babbitt plans a more aggressive approach to preserving ecosystems and wildlife, involving a campaign to reverse years of underfunding and neglect in research programs. The authors said, "But it remains to be seen how this program, which got under way in October, will affect the Park Service. The effort will be nothing if not an uphill climb." ("The Information Gap," *National Parks*, November/December)

**NOVEMBER** - Christopher Drogoul, former manager of the Atlanta branch of the Italian government-owned Banca Nazionale del Lavoro (BNL), testified before the House Banking Committee that illicit loans of several billion dollars were made to Iraq in the 1980s with the U.S. government's knowledge and approval, but offered no concrete evidence to support his claim. He is awaiting sentencing in a penitentiary in Atlanta on two counts of making false statements to the Federal Reserve Board

and one count of wire fraud in the loans to Iraq between 1985 and 1989.

In sworn testimony, Drogoul said the BNL branch was merely a tool of covert U.S. and Italian efforts to funnel funds to Iraq. U.S. policy-makers have acknowledged trying before the Persian Gulf War to help Iraq, which was then regarded as a counterweight to Iran, but have denied approving the BNL loans. ("U.S. Approval of Iraq Loans Alleged," *The Washington Post*, November 10)

**NOVEMBER** - Federal District Court Judge Royce Lamberth said that the White House was improperly withholding records of Hillary Rodham Clinton's Task Force on National Health Care Reform from doctors and consumer groups that wanted to scrutinize the panel's work. He ordered the government to provide documents needed to assess whether the more than 500 people who worked for the task force had complied with federal ethics laws. By his action, Judge Lamberth took a preliminary step to pierce the secrecy of the panel, which developed Administration proposals to control health costs and to guarantee health insurance coverage for all Americans.

Sounding exasperated, the judge said the Administration was "improperly withholding the germane information" sought by the plaintiffs to prove their contentions about the staff task force. He said the White House has provided incomplete answers, "dribbles and drabs of information," and "a preposterous response" to the plaintiffs request for the names of people who participated in each of the panel's working groups. "Even more egregious," he said, is the Administration's contention that it cannot supply accurate lists of people who attended task force meetings because of "the fluidity and informality" of their work for Mrs. Clinton earlier this year. ("Judge Says Health Panel Erred by Withholding Data," *The New York Times*, November 10)

[Ed. Note: *The Washington Post*, in a December 1 article, "White House Files Documents in Suit on Health Task Force," reported that a Justice Department courier delivered a boxload of documents from the task force to the U.S. Courthouse in Washington.]

**NOVEMBER** - As part of an overhaul of cold-war-era rules, the Department of Energy has decided to declassify reams of previously secret information about the nation's nuclear weapons, including data about undisclosed nuclear tests, Administration officials said. Although scholars have known for some time that the United States did not acknowledge all the nuclear tests it conducted, the new information is expected to include useful data about the extent and purpose of past testing. The information, to be released in the near future, will also include data that have long been sought by specialists in arms control and nuclear safety and on the health and environmental effects of the nuclear weapons program, Energy officials said.

Energy Secretary Hazel O'Leary has ordered the agency, which is in charge of most of the atomic weapons-building

program, to complete a review of the kinds of information that can be declassified and to set up means for the public to have access to it. ("U.S. to Release Data on Secret Nuclear Tests," *The New York Times*, November 11)

**NOVEMBER** - The Central Intelligence Agency is considering giving its consent to commercial sales of spy satellite equipment and images, agency officials said. While no final decisions have been made, CIA Director R. James Woolsey is considering seriously "advancing the CIA's position from 'no, never' to considering support for international sales of hardware and perhaps imagery," said an agency spokesman, David French. The spy-satellite equipment under consideration has been produced since 1960 by the National Reconnaissance Office, a secret branch of the Air Force whose existence was acknowledged by the government only last year.

Top secret, technologically exquisite, and hugely expensive, the satellite systems can produce images of people and automobiles from 500 miles in space, gathering data for military and intelligence analysts. Though their costs are officially classified, each can cost more than \$1 billion. Any systems offered for sale to foreign nationals would almost certainly be less capable than the ones operated by United States intelligence agencies. ("C.I.A. Considers Allowing Sale of Spy Technology," *The New York Times*, November 13)

[Ed. Note: On November 17 *The Washington Post* reported in an article, "U.S. Agencies at Odds: For Whom Can the Eye Spy?" that some CIA officials, and others in the State and Defense departments, have their own objections that could scuttle deals to have U.S. companies take spy-quality photos from space and sell them commercially. A November 18 *Washington Post* article, "Government May Sell Spy Photos," said the Pentagon and the CIA are considering selling photo images of Earth to companies and foreign countries, but both government and industry sources said the move is partly designed to discourage private firms from entering the same business.]

**NOVEMBER** - The discovery that five additional patients may have died in tests of a new drug for hepatitis B has prompted the Food and Drug Administration to propose a major change in the rules for reporting side effects from drug trials. The first of two reports were released by the FDA on the latest test of the drug, which was conducted at the National Institutes of Health in Bethesda, Md. This test was among the worst catastrophes in the recent history of drug testing; deaths occurred in 5 out of 15 patients who took the drug for four weeks or more. The FDA has discovered from a review of earlier tests of the drug that five other patients in the earlier experiments may have died as a result of taking the drug or its experimental predecessor.

The FDA, which approved the latest test and reviewed data as it proceeded, said scientists could have found out that the drug would be toxic but had not collected the available information. "Some of the problem was optimism," said Dr. David Kessler,

the commissioner of Food and Drugs. "The data were not pulled together in one place or analyzed in a way that would lead the scientists to see the drug's danger. In retrospect, the data were there. There were five deaths here that demanded greater scrutiny." ("After Deaths, F.D.A. Is Proposing Stiffer Rules on Drug Experiments," *The New York Times*, November 16)

**NOVEMBER** - The National Drug Intelligence Center, the government's newest agency for combating drug traffickers, opened in Johnstown, Penna., on August 9. At the dedication of the \$50 million center, Attorney General Janet Reno said it would coordinate intelligence from rival federal law enforcement agencies. But in the view of many drug experts and former anti-drug officials, the FBI-administered agency duplicates the work of 19 other drug intelligence centers around the country and cannot function effectively in western Pennsylvania, 182 miles from Washington. For these critics, the center is a wasteful display of political patronage that primarily benefits the constituents of one Democratic Congressman, Rep. John Murtha (D-Penna.)

John Walters, who was President Bush's acting drug czar in 1990 and 1991 and who helped plan the center, said in an interview that the Johnstown office was a complete distortion of the original plan. That plan called for the center to be located within the Department of Justice in Washington, Walters said, so that it would be near the headquarters of the FBI, Drug Enforcement Agency, CIA, the Customs Bureau, and other federal agencies that track drug trafficking. "It was to bring together anti-drug agencies' senior leadership and encourage them to share their agencies' most jealously guarded intelligence information about the highest level of drug traffickers," Walters said. Agencies rarely share such information, he said, because they do not want to share the credit with other agencies in making splashy arrests, which generate publicity, build reputations, and justify budget increases. ("Center for Drug Intelligence Opens, But Some Ask if It Is Really Needed," *The New York Times*, November 17)

**NOVEMBER** - Alan Greenspan, chairman of the Federal Reserve, offered a compromise to Rep. Henry Gonzalez (D-Texas), chairman of the House Banking Committee, saying the central bank would grant public access to detailed transcripts of meetings it held between 1976 and 1988. In a letter to Gonzalez, who is trying to make the Fed's deliberations less secret, Greenspan said that the Fed would make public transcripts of meetings of its main policy-making committee, the Federal Open Market Committee, with a five-year lag.

Gonzalez had called for the release of complete transcripts of all meetings held more than three years ago and for releasing edited transcripts of meetings more than 60 days old but less than three years old. Transcripts of meetings up to 1976 are already public; they were released after a five-year lag. Since 1976, however, the central bank has kept unedited transcripts of its policy-making meetings on file without making them public.

Instead, it releases a short summary of its policy-making meetings six weeks after they are held.

Opening the records provides material for economists and historians about past economic and political controversies. For example, the transcripts are expected to show the debate that led to the Fed's decision to substantially raise interest rates in the early 1980s. Greenspan argued against the suggestion that the central bank release transcripts with less than a five-year lag. He said that members of the committee believed "that early release of these documents would sharply curtail" the open market committee's "ability to discuss freely and frankly evolving economic and financial market trends and alternative policy responses, which is essential to sound monetary policy." Early release, Greenspan said, could stifle "originality, new ideas, and the give-and-take debate that so often open up new insights" at the committee's meetings. ("Fed Proposes a Compromise on Access to Its Transcripts," *The New York Times*, November 18)

**NOVEMBER** - The underlying principles of the law requiring release of government records about the assassination of President John Kennedy, according to the Senate report on the law, are "independence, public confidence, efficiency and cost effectiveness, speed of records disclosure and enforceability," Washington lawyer James Lesar told the House Government Operations Committee at a hearing. Lesar, head of the nonprofit Assassinations Archives and Research Center, added that with the law now more than a year old, "it can only be said that these principles have been repeatedly violated. At best, only 10 to 20 percent of the total universe of Kennedy assassination records has been released."

Steve Tilley, who is JFK liaison officer at the National Archives, where all the records are to be kept, confirmed that the FBI, the Immigration and Naturalization Service, the Naval Investigative Service, and both House and Senate intelligence committees have yet to produce a single page under the law. ("Deadlines Missed on Release of JFK Data," *The Washington Post*, November 18)

[Ed. Note: In mid-December, the FBI announced that it was about to release the first of what will eventually be more than one million pages of documents related to President Kennedy's assassination. ("FBI Set to Release JFK Assassination Papers," *The Washington Post*, December 13)]

**NOVEMBER** - The federal government's information on nutrients in food, used around the world to determine public nutrition policy, plan feeding programs, do medical research, and answer questions like how much vitamin A is in a sweet potato or how much fat is in a sirloin steak, is flawed and unreliable, according to a federal report issued on November 22. The General Accounting Office said the nutrition information in the publication, *Handbook 8*, is inaccurate because of sloppy, inconsistent, or questionable methods of collecting data.

In the report, requested by Rep. George Brown Jr. (D-

Calif.), chairman of the Committee on Science, Space, and Technology, the accounting office criticizes the Human Nutrition Information Service of the Department of Agriculture for using lax methods in compiling the nutritional data. The report says the agency often does not have enough samples and accepts data with "little or no supporting information on the testing and quality assurance procedures used to develop the data." For example, it says the nutrient data on bacon-cheeseburgers comes primarily from brochures provided by fast-food chains, which do not explain how the data were determined. Indeed, much of the information in *Handbook 8* comes from the food industry, the report said. ("Report Finds Federal Nutrition Data to Be Unreliable," *The New York Times*, November 23)

**NOVEMBER** - The White House should disclose the multi-billion-dollar budget for secret intelligence spending, senior members of Congress have urged President Clinton. The secrecy shielding the spending, or "black budget," is a relic of the cold war and should be abolished, said a letter sent to the White House by the Speaker of the House, Thomas Foley (D-Wash.); the Senate majority leader, George Mitchell (D-Maine); House majority leader Richard Gephardt (D-Mo.), and nine present and former leaders of congressional committees overseeing the nation's intelligence agencies. ("Disclosure Urged for Secret Budget," *The New York Times*, November 25)

**NOVEMBER** - A motion to release the final report of the Independent Counsel for the Iran-contra investigation was filed with a special panel of three federal appellate judges who have kept the report under seal since August. The motion expressed concern that lawyers for those involved in the 1986 scandal would seek to have the document suppressed or heavily censored. "If this report, or any part of it, is suppressed, public understanding of the lessons of the Iran-contra affair...will be forever impoverished," the motion argued. It was filed on behalf of the National Security Archive, the Society of Professional Journalists, and the Reporters Committee for Freedom of the Press. Independent Counsel Lawrence Walsh gave the court his final report in August, closing his investigation.

Walsh concluded that senior advisers to President Reagan had tried to cover up events in the Iran-contra affair, according to portions of the sealed report described to The Associated Press. Lawyers for former President Ronald Reagan, former Attorney General Edwin Meese, and Oliver North have sought to keep some details of the report from being released. "The public's right to know the real story of the scandal is now in jeopardy," said Peter Kornbluh, senior analyst at the National Security Archive. "The threat of suppression hanging over the Walsh report portends the ultimate Iran-contra coverup." ("Court Is Asked to Release Iran-Contra Report," *The New York Times*, November 25)

[Ed. Note: In early December, a federal appeals court ruled: "The court not only considers it appropriate but in the public



interest that as full a disclosure as possible be made of the final report of the independent counsel." Without specifying a date, the court said it will release the massive report in "some short period of time." ("Iran-Contra Report to Be Released Mostly Intact," *The Boston Globe*, December 4)

**DECEMBER** - Central Intelligence Agency Director R. James Woolsey appeared on Larry King's CNN talkshow to answer questions from callers in an effort to make the agency less mysterious and more visible. "We're working really very hard on helping people understand what the agency is all about and the intelligence community as a whole," Woolsey told King. He said the agency is "trying to disclose a lot more historical material," such as intelligence reports on the Soviet Union up to 1983, which are being declassified "warts and all."

Information about current operations and intelligence-gathering methods is to remain secret, however. Woolsey refused to extend the openness campaign to the intelligence budget, despite a request from Democratic leaders in Congress to declassify it. The annual intelligence budget has been widely reported to be about \$28 billion, but the CIA opposes making the figure public because it does not want to answer questions about what the money is used for. ("Absent Cold War Mystique, Loquacious Silent Service," *The Washington Post*, December 2)

**DECEMBER** - The United States conducted 204 previously unannounced nuclear weapons tests during the cold war, the Clinton Administration disclosed. The number of secret tests was about twice as high as had been suspected and accounted for almost 20 percent of the 1,051 nuclear tests conducted by the United States. The underground tests, which took place from 1963 to 1990 in Nevada, were only small enough to escape detection. Some resulted in accidental releases of radioactive gases into the atmosphere, usually in amounts too low to be considered harmful. The Energy Department, as part of a newly ordered declassification of millions of documents relating to the vast nuclear buildup of the past 50 years, also disclosed for the first time the full extent of its plutonium production, and details of its huge stockpiles of the material.

The secret tests did not violate any laws or international weapon-testing agreements because they were conducted underground. But they illustrate what officials at the Department of Energy now call a damaging atmosphere of secrecy that compromised safety and environmental considerations, a situation that the Administration is trying to correct. "We were shrouded and clouded in an atmosphere of secrecy," Energy Secretary Hazel O'Leary said at a news conference. "And I would take it a step further: I would call it repression."

Department officials said that among the millions of documents yet to be reviewed, there might be more information about previously disclosed experiments in which hundreds of human subjects were exposed to plutonium without granting informed consent. In general, O'Leary's attitude toward secrecy at the department and the lack of public trust it engendered differ

greatly from those expressed publicly by any of her predecessors. Still, some researchers who have been pressing the government to offer more data about the nuclear weapon program said they were disappointed at how little new information was disclosed. But the Energy Department said the disclosures were just the first step in an effort to review 32 million documents for possible declassification. The Pentagon, and some officials with the Energy Department, have resisted some efforts to declassify certain information, officials conceded. ("204 Secret Nuclear Tests by U.S. Are Made Public," *The New York Times*, December 8)

**DECEMBER** - Central Intelligence Agency allegations to Congress that exiled Haitian President Jean-Bertrand Aristide underwent psychiatric treatment in a Canadian hospital are false, the *Miami Herald* has learned. The allegations slowed the momentum of the U.S. campaign to return Aristide to power, fortified the Haitian leader's critics, and embarrassed President Clinton, who supports Aristide's return to power. The *Herald*, obtained a letter from Aristide authorizing it to retrieve any records for psychiatric treatment for him at the Louis-H. Lafontaine Hospital in Montreal, mentioned by CIA officials to Congress. The hospital categorically denied it had ever treated Aristide.

When CIA Director R. James Woolsey and the CIA's chief Latin American analyst, Brian Latell, went before Congress in October to brief lawmakers on the crisis brewing over Aristide's scheduled return to Haiti, they repeated information from a classified CIA assessment of Aristide that was compiled by an agency psychiatrist during the Bush Administration, after Aristide's ouster by the military in September 1991. The CIA has declined comment about the *Herald* report. ("CIA Report on Aristide False, Newspaper Says," *The Washington Post*, December 2)

**DECEMBER** - Joseph Duncan, chief statistician of Dun & Bradstreet Corp., and Cleveland State University professor Andrew Gross have concluded that the resources and methods for collecting government data are at least two decades behind. That would be just another complaint except that the success of the Clinton Administration effort to improve health care and foreign trade depends on numbers that either do not exist or are seriously flawed. The government's Healthy People 2000 initiative, an effort to extend the reach of preventive medicine that is crucial to the Clinton health plan, will require more than 400 separate sets of statistics, the authors said. "Yet, for one-fourth of the health objectives contained in the...project, no baseline data exist." Government officials acknowledged that they would like to have better numbers, although a spokeswoman for the National Center of Health Statistics said only 10 percent of the Healthy People 2000 objectives now lack base-line data and that portion is shrinking.

At a briefing on their report, "Statistics for the 21st Century," Duncan said, "We have systems that were designed in the

'50s and have been upgraded to reflect changing technology and changing social structure." He further said, "We don't even know how many small businesses there are," contrasting the Small Business Administration's 20.5 million figure with Dun & Bradstreet's 10 million and the Bureau of Labor Statistics' 6.5 million. ("Raw or Cooked, Are the Data Rotten?" *The Washington Post*, December 9)

**DECEMBER** - Recently, it was revealed by Federal Reserve Chairman Alan Greenspan that for 17 years, the Fed had been keeping tape transcripts of the super-secret discussions of top officials of the Federal Reserve System. The disclosures left many of the officials feeling that the very foundation of the Fed's policy-making process—the confidentiality of its regular, private deliberations—had been shaken. While no one would say so publicly, there is some apparent unhappiness with Greenspan, who learned of the transcripts when he became chairman in 1987 but never informed the other members of the Federal Open Market Committee.

A tape recording is made of each session of the committee. And now the members fear that they may be forced to turn the tape, or a transcript of it over to Rep. Henry Gonzalez (D-Texas), chairman of the House Banking Committee. Gonzalez maintains that Fed officials must be "accountable" for their actions. Without full disclosure of what is said at their meetings—he has proposed videotaping the sessions—they are not accountable. Gonzalez has compared the Fed's behavior to that of President Nixon during Watergate, who "stonewalled and lied. I believe we have seen some stonewalling at the Federal Reserve for 17 years," he said.

The "stonewalling" involves the fact, unknown even to most Fed officials, that rough transcripts made from recordings of meetings of the Open Market Committee have been kept in four locked file cabinets at Fed headquarters. There are now more than 20,000 neatly typed pages stretching back to 1976. In a hearing before the House Banking Committee, Greenspan said that transcripts were made and did not imply any had been destroyed. The transcripts are a sore point at the Fed. A number of officials said they were "embarrassed" by not knowing about them. "Everybody felt they hadn't been properly informed about what was going on," said Fed board member John LaWare. ("The Fed Feels the Heat," *The Washington Post*, December 12)

**DECEMBER** - For three decades after World War II, top medical scientists in the nation's nuclear weapons industry undertook an extensive program of experiments in which civilians were exposed to radiation in concentrations far above what is considered safe today. The experiments, at government laboratories and prominent medical research centers, involved injecting patients with dangerous radioactive substances like plutonium or exposing them to powerful beams of radiation.

Now the Energy Department is doing an about-face, acknowledging that for the last six years it ignored evidence of abuses and a congressional request to uncover the extent of the experiments and compensate subjects. Energy Secretary Hazel O'Leary has promised a full investigation, much of it focusing on whether civilians were fully informed of the risks and consented to their participation. ("Secret Nuclear Research on People Comes to Light," *The New York Times*, December 17)

**DECEMBER** - Researchers at Vanderbilt University gave radioactive pills to pregnant women during the 1940s, university officials have confirmed. A follow-up study during the 1960s concluded that three children born to women who took the pills likely died because of the tests. On December 8, the Department of Energy revealed that researchers gave radioactive pills to 751 pregnant women seeking free care at a prenatal clinic run by Vanderbilt University. The pills exposed the women and their fetuses to radiation 30 times higher than natural levels, about the same as an X-ray. The doses were not considered unsafe at the time.

Vanderbilt officials said researchers kept documents of the study until they were destroyed in the 1970s. "The researchers who were working on that maintained their own files," said Vanderbilt spokesman Wayne Wood. "They were not Vanderbilt property. They belonged to the researchers themselves." Vanderbilt officials said they do not know if the women were told of the possible effects of radiation or even if they knew they were being given radioactive pills. ("Radiation Tests on Women Confirmed," *The Washington Post*, December 21)

**DECEMBER** - The American government official who directed radiation experiments on human subjects was warned soon after the program began that the research would invite public criticism and comparison to Nazi experiments on concentration inmates, a private memorandum declassified by the government shows. In a 1950 memorandum to Dr. Shields Warren, a senior official of the Atomic Energy Commission, Dr. Joseph Hamilton, a top radiation biologist who worked for the agency, warned that the medical experiments might have "a little of the Buchenwald touch." At the Buchenwald camp a number of human experiments were done, including one that killed about 600 people exposed to typhus bacteria.

The memorandum, declassified in the early 1970s, has been known to a handful of independent investigators interested in the early history of the Atomic Energy Commission. It has been publicly circulated in recent days as government investigators and reporters have examined an extensive experimental program that involved at least 1,000 people in a variety of radiation experiments in the early years of the atomic era. One official said that number could go much higher. ("50 Memo Shows Radiation Test Doubts," *The New York Times*, December 28)

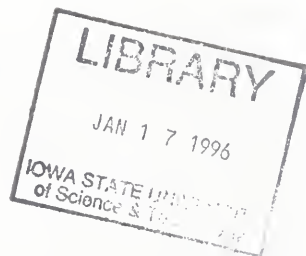
Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Ave., NE, Washington, DC 20002-5675; 202-547-4440, fax 202-547-7363. All orders must be prepaid and must include a self-addressed mailing label.





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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXII

*A 1994 Chronology: January - June*

## INTRODUCTION

For the past 13 years, this ongoing chronology has documented Administration efforts to restrict and privatize government information. Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued a revision of the circular in the July 2, 1993, *Federal Register*, changing its restrictive interpretation of the definition of "government publication" to which ALA had objected in OMB's draft circulars.

In their first year in office, the Clinton Administration has improved public access to government information. The President signed P.L. 103-40, the Government Printing Office Electronic Information Access Enhancement Act. The implementation of the law in June 1994 provides electronic government information to the public through the Depository Library Program. Government information is more accessible through computer networks and the Freedom of Information Act. Energy Secretary Hazel O'Leary started a campaign to open government files on Cold War radiation testing of humans. The Administration's national information infrastructure initiatives include government stimulus for connectivity and applications in health care, education, libraries, and provision of government information.

However, there are still barriers to access. For example, the Clinton Administration, like the two administrations before it, has maintained that the government has no obligation to preserve its electronic records and the information they contain. National Performance Review recommendations to "reinvent government" to have every federal agency responsible for disseminating information to the nation's 1,400 depository libraries could result in a literal "tower of babel" as the American public would be

forced to search through hundreds of federal agencies for publications they need.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JANUARY** - From recently declassified documents about the Vietnam War, new evidence is emerging that some American pilots held prisoner in Laos were not released at the end of the war, and that American intelligence officials might have known where some of them were. Officially, only two American fliers are known to have been alive in the custody of Pathet Lao rebels. Both died in captivity in the 1960s, Pentagon officials believe. No other reports, whether from human sources or aerial photographs, of Americans held prisoner by the Pathet Lao have ever been verified, according to the Defense Department.

But declassified documents from the State Department, the Central Intelligence Agency and the Defense Intelligence Agency provide some support for those who argue that the number of prisoners was considerably higher, perhaps as high as 41 Americans. The truth about Laos has eluded military specialists and diplomats for two decades, and Laos remains the black hole of the long, bitter story of the more than 2,200 American service personnel still unaccounted for. The United States never acknowledged officially participating in a war in Laos.

In a 1973 speech, former President Richard Nixon said, "All of our American POWs are on their way home." He said provisions of the Paris agreement regarding Laos "have not been complied with," but he did not indicate there might still be U.S. prisoners there. Several times in the next few months of 1973, he repeated that all prisoners had come home. But the declassified documents show there was intelligence information that the Pathet Lao held some U.S. fliers in caves near Pathet Lao headquarters in Sam Neua, in northeastern Laos, near the border with Vietnam.

If any of the intelligence information was correct, the apparent conclusion is that some men were abandoned to their fates when the last U.S. troops left Indochina, unless the Pathet Lao killed them, as some U.S. officials believe. ("POW Pilots Left in Laos, Files Suggest," *The Washington Post*, January 2)

**JANUARY** - President Clinton expressed support for opening government files on Cold War radiation testing of humans, but said he needs to assess how to proceed. He praised Secretary of Energy Hazel O'Leary for starting the campaign to search government files for information on hundreds of experiments conducted on people in the 1940s and 1950s. Federal agencies involved in the effort to uncover information on the tests include the Departments of Energy, Defense and Veterans Affairs and the National Aeronautics and Space Administration. The VA has announced that it will investigate whether patients at VA hospitals in the 1940s and 1950s were subjected to nuclear medicine research without their knowledge. ("Clinton Supports Release of Information About Human Radiation Experiments," *The Washington Post*, January 2)

**JANUARY** - The family of Elmer Allen learned after his death that he had been unwittingly injected with plutonium in 1947 as

part of a secret government research project. Allen's family learned of his involvement in the experiments from the *Albuquerque Tribune*, which in December 1993 first reported that the U.S. government had injected him and 17 other people with plutonium. Elmerine Whitfield began searching her father's medical records after the Albuquerque paper first contacted the family last year. She appealed to Energy Secretary Hazel O'Leary during a joint appearance on CNN for the release of all the documents in the experiments. Whitfield is angry that the government her parents honored deceived them for more than 40 years. ("Family of Radiation Test Victim Angered by Government's Deceit," *The Washington Post*, January 2)

**JANUARY** - President Clinton's attorney, David Kendall, attempted to negotiate unusual limits on how the Justice Department could use files about Whitewater Development Corporation that the White House had agreed to turn over. Kendall was rebuffed when he asked Justice officials to agree they would not share the material with the Office of Professional Responsibility, the unit of the department that is investigating the handling of the suicide in July 1993 of White House deputy counsel Vincent Foster. Such an agreement would have been extraordinary, according to a former federal prosecutor, because the Justice Department is generally free to share subpoenaed grand jury material with any of its attorneys who have a legitimate need for it as part of an investigation into potential criminal conduct.

A senior Administration official said that Kendall "did say to the Justice Department that he did not want these documents to go to OPR. He wanted them protected from that kind of dissemination." The official said that Kendall's position to Justice was "they should not be turned over to OPR" unless OPR went to court to seek its own access to the records. There was no indication why Kendall sought to deny OPR access to the documents. ("President's Lawyer Tried to Limit Justice Dept. Use of Whitewater Files," *The Washington Post*, January 3)

**JANUARY** - British aviation officials notified the Federal Aviation Administration in 1991 that Boeing 757s had problems with wake turbulence of the kind suspected in a fatal crash in December 1993, the Los Angeles reported. The FAA was also warned twice by a safety agency in 1993 that pilots had reported concerns about whirling currents from the plane's wing tips, the paper said.

In late December, FAA Administrator David Hinson directed air traffic controllers to issue wake turbulence warnings to pilots landing behind 757s. He took the action a week after five people were killed in the crash of a twin-engine jet on December 15 in Santa Ana. The plane had been trailing a 757 by about two miles, and investigators suspect the fierce wake played a role in the crash. Turbulence from a 757 is also suspected in the December 1992 crash of a twin-engine jet in Billings, Mont., that killed eight persons. FAA officials have said no warning

was issued sooner because the issue was still under study. ("F.A.A. Reportedly Knew of Jet-Wake Peril," *The New York Times*, January 5)

[Ed. note: In early June, *The Los Angeles Times* reported that the Federal Aviation Administration was warned before two fatal air accidents that wake turbulence from Boeing 757 jetliners would cause a "major crash" if the agency did not intervene. The paper said it obtained 226 pages of FAA letters and memoranda under the Freedom of Information Act after agency officials fought their release. Citing the FAA internal documents, the *Times* said the agency's now-retired top scientist expressed serious concerns about the potential danger to planes flying behind 757s before crashes in Billings, Mont., and Santa Ana, Calif., that took 13 lives. ("FAA Was Warned on 757 Turbulence, Paper Says," *The Washington Post*, June 6)

**JANUARY** - A special three-judge panel was asked to make public sealed motions filed in early December 1993 that seek deletions in independent counsel Lawrence Walsh's final report on his seven-year investigation into the Iran-contra affair. Several individuals mentioned critically in the report have filed sealed motions that comment on the report and request that certain portions be deleted, according to sources familiar with the legal maneuvering. It is said that among the attorneys who have filed such motions are those representing former president Ronald Reagan and former Reagan aide Oliver North.

In the emergency motion, the Society of Professional Journalists, the Reporters Committee for Freedom of the Press and the National Security Archive asked the panel to unseal motions "requesting suppression, redaction or deletion of any portion" of Walsh's final report. The organizations said the secret filing "undermine public confidence in the judicial process, deepen public skepticism about the handling of the Iran-contra affair, and deny the public its cherished right to know what occurs in its courts." ("3 Groups Ask Access to Cuts Sought in Iran-Contra Report," *The Washington Post*, January 7)

[Ed. note: A three-judge panel ruled against deleting material from the final report of the Iran-contra investigation but delayed release of the controversial volume 10 days to permit appeal to the Supreme Court. ("Judges Preserve Iran-Contra Material but Delay Walsh Report," *The Washington Post*, January 8)]

**JANUARY** - The National Academy of Sciences has concluded that so little is known about the ecological condition of American range lands that it is extremely difficult to determine how they should be managed, according to a report that could complicate Administration plans on federal lands. "This lack of information goes to the very heart of the current debate over grazing fees and environmental standards," said F. E. "Fee" Busby, a range scientist who chaired the academy panel that conducted the four-year study released this week. "Because fundamental questions

about the condition of U.S. range lands cannot be answered," Busby said, our ability to make decisions about their proper use and management is severely, seriously impaired."

The NAS report concludes that current scientific information on the roughly 770 million acres of federal, state and private range lands is so inconsistent and fragmentary that it does "not allow investigators to reach definitive conclusions about the state of range lands." ("Information Scarce on Range Lands," *The Washington Post*, January 8)

**JANUARY** - The chairman of an independent panel that investigated the loss of NASA's Mars Observer spacecraft said that the group's findings—released in early January—should have included mention of a key management decision that may have led to the disaster. "It was an oversight," said Timothy Coffee, director of the Naval Research Laboratory. "It really was my fault." Controllers lost contact with the Observer on August 21, 1993, after what Coffee's panel concluded was most likely a failure in part of the propulsion system. The spacecraft's builder, Martin Marietta Corp., renounced its claim to a \$21.3 million orbital performance bonus "in light of the unsuccessful mission." The lost spacecraft and the scientific instruments it carried accounted for about half of the mission's \$1 billion cost.

*The Washington Post* reported that, about seven months before the Observer was launched, NASA had decided to postpone pressurizing the fuel tanks until the spacecraft had completed its 11-month cruise to Mars, instead of doing its five days after launch as planned when the craft was designed and built. Investigators concluded that the most likely cause of the spacecraft's disappearance was "a massive rupture in the pressurization side of the propulsion system" that caused the Observer to spin out of control. The change in flight procedure was omitted inadvertently from the executive summary and overview provided to the news media. The change is mentioned in two places deep inside the report's eight-inch thick, four-volume documentation, which was not distributed but was made available for inspection at NASA headquarters. ("NASA Admits Oversight on Report," *The Washington Post*, January 11)

**JANUARY** - The Clinton Administration, in the process of preparing a post-Cold War policy on the release of government secrets, is debating how long information should remain classified. A draft of a new policy would require that all government secrets, with few exceptions, be automatically released after 40 years. Several organizations, including the National Security Archive and the American Civil Liberties Union, said the need for a shorter period was demonstrated by recent disclosures about secret government-sponsored radiation experiments on unwitting Americans in the 1950s through the early 1970s. "Forty years is much too long," said Sheryl Walter, general counsel of the National Security Archive. "The whole reason to disclose secrets is to keep Government officials accountable by letting them know that their decisions will be held to the light of public scrutiny."



A senior White House official who is involved in seeking to fulfill President Clinton's promise for a more open information policy said officials were seriously considering reducing the 40-year time frame. The process of establishing a new policy on government secrets has involved a tug-of-war between groups pressing for greater openness and the established order, as represented by officials of government agencies that have historically maintained national security secrets, like the Defense Department and the Central Intelligence Agency. The White House is in the middle trying "to come up with a plan that would fulfill the President's pledge for more openness while protecting really sensitive information, and doing it at a reasonable cost." Trudy Peterson, the Acting Archivist of the United States, said that even a period of 30 years would be unnecessary. In a letter to Vice President Al Gore in December 1993, Peterson said: "In our experience, there is virtually no information over 30 years old that requires continued classification. Most documents of this age are so irrelevant to current security concerns that continued withholding seems inappropriate if not laughable." The National Archives has estimated it has 300 million to 400 million classified documents dating from the World War I era to the mid-1950s. Countless other documents are housed at other government agencies. ("New Policy on Declassifying Secrets Is Debated," *The New York Times*, January 14)

**JANUARY** - Documents filed electronically with the Securities and Exchange Commission by public companies will be available through the Internet in a two-year experiment. Documents obtainable include annual reports, 10-K filings, proxy statements and other information valued by traders and investors. These are already available electronically through commercial data suppliers, but the new service is the first to make them available without additional charges. It is the most ambitious experiment so far by the Clinton Administration to make much government information available to the public at minimum cost. "We have a policy that Government information ought to be made available at only the marginal cost to provide the information," said Tom Kalil, who coordinates science and technology policy at the White House Economic Council. "We view this type of information dissemination as one of the ways we can address the info 'haves and have nots' issue. Since the taxpayers have already paid for it, the idea of making it available was appealing."

Carl Malamud, of Internet Multicasting, said the SEC is charging \$78,000 a year to supply his company with data tapes of each day's filings. The fee, he said covers the cost of the tapes and messenger fees. Malamud said the SEC has projected that as many of 50 gigabytes of data—50 billion characters of information—will be supplied each year. Computer users with access to Internet can get more information by sending an electronic-mail message to "mail[at]town.hall.org" requesting help. Those without Internet access can telephone 202-628-2044. ("Internet Users Get Access to S.E.C. Filings Fee-Free," *The New York Times*, January 17)

[Ed. note: The public's access represents a victory for public interest group leaders like Jamie Love of the Taxpayers Assets Project, who encouraged Congress and the SEC to make electronic information available over the Internet.]

**JANUARY** - A seven-year investigation of the Iran-contra scandal produced "no credible evidence that President Reagan violated any criminal statute," but concluded that Reagan "set the stage of the illegal activities of others" by encouraging them to win freedom for American hostages in Lebanon and arm the contra rebels in Nicaragua, independent counsel Lawrence Walsh said yesterday. Once the public learned in late 1986 of the secret arms-for-hostages dealings with Iran and the clandestine funding for the contras, "Reagan administration officials deliberately deceived the Congress and the public about the level and extent of official knowledge of and support for these operations," Walsh said in his final report on the affair released in mid-January.

A congressional investigation of Iran-contra, Walsh said, went down the wrong paths, in part because of the Reagan administration coverup. Walsh said his investigation discovered "large caches of previously withheld contemporaneous notes and documents, which provided new insight into the highly secret events of Iran-contra. Had these materials been produced to congressional and criminal investigators when they were requested in 1987, independent counsel's work would have proceeded more quickly and probably with additional indictments."

In his 566-page report and a news conference, Walsh was particularly critical of former president George Bush, who served as Reagan's vice president. At the press session, Walsh called Bush's decision to pardon former defense secretary Caspar Weinberger and five other Iran-contra figures on Christmas Eve 1992 "an act of friendship or an act of self-protection." The pardon prevented a trial of Weinberger at which Bush would have been called as a witness. Bush's lawyer, former attorney general Griffin Bell, said in reply that Bush "fully cooperated" with Walsh's office. In a 126-page response, Reagan called the report "an excessive, hyperbolic, emotional screed that relies on speculation, conjecture, innuendo and opinion instead of proof." ("Iran-Contra Report Castigates Reagan," *The Washington Post*, January 19)

**JANUARY** - Senate candidate Oliver North is portrayed as someone who repeatedly lied, broke the law and misused money in the final report on the Iran-contra affair. Special prosecutor Lawrence Walsh's report focuses attention on North's role in the scandal and questions his integrity. The report contrasts sharply with North's repeated descriptions of himself as a White House subordinate who loyally followed orders. "For six days," Walsh wrote, "North admitted to having assisted the contras during the [legal] prohibition on U.S. aid, to having shredded and removed from the White House official documents, to having converted traveler's checks for his personal use, to having participated in

the creation of false chronologies of the U.S. arms sales, to having lied to Congress and to having accepted a home security system...then fabricating letters regarding payment for the system. But, North testified, 'I don't believe I ever did anything that was criminal.'"

North and his aides dismissed the report as politically meaningless, saying it recycled old allegations that courts already have rejected. North was found guilty of several charges, including obstructing Congress and accepting an illegal gratuity, but the conviction was overturned on the grounds that North's testimony before Congress might have been used against him. ("North's Role in Scandal Is Denounced," *The Washington Post*, January 19)

**JANUARY** - In a move designed to provide more access to government information, the government will provide unlimited free access to its AIDS-related electronic databases. Any individual or organization will be given a password on request allowing free use of the AIDS databases. The databases are compiled by the National Library of Medicine, the largest health sciences library in the world. The principal reason for dropping the fees for searching the databases is that members of community organization told the library that they could not afford the existing fees. Fees for using the AIDS databases averaged \$18 an hour, or \$1.25 for each search. The library operates with a fee-for-service philosophy under congressionally mandated guidelines, according to NLM Director, Dr. Donald Lindberg. He said recent increases in the library's AIDS funds would allow it to offer the service free. The library has no immediate plans to make any of its other databases available free, he said. ("U.S. Data on AIDS To Be Free," *The New York Times*, January 25)

**JANUARY** - Matthew Freedman and Jim Riccio have written a five-page article describing how secret internal industry documents obtained by Public Citizen reveal that America's nuclear reactors have serious safety, training, and equipment problems that government regulators have not disclosed to the public. These documents show that long-standing deficiencies in these plants put the health and safety of the public at risk. These findings conflict with public assessments made by the Nuclear Regulatory Commission, the federal agency in charge of regulating commercial nuclear power operations. The internal documents are significant because they show that aging nuclear reactors are plagued by a variety of management and technical problems, many of which have not been revealed in NRC's public assessments. The range and frequency of NRC's omission raise serious concerns about the credibility of regulators and their willingness to acknowledge potential safety hazards at nuclear reactors. "These documents show that citizens need greater access to accurate information about nuclear power plants," said Bill Magavern, director of Public Citizen's Critical Mass Energy Project. "The time has come to lift the veil of secrecy that shrouds this industry. There's just no good excuse to keep the public in the dark when our health and safety may be

at risk." ("What the Nuclear Regulatory Commission Won't Tell You: Aging Reactors. Poorly Trained Workers," *Public Citizen*, January/February)

**FEBRUARY** - An article by Jim Warren describes how not to computerize a federal agency's records. The U.S. Department of Justice developed JURIS, an in-house computer-assisted legal research system, in the late 1970s. In 1983, Justice contracted with West Publishing to provide computerized research services for its attorneys. These included providing computerized copies of federal case law. But in late 1993, West notified Justice that they were not planning to bid for the contract again, and that the computerized copies of the last 10 years of federal case law were West's private property. Additionally, West had copyrighted the page numbers from West's published copies of federal cases—the ones that are required by most federal courts for all federal briefs.

Warren maintains that the JURIS situation provides lessons for every federal agency. He states that any contract with an outside provider must clearly state that: (1) the agency has the permanent right to receive, own and use copies of all computerized versions of its records, without restrictions, and (2) the agency has the right to distribute copies to any party at any time and permit any use of those distributed copies, unrestricted by the provider. An agency can't risk having a service provider lock up their data. Regarding public access, Warren says that contracts with outside providers must assure that: (1) the public can receive computerized copies of computerized public records at no greater cost than the agency pays for such copies, and (2) if public information is commingled with confidential, proprietary or personal information in a comprehensive, structured information system, then the system must include the capability to easily and automatically remove all nonpublic information from computerized and printed copies. Otherwise, the agency is circumventing timely response to public-records requests. ("Access: How NOT to Computerize Government Records," *Government Technology*, February)

**FEBRUARY** - Under pressure to allow the release of high-resolution satellite imagery, Central Intelligence Agency Director R. James Woolsey told a Senate committee in November 1993 that the agency and the Pentagon may begin selling the images themselves. The government sales could compete with the private sector, which has sought to end the ban on selling one-meter resolution satellite data. The CIA and Defense Department are resisting a complete lifting of the ban, claiming that hostile nations or groups could use the data to pinpoint targets in the United States. One-meter resolution is clear enough to identify types of cars on a road or aircraft at an airfield. The ban on the highest resolution spy data, which reportedly can identify license plates from space, is unlikely to be lifted and isn't under discussion.

Industry representatives at the Senate hearing urged that any government sales be restricted to archive photos and allow the

private sector to sell up-to-date material, which is more valuable on the market. They also told the committee they would prefer for the government to sell only photos taken from low-tech cameras, leaving the high-resolution shots to the private sector. With the Cold War over, some satellite firms have been looking for customers to replace the U.S. government, which is paring back on intelligence expenditures. These firms believe that there is a huge remote sensing market and are looking for permission to sell to foreign intelligence agencies, crop scientists, urban planners, utilities and state and local governments. ("Sale on Spy Satellite Data," *Government Technology*, February)

**MARCH** - In early February, Public Citizen's Health Research Group wrote to President Clinton urging him to immediately reverse Reagan-Bush policies and order acceleration of a program to individually notify nearly 170,000 workers of serious health risks they incurred through exposure to cancer-causing chemicals and other workplace hazards. Ten years have elapsed since Public Citizen wrote to President Reagan requesting that the federal government individually notify 240,450 workers exposed to hazardous materials at 258 worksites surveyed in 69 epidemiological studies funded and conducted by the National Institute for Occupational Safety and Health. A decade later, fewer than 30 percent of these workers covered by only a handful of studies have been notified. ("Unfinished Business," *Health Letter*, March)

**MARCH** - The CIA and Defense Department should streamline procedures for classifying information and devote far more attention to deciding who should have access to national secrets, a government-appointed commission of former intelligence and defense officials told the Clinton Administration. In a bow to public interest groups who contend the government has classified far too much information, the commission urged the Administration to authorize the automatic declassification of most secrets within 25 years. Under the commission's plan, narrow exceptions to the 25-year declassification rule would be allowed for information that might jeopardize a human intelligence source or certain military capabilities. No such rule now exists, and last year some CIA and Defense Department officials protested a less demanding draft proposal for automatic document declassification after 40 years.

In another potentially controversial recommendation, the commission proposed to abolish the existing system of classifying national security documents as "confidential," "secret," "top secret," and "top secret-[codeword]." In its place would be a simpler system with just two categories: "secret" and "secret-controlled access." This new approach would eliminate some of the myriad rules and regulations associated with protecting an estimated 300 separate categories of the most sensitive government information, the commission said. It cited the complaint of a senior military officer that current safeguards require protecting what is, in effect, "every blade of grass on a baseball field....[using 100 players], when only four persons to protect

home plate would suffice." ("Panel Urges Simpler Procedures on Government Secrets, Access," *The Washington Post*, March 2)

**MARCH** - On March 23, the Information Security Oversight Office released the 1993 "Report to the President," the eleventh annual report to examine the information security program under Executive Order 12356. In 1993, the total of all classification actions reported for FY 1993 increased 1 percent to 6,408,688. The Department of Defense accounted for 58 percent of all classification decisions; CIA 25 percent; Justice 13 percent; State 3 percent; and all other agencies, 1 percent. Under the systematic review program, agencies reviewed 9,038,144 pages of historically valuable records, 16 percent fewer than in FY 1992; and declassified 6,588,456 pages, 30 percent fewer than in FY 1992.

**MARCH** - The Clinton Administration has decided to claim in federal court that all documents created by the staff of the National Security Council are presidential records and therefore not subject to the Freedom of Information Act. If implemented, the policy change would end many years of established practice in which past administrations acknowledged that the NSC created both presidential records and agency records and that agency records were subject to disclosure under the Freedom of Information Act.

The FOIA applies to the records of federal agencies; it does not apply to presidential records, which by law are deposited in federal archives after presidents leave office. The Administration's legal strategy responds to adverse court rulings in *Armstrong v. the Executive Office of the President*, a case in which ALA is a plaintiff. The Administration's strategy hinges on the assertion that the NSC is not an "agency" for purposes of FOIA, but functions solely as an adviser to the president on matters of national security. The argument portends controversy for an administration that has boasted of a commitment to greater openness in government. "Every prior administration has admitted the National Security Council has a dual function," said Tom Blanton, executive director of the National Security Archive. "One function is presidential, the other function is agency...and the White House knows it."

Acknowledging that if the legal argument prevails it would render moot the FOIA process, President Clinton directed March 24 that a new disclosure review process be created within the NSC that will mirror FOIA by creating "procedures for access by the public to appropriate NSC records." Administration officials acknowledged that such a process would not provide the same legal remedies to seek enforcement in federal court. Blanton derided to proposal as a "trust-me FOIA." ("Clinton Tries to Limit Access to NSC Data," *The Washington Post*, March 26)

**APRIL** - A House Judiciary Subcommittee hearing on April 11 in Cincinnati was to receive testimony about questions surround-



ing radiation tests on humans at the University of Cincinnati from 1960 to 1971. Dr. Eugene Saenger, and his colleagues conducted experiments on 88 cancer patients, ages 9 to 84, exposing them to intense doses of radiation and recording their physical and mental responses. All but one of the patients were terminally ill, most were poor, and 60 percent were black. The Cincinnati study exposed patients to the highest levels of whole-body radiation and, some experts say, probably caused the most deaths of all the known government-sponsored radiation experiments since World War II. There is disagreement about how many died of radiation poisoning rather than cancer. But whole-body radiation has been discounted by doctors as an accepted cancer treatment in all but a handful of cancers, among them leukemia.

One issue to be discussed is the propriety of concealing information about the effects of high-dose radiation from patients. In summaries to the Pentagon, Dr. Saenger said patients were not to be informed. "The patient is told that is to receive treatment to help his sickness," he wrote in 1961. "There is no discussion of subjective reactions resulting from the treatment. Other physicians, nurses and ward personnel are instructed not to discuss these aspects with the patient." By subjective symptoms, he meant vomiting, abdominal pain, diarrhea, weakness and mental confusion. Dr. Saenger's lawyer said, "There was a genuine belief that the patients would benefit from the study and, by the way, there would be information developed for the Department of Defense."

But Dr. David Egilman, a former instructor in family medicine at the University of Cincinnati and now clinical assistant professor of community health at Brown University, said that even in the 1960s, whole-body radiation had been largely discounted for treating colon, stomach, lung and breast tumors. "The study was designed to test the effect of radiation on soldiers," said Dr. Egilman, who has studied Dr. Saenger's experiment and is scheduled to testify at the congressional hearing. "It was known when the study began that whole body radiation wouldn't treat the types of cancer these patients had. What happened here is one of the worst things this Government has ever done to its citizens in secret." ("Cold War Radiation Test on Humans to Undergo a Congressional Review," *The New York Times*, April 11)

**APRIL** - Forest Service employees who speak out are discredited, and scientific reports are routinely changed to support the interests of the timber industry, according to a report by The Center for Public Integrity, a nonprofit interest group. "Scientific fraud and crass intimidation" occur at virtually every national forest, said the report, titled "Sleeping With the Industry—The U.S. Forest Service and Timber Interests." "For years, the service has been one of the most mismanaged, poorly led, politically manipulated and corrupt agencies in the federal government." The Center completed the report after interviewing dozens of industry officials, congressional staffs and environmentalists. It also examined thousands of government docu-

ments, campaign spending records and congressional testimony. The report primarily targets the "cozy relationship" between timber industry officials and Forest Service managers who oversee logging programs.

Critics of the Forest Service were encouraged because biologist Jack Ward Thomas is the new chief of the agency, has shown interest in reforming the agency and its treatment of employees. In his first memo to employees, Thomas told them to "obey the law." However, the report says, "A year into the Clinton-Gore tenure, reform of the agency and its policies has come slowly or in many areas, has failed to materialize at all—often because of the administration's unwillingness to stand up to powerful timber-state politicians." The Forest Service's reputation for "muzzling" its employees is well-documented, the report said. An Agriculture Department spokesman said many of the incidents of retaliation happened during the Bush Administration. ("Forest Service Cited for 'Muzzling' Critics," *Federal Times*, April 25)

**APRIL** - His heirs plan to continue former president Richard Nixon's 20-year fight to control more than 3,000 hours of White House tapes and 150,000 pages of Presidential papers, his lawyer said. But legal experts said Nixon's death may speed the release of the records, which are locked away at the National Archives and have never been made available to scholars or journalists. The tapes and papers were crucial to Nixon's struggle to re-establish his reputation. Starting two months after he resigned as President in 1974, he filed lawsuits to stop the release of the records. The last suit was filed in mid-April. Unless his family fights as hard and as well as he did, historians may be mining rich new veins of Nixon's hidden history.

Only 63 hours of the tapes, provided to the federal grand jury in the Watergate affair, have been made public. Their famous passages include Nixon's advice that his aides "stone-wall" federal investigators and his response to demands for hush money from the men arrested in the June 1972 break-in at Democratic Party headquarters in the Watergate office building: "You could get a million dollars. And you could get it in cash. I know where it could be gotten." Patti Goldman, a lawyer representing Stanley Kutler, a University of Wisconsin historian, said "the struggle is over who will control the tapes, who will control what the public will see and hear." She added: "Nixon really didn't want the tapes out. I don't know if his goal was to delay their release until he died or longer. It may be that he accomplished what he wanted."

But Nixon's lawyer, R. Stan Mortenson, said the battle will not end with Nixon's death. "The suits will continue," he said. Mortenson said Nixon had a right to privacy even after death, although he could not cite a legal basis for that concept. Other legal experts said the claim of privacy would diminish after Nixon's death. ("Nixon Heirs Keep Up Fight to Control Papers and Tapes," *The New York Times*, April 26)

[Ed. Note: Richard Nixon left the bulk of this estate to the

Nixon Library. Although the will does not indicate the value of the estate, it shows Nixon made a \$1.45 million contribution to the Nixon Library in 1992, and pledged \$1.2 million in 1993. The will was filed May 11 in the Bergen County Surrogate's Court in New Jersey. Control of his personal diaries, tapes and transcripts was given to his two daughters. ("Nixon's Will Leaves Tapes to Family," *The Washington Post*, May 18)]

**MAY** - The Food and Drug Administration officially launched a long-awaited nutritional label design for packaged, processed foods to help Americans make healthier choices of the food they buy. The clearer labels, mandated by the Nutrition Labeling and Education Act of 1990, feature large type and offer simple guides to fat, saturated fat, cholesterol, dietary fiber and other nutritional components. Each nutrient is described in terms of the percentage of recommended "daily values" and the labels use common-sense serving sizes, such as 20 potato chips instead of 1 ounce. "We're witnessing a public health milestone and a victory for consumers," said Michael Jacobson, director of the Center for Science in the Public Interest and a long-time advocate of clear nutritional information on foods. "For the first time, consumers will be able to see what they're getting—and trust what they're seeing." ("Read It and (Maybe) Eat," *The Washington Post*, May 3)

[Ed. note: Earlier issues of "Less Access" documented the controversy about the labels between the FDA and food processors over what information would be included in the labels and how it would be presented.)

**MAY** - Over the decades of their existence, mistrust and outright distaste have developed between the nation's premier law enforcement agency, the Federal Bureau of Investigation, and premier intelligence organization, the Central Intelligence Agency. The case of superspy Aldrich Ames, which has spawned allegations that the CIA withheld vital information from FBI investigators about Ames and other potential spy cases, has led to renewed calls for overhauling the way the U.S. government conducts counterintelligence.

The FBI-CIA tensions stem partly from bureaucratic rivalry and confusion caused by overlapping responsibilities for counterintelligence activity. Both have officers stationed overseas, but the CIA is more interested in traditional spying, which involves protecting sources and avoiding public disclosures, while the FBI often wants to pursue law enforcement cases by bringing wrongdoers to court. The most publicized fights have occurred over the sharing of information. The FBI has charged in private congressional testimony—and more recently in material supplied to the White House—that the CIA failed to inform the bureau of information it had relating to as many as a dozen counterintelligence cases. The most recent example cited in the CIA's withholding from the FBI information about Ames' difficulties with a 1991 polygraph test.

The CIA has said that the FBI failed to ask for the polygraph

information and has rebutted each of the bureau's other allegations. CIA officials also have noted that the FBI conducted a number of operations abroad without notifying the agency, in violation of standard procedure. President Clinton is expected to sign a presidential order outlining new counterintelligence practices, trying to head off congressional proposals to resolve the long-standing FBI-CIA dispute with legislation that would spell out respective responsibilities. Many insiders are skeptical that the new presidential directive will work. "You can't legislate behavior," said one FBI official. "If the CIA thinks something is wrong and won't tell anyone, then you won't know to ask for the files." ("Interagency FBI-CIA Tensions Defy Decades of Efforts to Resolve Them," *The Washington Post*, May 3)

**MAY** - U.S. government researchers conducted radiation tests on still-born babies in Chicago during the 1950s, the Department of Energy reported, in the latest revelation about the wide-scale use of humans in Cold War experiments. In the Chicago tests, scientists cremated 44 newly deceased infants and measured the amount of strontium 90, a radioactive substance, in the remains. Parents were probably not notified or asked permission for the use of their children in the experiments, according to DOE officials. The tests were part of Project Sunshine, a massive study conducted by the Atomic Energy Commission, a forerunner of DOE, to determine the long-term effects of nuclear radiation fallout on humans. Strontium 90 is among the radioactive particles that typically linger in the body following nuclear weapons tests.

The release of long-classified information about the Chicago Baby Project—following recent reports about the use of mentally retarded teenagers, ethnic minorities and other disadvantaged groups in radiation tests—raises new questions about what ethical standards the federal government used in its conduct of Cold War research. DOE officials released documents about the baby tests as part of its mission to inform the American public about the extent that federal researchers involved humans in radiation experiments between the early 1940s and the 1970s.

After Energy Secretary Hazel O'Leary expressed outrage about the radiation experiments earlier this year, President Clinton appointed an interagency committee to investigate the tests and determine whether the victims should be compensated. Don Peterson, a retired Los Alamos researcher familiar with the tests, defended them in an interview. "There was probably no other way for science to obtain this kind of information at the time," he said. "The use of rats or other animals would not obtain the same results. This was a case of children who were no longer beneficial to the population being able to provide information that was enormously important for the rest of the world's children," he said. ("Stillborn Babies Used in '50s Radiation Tests," *The Washington Post*, May 3)

**MAY** - Representative Jim Leach (R-Iowa), the ranking Republican on the House Banking, Finance and Urban Affairs

Committees, sued federal regulators for release of documents relating to the Whitewater investigation, saying they cannot choose to withhold the material just because it might be embarrassing to the president. For six months, Leach has been seeking documents relating to Whitewater and a failed Arkansas savings and loan, Madison Guaranty. Most of his requests have been denied on privacy or other grounds by the Office of Thrift Supervision, the agency that regulates S&Ls, and the Resolution Trust Corp., the agency created to dispose of hundreds of failed thrifts.

Leach said that in the past regulators routinely provided materials to the Banking Committee minority on many other S&Ls, including some that were the subjects of sensitive criminal investigations. Among them were Lincoln Savings and Loan, run by Charles Keating, Jr., and Silverado Savings and Loan, where President George Bush's son Neil was a director. The lawsuit, filed in U.S. District Court in Washington, D.C., maintains that regulators are preventing Leach from fulfilling his oversight duties as the banking panel's ranking minority member.

OTS and RTC have said they would provide Madison records if they are requested by the Banking Committee chairman, Representative Henry Gonzalez (D-Texas). Gonzalez has tried to block congressional investigation of Madison, going so far as writing to RTC and OTS officials to urge them not to provide materials to Leach. Lawyers for Leach are seeking to have the lawsuit placed on a judicial fast track. ("Leach Sues to Force Release of Whitewater Files," *The Washington Post*, May 12)

**MAY** - The task of keeping millions and millions of government documents away from prying eyes still keeps more than 32,400 workers employed full time, according to the first-ever tally by government agencies. And the government may be spending more than \$16 billion a year to safeguard a growing stockpile of national security secrets created or managed by these workers, industry estimates and the new accounting for the Office of Management and Budget show. Eighty-one percent of this cost, or an estimate \$13.8 billion, reflects what defense contractors told the federal government they were billing Washington for classification expenses in 1989. No contractor estimates have been made since then, but experts believe the costs may still be in that range despite a decline in defense spending. An additional \$2.28 billion reflects what federal agencies told OMB this spring they will spend this year to protect classified information. And \$200 million more reflects what the intelligence community recently estimated it is spending on security, a classified figure that many government officials and independent experts describe as an understatement.

About 31,000 of the full-time employees safeguarding classified documents are attached the Defense Department. But even the Department of Interior has the equivalent of 30 full-time workers assigned to protect secrets related to national security. The Department of Education allocates \$7,378 to write a classification guide and installing \$7,264 worth of secure

telephones this year. An Education Department spokesman said they were needed for discussions of travel plans by "foreign education officials" and reports to other agencies about student loan defaults. ("32,400 Workers Stockpiling U.S. Secrets," *The Washington Post*, May 15)

**MAY** - The Pentagon in 1953 secretly adopted the Nuremberg Code for protecting humans involved in Cold War scientific experiments, according to official documents released in mid-May. But Defense Department officials may have withheld the guidelines from researchers who were using military personnel in radiation experiments at the time. The 1953 document issued by the Secretary of Defense set the terms for using humans in scientific research. The two-page statement included provisions saying "the voluntary consent of the human subject is absolutely essential" and that facilities should be provided to protect the subjects' "even remote possibility of injury, disability or death."

The document was classified, however, indicating access was limited to senior defense officials. The Pentagon has acknowledged Army personnel were widely used by department researchers, including many unlikely to have seen the classified code, for radiation experiments during the 1940s, 1950s and beyond. The Pentagon declassified the code in 1975. Researchers who have studied the radiation experiments believed the United States had no written policy on the experiments until the 1960s. ("Defense Kept Radiation Test Policy Secret," *The Washington Post*, May 19)

**MAY** - At the time of the August 1991 attempted coup against then-Soviet President Mikhail Gorbachev, the Bush Administration gave intelligence support to Boris Yeltsin that helped the Russian president emerge as a hero from that event, according to an article in *The Atlantic Monthly*. American officials in Moscow, with access to U.S. intercepts of Soviet defense communications, were ordered by the Bush White House to tell Yeltsin that Soviet military units were not responding to calls by the coup leaders, according to the article by Washington journalist Seymour Hersh. In addition, Hersh writes, an American communications specialist was sent to Yeltsin's headquarters in the Russian parliament office building "with communications gear and assigned to help Yeltsin and his followers make their own secure telephone calls to their own secure telephone calls to the various military commanders." Yeltsin urged the commanders not join in the coup, Hersh says.

Although previously published reports have documented how then-President George Bush in June 1991 warned Gorbachev that a coup was being planned against him, the Hersh article is the first indication that intelligence support was subsequently given to Yeltsin during the actual event. Hersh writes that Congress was not informed of the intelligence support given Yeltsin despite newly signed legislation that required the president to do so. ("Bush Aided Yeltsin in '91 Coup, New Report Say," *The Washington Post*, May 15)



**MAY** - The Northwest Coalition for Alternatives to Pesticide and the National Coalition Against the Misuse of Pesticides have sued the Environmental Protection Agency, accusing it of breaking the law by refusing to release the names of all ingredients in pesticides. The EPA allows pesticide makers to keep some inert ingredients off pesticide labels by calling them trade secrets, according to the two groups. Inert ingredients are any of more than 2,300 substances, including chemicals that are active and possibly toxic, the groups said. A substance qualifies as inert if it plays no role in the killing of the pest that the product is made to eliminate, the groups said. The suit asks the court to declare the policy illegal and to order the agency to give the groups a list of all ingredients in six pesticides. "This is one of few laws that precludes access to basic information about toxic ingredients," said Jay Feldman, of the National Coalition Against the Misuse of Pesticides.

In April 1991, the groups asked the EPA for the ingredients in six pesticides—Aatrex 80W, Weedone LV4, Roundup, Velpar, Garlon 3A and Tordon 101. EPA initially denied the request, saying the ingredients were "confidential business information" and exempt from disclosure. But the agency said it would make a final decision after consulting manufacturers. EPA gave the groups a list of the ingredients in three of the pesticides the following December, but all the inert chemicals were blacked out. Makers of the remaining three pesticides claimed blanket confidentiality for all ingredients, the agency said. ("Groups Sue E.P.A. for Pesticide Ingredients," *The New York Times*, May 21)

**MAY** - Energy Secretary Hazel O'Leary's campaign to open the nation's atomic complex to public scrutiny has stumbled on the seeming inability of her department to assemble reliable figures on its production of plutonium, the main ingredient of nuclear warheads. Experts say crude tallies and shifting numbers raise new doubts about the government's carelessness in guarding one of the deadliest substances on earth. In the past, private experts have charged that federal plants were sloppy and prime targets for atomic theft and diversion.

The current trouble arose when private experts at the Natural Resources Defense Council, which specializes in nuclear issues, found a discrepancy between their calculations of plutonium production and what Mrs. O'Leary had announced last December. The gap was 1.5 metric tons, enough to make 300 nuclear weapons. Federal officials play down the discrepancy and say they have raised their production estimate to erase virtually all of the calculated gap. But private experts accuse the government of a laxity that raises questions about the plutonium's whereabouts. Inconsistent numbers might also have diplomatic repercussions, since the declassified figures on plutonium production that Mrs. O'Leary delivered to her counterpart in Russia have turned out to be wrong. ("Experts Say U.S. Fails to Account for Its Plutonium," *The New York Times*, May 21)

**MAY/JUNE** - In a two-page article attorney Mike Tankersley summarizes the history and current status of *Armstrong v. Executive Office of the President*. Tankersley, who is with Public Citizen's Litigation Group, has been the lead attorney for the plaintiffs, which include the American Library Association. Tankersley points out that by the year 2000, according to a 1990 estimate by the Congressional Research Service, 75 percent of all federal government transactions will be handled electronically. Yet the Clinton Administration, like the two administrations before it, has maintained that the government has no obligation to preserve its electronic records and information they contain. Only through litigation pursued by Public Citizen over the last five years has the White House been forced by court order to "reinvent" the way electronic records are handled so that officials are no longer permitted to erase the blemishes of their tenure at the touch of a button.

Tankersley concludes his article:

Most importantly, the rulings secured by Public Citizen in this case apply not only to the White House, but to the electronic records of all federal agencies. As the Clinton administration promotes the use of advanced technologies by the federal agencies, the implementation of proper electronic record keeping practices in these agencies will become increasingly important to prevent the wholesale loss of historical records and protect the public's right to scrutinize the activities of the federal government.

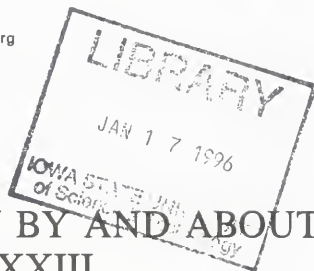
("The Medium Redux: Courts Order Preservation of Government's Electronic Records," *Public Citizen*, May/June)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Avenue, NE, Washington, DC 20002-5675; 202-547-4440, fax 202-547-7363. All orders must be prepaid and must include a self-addressed mailing label.



## ALA Washington Office Chronology INFORMATION ACCESS

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXIII

*A 1994 Chronology: June - December*

## INTRODUCTION

For the past 13 years, this ongoing chronology has documented Administration efforts to restrict and privatize government information. Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued a revision of the circular in the July 2, 1993, *Federal Register*, changing its restrictive interpretation of the definition of "government publication" to which ALA had objected in OMB's draft circulars.

In their first two years in office, the Clinton Administration has improved public access to government information. The President signed P.L. 103-40, the Government Printing Office Electronic Information Access Enhancement Act. The implementation of the law in June 1994 provides electronic government information to the public through the Depository Library Program. Government information is more accessible through computer networks and the Freedom of Information Act. A government information locator service (GILS) was established in early December. Energy Secretary Hazel O'Leary started a campaign to open government files on Cold War radiation testing of humans. The Administration's national information infrastructure initiatives include government stimulus for connectivity and applications in health care, education, libraries, and provision of government information.

However, there are still barriers to access. For example, the Clinton Administration, like the two administrations before it, has maintained that the government has no obligation to preserve its electronic records and the information they contain. National Performance Review recommendations to "reinvent government" to have every federal agency responsible for disseminating information to the nation's 1,400 depository libraries could result

in a literal "tower of babel" as the American public would be forced to search through hundreds of federal agencies for publications they need.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JUNE** - Although the White House earlier had decided not to require financial disclosure reports from several outside political consultants, those consultants with White House passes were required to file financial disclosure forms listing their clients and detailing their assets, liabilities, and sources of income. Chief of Staff Thomas F. "Mack" McLarty issued the directive, which will apply to political advisers James Carville and Paul Begala, media adviser Mandy Grunwald and pollster Stan Greenberg.

McLarty's order follows public pressure from Republican members of Congress and newspaper editorial writers who said the influential consultants were effectively working for the Administration and should be subject to disclosure rules. There was no public announcement of the directive.

Begala said that his work for clients already is publicly available through Federal Election Commission financial disclosure reports but that he was happy to file the forms. "My view was I've already disclosed everything," said Begala. ("White House Orders Consultants to Disclose Finances," *The Washington Post*, June 10)

**JUNE** - Senate Democrats and Republicans proposed sharply conflicting plans for hearings on the Whitewater controversy, triggering a rancorous debate in which they accused each other of trying to stack the hearings to serve their own partisan interests. The latest eruption of political hostilities about Whitewater came after Republicans declared an impasse in two months of negotiations between Majority Leader George J. Mitchell (D-ME) and Minority Leader Robert J. Dole (R-KS) over a compromise on timing, scope, and structure of the inquiry. Republicans then brought the issue to the Senate floor, accusing the Democrats of insisting on rules that would turn the hearings into a "mockery and a sham," as Sen. Alfonse M. D'Amato (R-NY) put it. Democrats responded by accusing the Republicans of attempting to stage a "political circus" to embarrass President Clinton and First Lady Hillary Rodham Clinton. ("Senate Democrats, GOP Propose Divergent Whitewater Plans," *The Washington Post*, June 10)

**JUNE** - The House of Representatives agreed to make public interview transcripts and other documents from an internal investigation of the House Post Office just hours after U.S. Attorney Eric H. Holder Jr. said he no longer objected to their release. Disclosure of the documents represented an effort by the House to get past mismanagement of the House Post Office that led to convictions of eight former employees and the indictment in early June of Ways and Means Chairman Dan Rostenkowski (D-IL) on 17 charges, most unrelated to the post office's operations. "We need to put this sorry episode behind us, and the release of these documents will go a long ways towards that goal," House Minority Leader Robert H. Michel (R-IL) said.

Two House members, one appointed by House Majority Leader Richard Gephardt (D-MO) and one named by Michel,

are to review the documents. They must agree on withholding any records deemed irrelevant to issues raised in the probe. House Speaker Thomas Foley (D-WA) and other Democrats argued that some transcripts should not be released if the House employees interviewed had been promised confidentiality.

"We accepted hearsay. We accepted gossip. We accepted innuendo, and I'm afraid, some lies," warned retiring Rep. Al Swift (D-WA), a task force member. "The testimony we are about to release is unreliable for any other purpose." But Rep. Pat Roberts (R-KS), another task force member, denied that the transcripts showed that any witnesses were promised their words would be kept secret. Rep. Bill Thomas (R-CA), who was on the task force, said it was committee investigators who signed a confidentiality pledge because "we were concerned about the staff leaking information." Several Republicans, including Reps. Robert S. Walker (R-PA) and John A. Boehner (R-OH), described the release of the documents not as the end that Michel saw but the beginning of further investigation, perhaps by the House Ethics Committee. ("House Agrees to Release Post Office Probe Records," *The Washington Post*, June 10)

**JUNE** - For years, Pentagon officials issued checks to military contractors without keeping track of what they were paying for. It was a fast and convenient way to pay Defense Department bills. It was also wrong, says the official President Clinton appointed to put the military's books in order. To impose discipline on the Pentagon's notoriously untidy accounting system, Pentagon Comptroller John J. Hamre has temporarily frozen payments to military contractors on a number of housing construction, property maintenance, and other projects on which a total of \$300 million was spent without proper accounting records. Payment on additional programs could also be stopped, said Pentagon officials who say another \$10 billion was never adequately matched to the corresponding contracts.

"We cannot continue these ad hoc practices," Hamre wrote in a directive ordering corrective action, dated March 31 but not publicized at the time. "As a department, we have become complacent to accept negative balances as the product of errors with few people feeling responsible for correcting the problem."

"We built an accounting system that is highly decentralized in order to get money to contractors quickly," said one Pentagon budget expert. "But it's primitive and dependent on outdated technology. Consequently, money got paid out without being lined up with the contracts that were being paid off." ("Comptroller Takes Aim at Lax Pentagon Bookkeeping," *The Washington Post*, June 10)

**JUNE** - Transportation Secretary Federico Peña ordered a review of the Federal Aviation Administration's handling of allegations the Boeing 757 produces unusually strong turbulence in its wake that can be dangerous to following small aircraft. The review will examine the speed of the agency's reaction to



safety-related information as well as its procedures for providing full information to the public.

Peña's review was prompted by *Los Angeles Times* articles on 757 wake turbulence, including one alleging former FAA chief scientist Robert Machol's warning the 757 could cause a "major crash" was ignored. The review also is to determine whether the agency properly followed procedures under the Freedom of Information Act in providing documents to the *Times* and whether some documents were withheld improperly. The paper said the FAA fought release of the documents. FAA Administrator David R. Hinson said in a statement FAA's actions "appropriately address safety issues relating to the wake vortex matter. I nonetheless believe strongly that the public is entitled to be assured that the FAA has acted, and can act in the future, with appropriate speed when the facts warrant." Hinson also directed an agencywide review of responses to FOIA requests.

The *Times* FOIA request, agency officials said, was handled at a low level and Hinson's office was never informed. The officials indicated they believe bungling, rather than deliberate withholding of information, may be involved. "It looked like we had something to hide, and that was not the case," said FAA spokeswoman Sandra Allen. ("FAA to Review Safety Order," *The Washington Post*, June 11)

**JULY** - Despite the collapse of the Berlin Wall and the Soviet Union, the United States still spends in the neighborhood of \$16 billion a year to classify and protect national security documents, according a recent report by the Office of Management and Budget. In addition to the money that agencies spend on secure telephones, alarms and special electronic gadgets, OMB estimates that the government pays the salaries of 32,400 workers employed full-time in security work.

It appears clear that classification costs are not going down any time soon. President Clinton has said he wants to reduce the number of classified documents, but in his first year in office 54,000 more documents were classified than in President Bush's last year in office. And the number of documents declassified went down by 30 percent, from 9.4 million in 1992 to 6.6 million in 1993. ("Still Keeping Secrets," *Government Executive*, July)

**JULY** - The federal government spent more than \$25 billion buying, operating, and maintaining electronic information systems in 1993. But a General Accounting Office study found little evidence that the massive investment in new technology has made agencies more efficient in managing information. Instead, GAO officials say, tales of mismanaged data continue to mount:

- In 1991, Medicare mistakenly paid out \$1 billion for services already covered by other insurers, due in part of inadequate data.
- In 1990, the Department of Education gave millions of dollars in Stafford Student Loans to students who had either defaulted or exceeded their legal loan limits.

- Also in 1990, federal law-enforcement agencies released highly sensitive information on witnesses and informants, due to poor computer security.

("Drowning in Data," *Government Executive*, July)

**JULY** - In late July, U.S. District Court Judge Royce Lamberth ordered White House health-care adviser Ira Magaziner and other Administration officials to stand trial in a lawsuit over the Administration's secret Health Care Task Force. Lamberth said holding a trial with witnesses under oath is the only way he can learn the truth about the membership and structure of a working group and several subcommittees that did the legwork for President Clinton's now-disbanded task force. The lawsuit was brought by three groups in 1993 to open the task force's work to the public.

The Federal Administrative Procedures Act allows only "groups comprised wholly of full-time federal officers or employees of the federal government" to meet in secret. Lawyer Kent Masterson Brown said his investigation showed that at least 357 people who worked on the groups were not on the government's payroll. The judge put off ruling on a request to hold Magaziner in contempt of court for saying in sworn court documents that the panels were highly organized and composed of government employees and then later painting a picture of a more chaotic, looser process. ("Health Advisers Ordered to Stand Trial," *The Washington Post*, July 26)

**AUGUST** - The Senate Select Committee on Intelligence charged that the National Reconnaissance Office, the agency that manages the nation's spy satellites, has concealed from Congress the mushrooming cost of a \$310 million compound it has been secretly building near Dulles International Airport. President Clinton declassified the existence of the proposed headquarters for the agency after several Senators protested to him privately that they had been kept in the dark about the cost and scope of the one million-square-foot project. The NRO, whose existence was an officially classified secret until two years ago, is jointly overseen by the Central Intelligence Agency and the Department of Defense. The headquarters project had been publicly described as an office complex for Rockwell International Corp., the Los Angeles-based defense contractor.

Committee Chair Dennis DeConcini (D-AZ) criticized the Pentagon and the CIA for not providing Congress adequate information. The intelligence community is a culture that "believes we don't have to account like everybody else in government," he said. ("Spy Unit's Spending Stuns Hill," *The Washington Post*, August 9)

**SEPTEMBER** - In a ten-page article, Arthur Morin of Fort Hays State University, explores the question, "What is the role of government in data collection and dissemination?" He says that the Office of Management and Budget is involved in regulating the flow of government information in at least four ways: its participation in the development and implementation of

government information and statistical policy; the setting of budgets for centralized statistical agencies; the forms review process, and control of the information collection budget.

The author concludes that during the Reagan Administration, OMB tried to tighten the flow of government data. His inclination is to view information and statistical data as social goods, not as economic commodities. He argues that:

...contrary to economic commodities, the value of data increases as its use increases. Statistical data have historical as well as contemporary value; consequently, their full worth cannot be adequately measured by market values. Private firms will provide statistical data only as long as it is profitable to do so, and profit is a short-term phenomenon. The discount rate of information, and long-term benefits of information, are virtually impossible for the market to measure....

Reliability and continuity of data may be more problematic if data collection were left to the private sector. Indeed, EIA [Energy Information Administration] was created in part because of the distrust of industry figures....

The questions of legitimacy, authority, and independence, of who defines 'quality standards,' whether private firms have the resources or incentive to match the scale at which data are collected by the government, and whether private firms could match the economy of scale achieved by the government... lead us to believe that it would be dangerous to underestimate the importance of the role of government in data acquisition. Given that information is a social good, I believe it is better to err in collecting too much rather than too little data.

(“Regulating the Flow of Data: OMB and the Control of Government Information,” *Public Administration Review*, September/October)

**SEPTEMBER** - The Clinton Administration initially proposed a news blackout during the first six or eight hours of the planned invasion of Haiti, but compromised on coverage with the four television networks. In a meeting with network executives, Administration officials agreed to accept a voluntary embargo on the broadcasting of sensitive pictures for one hour after U.S. troops arrived in Haiti. The television executives said they would withhold footage that might disclose the location of troop landings because of the background or other landmarks.

The Bush Administration imposed a total news blackout during the first 12 hours of the February 1991 ground offensive against Iraq during the Persian Gulf War. The blackout was quickly lifted when the operation proved a success, prompting complaints from some journalists that the Administration was simply trying to block reporting of possible casualties for political reasons. (“White House, Networks Agree on 1-Hour Blackout,” *The Washington Post*, September 18)

**OCTOBER** - Open-government advocates complain the Clinton Administration is not living up to its promise to improve access

to government records under the Freedom of Information Act. The Administration adopted an official policy in October 1993 to be more open than its Republican predecessors. But critics say it is nearly as hard as ever to wrestle government documents out of a reluctant bureaucracy.

The government has been holding seminars to promote easier access to government documents. One problem: no additional money to help process the flood of new requests. Critics say the Administration still uses the old excuses, broad claims of national security and privacy rights, to keep information under wraps. In late September, former Lebanon hostage Terry Anderson sued the government for denying him access to government records about his nearly seven years in captivity. “National security is a legitimate exception,” says Stuart Newberger, Anderson’s attorney. “I’m sure some things should be kept secret, but everything in the file?” Anderson says the government is using “silly reasons, like the privacy rights of a terrorist,” to keep his files secret. (“The New ‘Openness’ Is Open for Debate,” *USA Today*, October 3)

**OCTOBER** - As the 103rd Congress left Washington in October, it passed by voice vote a controversial bill that guarantees the government will be able to tap conversations carried on sophisticated telephone networks that are being built. The bill requires that telephone companies build features into the new systems that would let the government eavesdrop. Authorities would continue to need court approval to do so. The legislation is a modified version of earlier Clinton Administration proposals that ignited intense criticism from industry and civil liberties activists.

After intensive negotiations conducted over several months, legislators crafted a compromise that seemed to satisfy technology companies as well as one privacy group, the Electronic Frontier Foundation. “The FBI director’s made this a drop-dead issue,” said Jerry Berman, EFF’s policy director. “So when we had the alternative of letting legislation move that was totally unacceptable or crafting a responsible bill, we thought we should work with it.” The American Civil Liberties Union remains critical of the legislation. “There’s a principle here that seems to be insidious,” said Laura Murphy Lee, who directs the ACLU’s Washington Office. Companies are being asked not just to acquiesce to legal wiretaps but to alter technology to accommodate them, Lee said. “It seems that these wiretaps are so useless in a number of cases and invade the privacy of so many,” she said.

Proponents argue that the negotiated bill offers citizens more protection from surveillance than do existing laws. For example, it requires that law officers have a search warrant before they can get records of an individual’s online transactions, something they can now get with a simple subpoena. The legislation authorizes the government to give phone companies \$500 million over the next four years to tailor existing digital networks so that they can be tapped. Phone companies will be asked to pay for similar features in new networks. But if a company thinks those

costs are unreasonable, it can appeal to the Federal Communications Commission. ("Network Wiretap Bill Passes," *The Washington Post*, October 8)

[Ed. note: A September 23 article in *The Washington Post*, "Delay Urged on Encryption Technologies," said the Office of Technology Assessment released a report suggesting that Congress consider stopping the Clinton Administration from using some of the data encryption technologies that have aroused public criticism until legislators can review the policies. It suggested that legislators take an active role in issues such as "key-escrow" encryption, a technique that would let the government crack scrambled phone and computer messages by putting the means for unlocking such communications into the hands of a designated group, such as a government agency. "It's essential to have an open debate before putting key escrow into place," said Joan Winston, who directed the OTA report. "Given the government's track record so far, the only place that debate can take place openly is in Congress."]

**OCTOBER** - In a continuing effort to open the Department of Energy to greater public scrutiny, Energy Secretary Hazel O'Leary, will unveil a plan that would strengthen the hand of its 160,000 federal and contract employees against retaliation and harassment. The Energy Department runs the nation's atomic complex and has a long history of rocky relations with internal critics and whistle-blowers. The new policy would increase the ability of department employees and contractors to criticize policy and speak out on workplace issues of health, safety, the environment, waste, fraud, and abuse. In the past, such expressions were often squelched, at times vigorously. "These are experts who should be celebrated, not punished," O'Leary said. "We want to bring them back into the fold. We want an environment where employees feel safe to voice their concerns. We have zero tolerance for reprisals. It's as simple as that."

News of the initiative was applauded by critics of the department and public-interest groups. "It's unprecedented," said Jeffrey Ruch, policy director of the Government Accountability Project, a private group based in Washington that aids whistle-blowers. "It appears to be a real attempt to change the agency's culture. It's not just a breath of fresh air, it's a gale."

Meanwhile, Dr. Alexander De Volpi, a physicist at the department's Argonne National Laboratory near Chicago, recently had his computer and files sized by department security officials and his own security clearance threatened with suspension when he prepared a document and article for publication that questioned the accuracy of some of the department's statements on nuclear weapons. Energy Department officials said his works contained secret information and should have been kept from the public, while he maintained the data were innocuous and that the seizures were punishment for his views. The department has 50 to 100 cases like that of De Volpi in the administrative or judicial system, department officials said. There are many other informal cases. ("Energy Dept. Giving

Critics More Voice," *The New York Times*, October 16)

**OCTOBER** - The government has drawn a new line in the sand to control military exports: technological information can be sent abroad if it is found in a book, but not if it is on a computer disk. In an action that illustrates the difficulty of preserving the nation's military export controls in the information age, the State Department has denied the request of a California engineer to export a computer disk that has samples of some powerful and widely used software encoding formulas.

The request of the State Department's International Traffic in Arms Regulations Office was made during the summer by Philip R. Karn Jr., a San Diego telecommunications engineer who filed it as a challenge to the regulations. Karn argued that the restrictions were meaningless because the same information could be obtained in standard cryptographic textbooks, which could be sent overseas without export controls and then used by simply typing or scanning the data into a computer. The same software is already freely available on computer networks around the world. The dispute between Karn and the government is the latest in a string of battles between the National Security Agency, the nation's electronic spying arms, and computer companies and privacy advocates. The agency has tried to restrict the export of most advanced commercial cryptographic hardware and software because it complicates its mission: eavesdropping on electronic communications around the world. ("U.S. Tries to Keep Secrets That Aren't Any More," *The New York Times*, October 17)

**OCTOBER** - The Advisory Committee on Human Radiation Experiments, an independent panel appointed by the Clinton Administration, released a report concluding that radiation experiments sponsored by the federal government were conducted on more than 23,000 Americans in about 1,400 different projects in the 30-year period after World War II. The figures suggest that the deliberate exposure of humans to radiation during the Cold War was far more widespread than previously believed. The panel also has found that discussions about the ethical implications of radiation tests took place as early as 1953, and involved senior officials, including the Secretary of Defense. The panel has documented fully 400 government-backed biomedical experiments involving human exposure to radiation conducted between 1944 and 1975, and has received materials describing 1,000 other tests over the same period, the report said.

A 1986 congressional probe of federal radiation tests, commissioned by Rep. Edward Markey (D-MA), until now considered the most authoritative account of radiation experiments, discussed only 31 separate experiments. In June, Energy Secretary Hazel O'Leary released information about 48 additional experiments. Cold War researchers conducted several hundred so-called intentional releases, in which radioactive substances were emitted into the environment, usually to test human responses and often without the knowledge of those exposed, the



panel's report said.

In a final report due in April 1995, the panel will address key questions about the experiments, such as the extent to which researchers gained the consent of participants, how participants were chosen, and whether participants should be compensated for damages they suffered. The panel is supposed to collect data about experiments sponsored across the federal government, but it has not received full cooperation from all agencies, according to the report. For example, the departments of Defense and Energy have refused to hand over documents relating to the intentional releases. Officials from the agencies have refused to declassify the documents, citing national security concerns. Central Intelligence Agency officials have said the agency was not involved in radiation tests and have refused to give any files to the panel. But the panel has found that CIA officials were at least involved in discussions about the tests in the early 1950s. The agencies' refusal to cooperate already are causing "road-blocks" for the committee, said Ruth Faden, a Johns Hopkins University ethicist who chairs the panel. ("Radiation Tests Were Widespread," *The Washington Post*, October 22)

[Ed. note: A related article in December revealed that military and nuclear energy officials were motivated by fear of lawsuits and unfavorable publicity in their decision to keep secret many experiments using radiation on humans. ("Inquiry Links Test Secrecy To a Cover-up," *The New York Times*, December 15)]

**OCTOBER** - For almost ten years, questions have been raised about what Oliver North did to make sure U.S. government flights to help the Nicaraguan contras were free of drug traffickers. In personal diaries North kept in 1985, he wrote down a tip that drugs were being brought into the United States on a contra supply plane. He recorded the type of aircraft and a stop on its route. In 1987 testimony to Congress, North said he gave that information to the Drug Enforcement Administration. But the DEA, when asked to verify North's testimony, issued a statement saying, "There's no evidence he talked to anyone. We can't find the person he talked to, if he did talk to them. There's no record of the person he talked to." Along with the new DEA comment, government records, depositions, hearing testimony, and interviews with former officials, the diary entries again raise questions about what North did to maintain the integrity of the contra supply efforts that he oversaw as a National Security Council aide.

North did not respond to written questions asking him to explain the diary entries and identify whom in the DEA he told. He issued a statement in which he said: "I did all in my power to ensure that whenever the slightest rumor or concern was raised about drugs, the matter was immediately referred to the cognizant authorities in our government." But top law enforcement officials—including the former heads of the DEA and U.S. Customs Service—who met with North at the time on a variety of issues said in recent interviews that he did not pass the information on to them. ("North Didn't Relay Drug Tips," *The*

*Washington Post*, October 22)

**OCTOBER** - Government officials abruptly cut off a 1992 investigation of the Upjohn Corporation and its popular sleeping pill, Halcion, under circumstances that "strongly suggest a high-level FDA coverup," according to Sidney Wolfe, executive director of the Public Citizen Health Research Group. The allegations were in a memorandum to the Food and Drug Administration from Wolfe, who has opposed the continued sale of Halcion, which has been associated with side effects that include memory loss, depression, anxiety, and violent behavior. The drug has been removed from the market in England.

Upjohn spokeswoman Kaye Bennett said in an interview, "Wolfe's charges of a coverup are ridiculous. There isn't, and there never has been, anything to cover up about Halcion, either on the part of Upjohn or the FDA." One of the new documents obtained by Wolfe's group is a March 26, 1993, memorandum from FDA field investigator, David Erspamer to a supervisor, Kenneth Ewing, regarding the 1991-92 inspection of Upjohn. In the memo, Erspamer said that on March 17, 1992, "in a conference phone call with [FDA] headquarters personnel, I was told to discontinue the investigation of the firm." According to the memo, an official in the FDA Office of Regulatory Affairs "was adamant that we should not go back into Upjohn even to pick up records that we had previously requested." Erspamer wrote, "I still have strong feelings that Upjohn has manipulated and misrepresented the Halcion data to FDA, and that the firm misled the agency from start to finish."

In June, FDA Commissioner David Kessler wrote a letter to Wolfe explaining that the agency had formed a task force to give the allegations against Upjohn a full review. The investigation will examine, among other issues, "whether consideration should be given to referring certain matters to the Department of Justice for investigation or prosecution," and "the FDA processes which led to the delay" in issuing the report on the Upjohn investigation. Kessler concluded, "I can assure you that a thorough reexamination of the issues raised in the report will be made." ("Abrupt Cutoff of FDA Halcion Probe Suggests a Coverup, Group Says," *The Washington Post*, October 28)

**NOVEMBER** - Seven genetically engineered foods—five for people and two for animals—have passed a voluntary Food and Drug Administration safety inspection. But some scientists questioned whether the FDA is scrutinizing emerging genetically engineered foods closely enough. "I am a little troubled," Marion Nestle, an FDA adviser from New York University, told the agency. "It's as if FDA scientists have accepted these very complicated assessments [of safety] on face value." But FDA spokesperson Jim O'Hara said, "Biotech foods are being held to the same safety standards as every food."

Several of the new products also require separate approvals from other regulatory agencies, including the Environmental Protection Agency in some cases and the Agriculture Department in others. The FDA reviewed scientific data voluntarily compiled

by the manufacturers and concluded that these plants appear to be as safe as their nonaltered counterparts. The agency is preparing to mandate that biotech companies notify it before marketing any genetically engineered food. That will give the FDA an opportunity to decide what kind of safety review each food needs. FDA food safety chief Jim Maryanski said, "We simply don't have the resources to give every plant that intensive review, and we don't see the public health need." ("7 Engineered Foods Declared Safe by FDA," *The Washington Post*, November 3)

**NOVEMBER** - The following continues earlier "Less Access" items concerning weather data: A November 1994 article reported that the nation's newest weather satellite has completed its shakedown and is providing more and better information to forecasters. Launched on April 13, the \$220 million satellite GOES-8, which hovers in a stationary orbit over Earth, has completed engineering testing, NOAA reported. Because of the failure of an earlier satellite and delays in launching new ones, GOES-7 had been the nation's only stationary satellite, although Europe lent the United States its Meadowsweet to observe the Atlantic and East Coast areas. ("GOES-8 Satellite Providing Better Weather Data," *The Washington Post*, November 8)

**NOVEMBER** - President Clinton signed an executive order declassifying nearly 44 million pages of long-secret documents, some dating to World War I, in an action delayed for nearly a year by the objections of military and intelligence officials. The papers represent roughly an eighth of the secret documents held by the National Archives. All have been classified on national security grounds. Some date to the spring of 1917, when the United States was entering World War I, while others discuss once-sensitive techniques like making and using invisible ink, said archivists who have reviewed the documents.

The release covers the largest single batch of secret papers to be declassified by the National Archives and is a sign, historians and archivists said, that the President may fulfill a promise he made more than 18 months ago to change Cold War secrecy practices on military and intelligence records. Twenty-two years ago, President Richard Nixon promised "immediate and systematic declassification" of Vietnam War documents. Nearly five million pages are still being withheld at the demand of military and intelligence officials, including nearly three million pages about Vietnam, public records show.

Gregg Herken, chair of the department of space history at the Smithsonian Institution Air and Space Museum, said, "I would reserve judgment until I see what's there about atomic weapons, intelligence and dealings with foreign governments." In fact, such files have been identified and removed from the records that were declassified, said Michael Kurtz, the acting assistant archivist at the National Archives. "We've carefully excluded records with ongoing security concerns," he said. The post-World War II records declassified were mostly civil records and military headquarters files, although they include nearly six

million pages of papers from the Vietnam War, he said. ("U.S. Makes Public Millions of Long-Secret Papers," *The Washington Post*, November 11)

**NOVEMBER** - "Who says all of Washington's secrets deal with national security issues? Not the U.S. Postal Service. The agency has declined to reveal the results of a 1991 report by its inspection service about whether a certain new way of routing letters would be economically sound. According to a senior postal official, the report was highly critical of the \$987.4 million project, which allows workers at a remote site to place bar codes on letters through a computer linkup.

The idea was supposed to save money because lower-paid contract workers were to be used. But the inspectors' internal report questioned whether the project would save as much as postal officials had publicly predicted. Since the report was prepared, Postmaster General Marvin T. Runyon has given most of the remote bar-coding jobs to full-time postal workers, whose higher pay has pushed the project's cost way beyond initial projections.

When asked by *The Washington Post* for a copy of the report, agency officials released only five pages of the 1991 document. Officials deleted virtually all the information on those five pages. They said the information was being withheld because it "contains analyses, opinions, conclusions, projections and beliefs of the auditor." They also said they could withhold the report because it is "information of a commercial nature which under good business practice would not be publicly disclosed." ("Washington at Work," *The Washington Post*, November 22)

**NOVEMBER** - Sloppy management at NASA has resulted in billions of dollars in computers, lawn mowers, and other equipment being given to contractors, according to a congressional report. The House Government Operations Committee also concluded that lax management practices have allowed contractors to reap excessive profits and receive award fees on contracts with serious cost overruns. "NASA's financial management picture is a mess," committee Chair John Conyers Jr. (D-MI) said. "NASA's record-keeping is so inadequate that its books cannot be audited, and its planning is so unrealistic that budgets are hopelessly optimistic."

The report, compiling several previous studies, said contractors hold more than \$14 billion in government-owned property, including \$2 billion in general purpose equipment. It said NASA's monitoring of this equipment is inadequate and "many contractor reports on NASA property are riddled with errors and inconsistencies totaling millions of dollars." The report said that while NASA spends about 90 percent of its \$14.4 billion annual budget on contracting, "poor financial management practices undermine NASA's effectiveness and efficiency." Conyers said, "We have learned that some NASA subcontracts were yielding as much as 288 percent in profits and that one contractor on NASA's gamma ray observatory received a \$5 million bonus for

cost-effectiveness, even though this contract had a \$40 million cost overrun." NASA spokesperson Brian Welch said the space agency has carried out a number of procurement and management reforms. He said NASA Administrator Daniel Goldin had put in place internal reviews "that automatically trigger any time we get into a cost overrun situation." ("NASA Accused of Management Lapses," *The Washington Post*, November 27)

**DECEMBER** - The House Intelligence Committee plans in 1995 to investigate whether top CIA officials intentionally misled several senior Republican members who between 1988 and 1992 repeatedly asked about loss of U.S.-paid Soviet agents. It was not until confessed spy Aldrich Ames was arrested in February that Republican committee members learned that at the time they had asked their questions, agency officials already knew that more than a dozen of the CIA's Soviet agents had been killed or arrested and that many more intelligence operations had been exposed. There was "a pattern of lack of candor by senior CIA officials in answering questions of committee members about losses of Soviet assets," the intelligence panel said in its final report. "The possibility cannot be dismissed," the report added, that had the committee known the facts, its "expressions of interest and concern" may have led to a more robust investigation and earlier discovery of Ames as a spy. As previously reported, the committee criticized the FBI as well as the CIA for failures that allowed Ames to go undetected for as long as he did. ("Incoming Panel Plans CIA Inquiry," *The Washington Post*, December 1)

**DECEMBER** - The shift to a Republican-controlled Congress in 1995 is likely to make it more difficult for the Securities and Exchange Commission to expand its regulatory activities and for investors to pursue claims of fraud against the securities industry. In interviews, more than a dozen legislators, staff aides, industry executives, and regulators agreed that an expanded SEC budget to provide for more examiners to oversee mutual funds and investment advisers and to upgrade consumer education would collide with Republican concerns that the agency is already too intrusive and creates unnecessary expenses for the industry.

Advocates for change, led by Sen. Phil Gramm (R-TX), in line to lead the Banking Committee's securities subcommittee, and his key staff adviser, the economist Wayne Abernathy, said the current securities litigation process "has been distorted by greedy lawyers into a form of piracy." Gramm's disputes with the agency have had a personal edge since the late 1980s, when Richard Breeden, then SEC chairman, tried to take over the duties of the Commodity Futures Trading Commission, headed at the time by Wendy Gramm, the Senator's wife.

Explosive growth in the investment advisory business and in the mutual fund industry in the last decade have substantially

outstripped the SEC's inspection programs. The agency is able to examine on a regular basis only the largest and most active managers of the public's money. Smaller fund operations or advisory firms are likely to be inspected only when a scandal has occurred—and such scandals, including unreported risks in money market mutual funds and fraudulent activities by investment advisers, have occurred frequently enough in the last year to suggest that additional regulatory oversight might be needed. Without additional resources, such inspection could be provided only by reducing resources now devoted to policing the public markets and reviewing the documents supplied to investors by companies trying to raise capital. In addition to planning a substantial increase in the inspection staff, SEC Chair Arthur Levitt has initiated a small but ambitious program of consumer information, aimed at giving small investors a better understanding of how to protect themselves from market fraud. ("Republicans May Curb S.E.C. and Fraud Suits by Investors," *The New York Times*, December 12)

**DECEMBER** - U.S. District Judge Royce Lamberth asked the U.S. attorney to investigate whether Ira Magaziner, President Clinton's health-care adviser, lied in an attempt to defeat a lawsuit filed by groups seeking access to the now-defunct Health Care Task Force's deliberations. Lamberth said he cannot determine from the record in the lawsuit whether Magaziner committed a crime—criminal contempt of court, perjury, or making a false statement. He said an investigation by law enforcement authorities is necessary to determine "what Mr. Magaziner knew and when he knew it." Lorrie McHugh, a spokeswoman for the White House, said, "The White House believes that a full and fair review of the facts will completely vindicate Mr. Magaziner."

Lamberth referred the issue to U.S. Attorney Eric H. Holder Jr. because he ruled the lawsuit was now moot but was concerned enough about Magaziner's statement to seek an investigation. At issue is a March 3, 1993, sworn statement that "only federal government employees serve as members" of the task force's interdepartmental working group, which he headed. Magaziner's statement was made in response to the lawsuit filed more than a year ago by the Association of American Physicians and Surgeons Inc. and two other groups against him, First Lady Hillary Rodham Clinton and other Administration officials, seeking access to the task force. ("Judge Asks U.S. Attorney to Probe Magaziner Statement," *The Washington Post*, December 22)

[Ed. note: In early December, Justice Department lawyers agreed to make public thousands more documents generated by a working group of the Health Care Task Force because the Administration has "nothing to hide." ("Justice Dept. to Release Health Panel Documents," *The Washington Post*, December 3)]

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Avenue, NE, Washington, DC 20002-5675; 202-647-4440, fax 202-647-7363. All orders must be prepaid and must include a self-addressed mailing label.





## ALA Washington Office Chronology INFORMATION ACCESS

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXIV

*A 1995 Chronology: January - June*

## INTRODUCTION

For the past 14 years, this ongoing chronology has documented Administration efforts to restrict and privatize government information. Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued a revision of the circular in the July 2, 1993, *Federal Register*, changing its restrictive interpretation of the definition of "government publication" to which ALA had objected in OMB's draft circulars.

In their first two years in office, the Clinton Administration has improved public access to government information. The President signed P.L. 103-40, the Government Printing Office Electronic Information Access Enhancement Act. The implementation of the law in June 1994 provides electronic government information to the public through the Depository Library Program, and 15 depository gateways around the country. Government information is more accessible through computer networks and the Freedom of Information Act. President Clinton signed a reauthorization of the Paperwork Reduction Act in May, saying it would further reduce government-required reports. The list of restrictive factors, or "checklist," that was controversial in the library history during the long history of PRA attempts, is not in the new statute.

However, barriers to access still exist. For example, the Clinton Administration, like the prior two Administrations, has maintained that the government has no obligation to preserve its electronic records and the information they contain. National Performance Review recommendations to "reinvent government" to have every federal agency responsible for disseminating information to the nation's 1,400 depository libraries could result in a literal "tower of babel" as the American public would be

forced to search through hundreds of federal agencies for publications they need.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

**JANUARY** - According to two Syracuse University researchers, federal agencies' electronic bulletin board systems are failing to disseminate federal information except perhaps to the most savvy BBS users. That is the claim of Charles McClure, an Internet consultant and professor at Syracuse University's School of Information Studies. In 1994, McClure and doctoral student John Carlo Bertot monitored volunteers who navigated many of the government's 200 bulletin boards. The volunteers had trouble connecting to BBSes as well as finding and downloading files.

Many BBS system managers seemed to post whatever files they thought might be useful, without targeting specific audiences. Further, files often were out of date. Testers complained about continuous busy signals, restrictive time limits, menu trees that buried important choices, and lengthy sign-on questionnaires. Search engines were "primitive and weak," often giving inaccurate results or trapping callers.

If agencies want to improve their information dissemination, they should concentrate on reaching citizens through the Internet, McClure recommended. He also suggested providing toll-free numbers. McClure criticized the Commerce Department's FedWorld BBS, regarded as the best federal BBS in use today, because it does not help users when they connect through its gateways to hundreds of other federal BBSes. FedWorld managers are considering changes to make navigation easier. ("Agency BBSes Miss the Target, Survey Shows," Shawn McCarthy, *Computer News*, January 9)

**JANUARY** - In a January 14 editorial, "Virtually Open Government," *The Washington Post* commented favorably on libraries providing access to government information through Government Printing Office gateways. The editorial also cited numbers to show that even if computer networks are the wave of the future, they "remain for now a tiny province of society rather than a full-fledged universe. Numbers aren't totally reliable on this, but the trade publication *Matrix News* estimated in December [1994] that 27.5 million people in the world are on e-mail; 13.5 million people use what the researchers call the 'consumer internet,' with basic on-line services; and only 7.8 million have access to computers sophisticated enough to participate in the 'core internet.' This last requires users to have access to fancy services such as the World Wide Web, which is needed to reach most of the new governmental information services and commercial products. The 'virtual revolution' may make a good buzzword, but the real world shouldn't be allowed to slip off the screen."

**JANUARY** - Although a federal judge dismissed a suit filed in 1993 by groups who sued to gain access to the Clinton Administration's health-care deliberations, Ira Magaziner, the President's health-care adviser, is under investigation, accused of lying in a sworn statement about the makeup of the task force. U.S. District Judge Royce Lamberth dismissed the access suit as

moot because the Administration has turned over the documents on the task force's work, but he has not yet ruled on sanctions he said he would impose against the government for its conduct and his decision could be delayed because of the ongoing investigation of Magaziner. ("Health Adviser Declines Judge's Offer," *The Washington Post*, January 18)

**JANUARY** - When it came to power in January, the new majority in the House of Representatives enacted a rule limiting revisions in the *Congressional Record* to corrections of grammar, typographical errors, and other nitpicks. In the past, lawmakers were able to review their exchanges and revise them before the daily record of Congress' debate went to press. To gauge adherence to the new rule, *The New York Times* tape-recorded an actual, acrid debate on January 18 about the propriety of criticizing Speaker of the House Newt Gingrich's (R-GA) book contract. The newspaper printed the text of the debate as recorded and the debate as printed. Reporter Michael Wines urged readers to be the judge of the effectiveness of the new rule. ("How the Record Tells the Truth Now," *The New York Times*, January 22)

**FEBRUARY** - In a closed hearing on February 7, the House Intelligence Committee threatened to subpoena a former top Central Intelligence Agency official after being told he refused to discuss why key panel members were kept in the dark about the loss of CIA-recruited Soviet agents in the 1980s. Committee members heard Acting Director Adm. William Studeman and other CIA officials try to explain why three senior Republican members—including the current chairman, Rep. Larry Combest (R-TX)—were not given frank answers to questions raised in the late 1980s with senior agency officials about counterintelligence activities and rumors there were severe operational losses of Soviet agents working for the CIA.

According to the House panel's report in November 1994 on the case of confessed spy Aldrich Ames, these members were not told in the late 1980s about the CIA's loss of dozens of agents and the closing of more than 45 intelligence operations, along with the agency's own internal search for a mole. The report said there was a "pattern of a lack of candor by senior CIA officials in answering questions of committee members about the losses of Soviet assets."

At one point, a congressional source said, "Studeman admitted it was not just Congress that was misled; other CIA directors were kept from what was happening." The Senate Intelligence Committee, in its report on the Ames case, said the losses were not mentioned to its members or staff during counter-intelligence briefings between 1985 and 1994, when Ames was arrested and the issue was made public. ("Panel Seeks Answers on CIA Secrets," *The Washington Post*, February 8)

**FEBRUARY** - New documents show the U.S. government

undertook a worldwide campaign of deception in the early 1950s to hide its gathering of human remains and other data to measure fallout from atomic weapons tests. The government documents also suggest that the Central Intelligence Agency had a wider involvement in human radiation tests than it has acknowledged. At one point, the CIA considered injecting its own agents with radioactive tracers to provide "positive identification." These findings are among papers being reviewed by the President's Advisory Committee on Human Radiation Experiments, which was created in 1994 to examine the ethics surrounding human radiation testing during the Cold War.

One of the series of papers involves an early 1950s program known as Operation Sunshine. Under the program, the Atomic Energy Commission used other government agencies, physicians, and private groups to gather soil, water, crops, and even bones from dead infants to try to learn the extent of worldwide radioactive fallout from U.S. weapons tests. The searches, which followed as many as 50 bomb tests in the late 1940s and early 1950s, were made in the United States and more than 20 countries. To determine the extent of the fallout, AEC researchers wanted to test levels of highly radioactive strontium 90 in samples, including human skeletons, from around the world. The samples were collected under a cloak of secrecy and through the use of elaborate cover stories.

For example, researchers devised a story that the collections of dead infants, who were often stillborn, were being made to survey natural radium concentrations in humans. Animals and crop samples were obtained under the guise of conducting nutritional studies. To help keep the AEC involvement secret, the AEC made the collections through other parties—including officials at the Agriculture Department, contacts among foreign physicians, connections through private groups, and personal contacts in the medical community. The collection of infant skeletons involved Japan, South Africa, India, Brazil, Columbia, Peru, Chile, and Bolivia as well as the United States. The documents show that at least 55 skeletons of stillborn infants—including several from Utah—were tested at the University of Chicago.

Separate documents concerning the involvement of the CIA in radiation testing appeared to contradict CIA statements last year that the agency had no evidence of having participated in such tests. Another document reveals that the CIA funded a laboratory in a California prison during the 1960s in which radioisotope studies were conducted on inmates. ("Files Show U.S. Deception in 1950s Radiation Tests," *The Washington Post*, February 15)

**FEBRUARY** - In an apparently unprecedented move, House Ethics Committee members and staff have been required to sign a secrecy oath. The new oath for the committee's ten members—five Democrats and five Republicans—comes as they take up a controversial complaint against Speaker of the House Newt Gingrich (R-GA). Former Rep. Ben Jones (D-GA), who lost to Gingrich in last November's election, has charged Gingrich with

a host of violations relating to Gingrich's book deal with Harper Collins, his political committee GOPAC, and the Progress & Freedom Foundation, a major funder of his college course.

The secrecy oath is consistent with a new House rule requiring anyone with "access to classified information" to sign such an oath. It was unclear whether this rule was deemed to apply to ethics—which technically deals with little "classified" government information but nevertheless considers sensitive and potentially damaging information about members of Congress. Committee members have largely maintained a policy of public silence about cases they are considering, but there have been occasional leaks. Committee rules have long banned unauthorized disclosure but did so without an oath. ("Ethics Members Must Sign Secrecy Oath," *Roll Call*, February 20)

**MARCH** - A *Washington Post* article recounted several incidents in which Speaker of the House Newt Gingrich (R-GA) used what appeared to be striking examples of how the federal government wastes taxpayer funds on inefficient social programs. The newspaper reported that on closer examination, very little in the examples turned out to be true.

Gingrich told a Washington trade group about a "federal shelter" in Denver with 120 beds that costs \$8.8 million a year to operate, while a nearby privately funded shelter of roughly the same size saves more lives at a cost of only \$320,000 a year. However, no such federal shelter exists in Denver. What Gingrich was actually referring to, according to the group that advises him on social issues, is Colorado's largest drug and alcohol treatment program, which operates 14 treatment centers in the Denver area. The organization's budget for all its clinics, plus 16 school-based counseling programs, is \$11 million, of which about \$4.3 million is federal money, according to its executive director.

In December 1994, Gingrich assailed the Food and Drug Administration for not approving a heart pump that he said can be used to resuscitate heart attack victims. But the company that markets the device did not have an application at the FDA, and tests have suggested the product might not work any better than conventional cardiopulmonary resuscitation.

Also in December 1994, Gingrich mentioned a 10-year-old in St. Louis who was put in detention for saying grace in a public school cafeteria as evidence that public schools repress the rights of students who wish to pray. However, the superintendent of St. Louis schools said that at the time the student was disciplined for matters entirely unrelated to praying in school. The case was being contested in federal court and the facts were far from clear.

Gingrich spokesman Tony Blankley said that the Speaker based his remarks on information from a task force established at his request to advise him on welfare reform and other poverty issues. The task force was set up by the nonprofit National Center for Neighborhood Enterprise. "We did not have a chance to vet [sic] the information at a staff level," Blankley said. "I think that people who speak publicly have to rely on information



that seems credible when presented. Nobody has the luxury, whether they are a newspaper or a public speaker, to conclusively establish in their own research whether every fact is accurate. That's why newspapers have correction boxes." ("Speaker Cited 'Federal Shelter' as Tax Waste," *The Washington Post*, March 3)

**MARCH** - A *New York Times* editorial criticized the Supreme Court for finding a new exception to the so-called exclusionary rule, which bars the use of illegally obtained evidence. Arizona courts had thrown out marijuana possession charges against a man who was arrested in Phoenix and searched on the basis of an erroneous computer record. But the Supreme Court, saying the police relied on the faulty information in good faith, reinstated the charges.

More than 80 years ago, the Court said the Constitution required the exclusion of tainted evidence. A few miscreants went free, but for the most part the rule encouraged the police to respect the privacy rights of all citizens by making more careful, court-approved arrests. In recent years, the Court has weakened the Fourth Amendment by finding exceptions to the exclusionary rule, but in this recent case the Court went further, approving an arrest that was based on a nonexistent warrant. That warrant, issued when the defendant failed to appear in court for a traffic violation, was quashed when he finally showed up. The obsolete information remained in the computer, probably because a court clerk failed to report the quashing.

Writing for a 7-to-2 majority, Chief Justice William Rehnquist held that the police fairly relied on their own faulty records. Justice John Paul Stevens, in dissent, saw the issue as the erroneous use of the state's sovereign power to arrest. ("Another Search-and-Seizure Loophole," *The New York Times*, March 5)

**MARCH** - The U.S. Judicial Conference, which sets policy for the nation's federal courts, rejected a controversial rule change that would have made it far easier to seal court records from public view. The rule change, proposed by a committee of federal judges, provoked protest from Sen. Herb Kohl (D-WI) and Trial Lawyers for Public Justice, a public-interest law group. Both charged that the proposal to make the sealing of court records nearly automatic in civil cases, as long as the two sides agreed, would have eased the way for corporations to conceal information about defective products and other threats to the public health and safety, even when that information had been provided in the usually public forum of a lawsuit.

Critics of the proposal argued that it would have meant essentially abandoning the current requirement that judges find "good cause" for barring public access to records filed in courts. The issue of sealing court records from public view—by the means of "protective orders"—has long been a battleground pitting plaintiffs' lawyers and consumer advocacy groups against industry and corporate lawyers. The latter group argues that protective orders are needed to protect trade secrets and avoid

lengthy and expensive battle over documents after lawsuits are filed. ("Judges Reject Record-Secrecy Rule," *The Washington Post*, March 15)

**MARCH** - As Congress wages war on federal regulations, anecdotal evidence of nonsensical rules and innocent victims has been a powerful weapon in the push to enact measures that will temporarily halt rule-making, protect property owners, and ensure new regulations are worth the cost. According to an article in *The Washington Post*, many of the purported examples have the ring of truth, but not the substance. For example, Rep. Michael Bilirakis (R-FL) said, during House floor debate, "The Drinking Water Act currently limits arsenic levels in drinking water to no more than two to three parts per billion." He continued, "However, a regular portion of shrimp typically served in a restaurant contains around 30 parts per billion."

Arsenic, a known human carcinogen, has been subject to regulation by the Environmental Protection Agency since 1976. The drinking water standard is now not two or three parts per billion, but 50 parts per billion. And according to EPA officials, the arsenic found in water and the arsenic found in shrimp and other seafood are chemically quite different. The type of arsenic found in seafood is organic; in water, arsenic is predominantly inorganic, and far more toxic.

Rep. Edward Markey (D-MA) lamented the making of "policy on the basis of false or misleading anecdotal information." Proponents of anti-regulatory legislation, said Markey, "claim that the Consumer Product Safety Commission had a regulation requiring all buckets have a hole in the bottom of them so water can flow through and avoid the danger of someone falling face down into the bucket and drowning....Now, that would be ridiculous regulation, if it existed. But the truth is that there has never been such a rule." ("Truth is Victim in Rules Debate," *The Washington Post*, March 19)

**MARCH** - One of the first acts of the House of Representatives on January 4 was to strip 28 House caucuses of their budgets, staffs, and offices. Rep. Louise Slaughter (D-NY), an arts caucus co-chair, said that with the loss of staff the group is "really hamstrung" because "we lost our own sources of information." Several Democrats complained that the new rules have, in particular, threatened to shut the flow of information from the Democratic Study Group, which lawmakers and reporters relied on for analysis of floor legislation. But not only Democrats have worried about a possible information gap. "We can't do research," said Rep. Jim Kolbe (R-AZ), chair of the House Wednesday Group of moderate Republicans.

Republicans who proposed the caucus restrictions maintain that lawmakers from both parties have plenty of other information sources. "We have subcommittee information, committee information, leadership information," Rep. Pat Roberts (R-KS) said. "We believe it is the responsibility of leadership to provide such information to their members," Rep. John Boehner (R-OH) said on behalf of GOP members of the House Oversight

Committee. "They're not hellbent to put us out of business," Rep. David Skaggs (D-CO), chairman of the Democratic Study Group, said of GOP leaders. "One could theorize that part of the centralization of control that the Speaker has done such a good job of accomplishing included a centralization of information....You can have a strong executive without censorship." ("Cut Back, Caucuses Struggle to Go Forward," *The Washington Post*, March 23)

**MARCH** - The U.S. government had information in October 1991 linking a paid CIA informer in the Guatemalan military to the killing of an American citizen there, but did not seek his prosecution inside Guatemala for the crime, U.S. intelligence sources said. The CIA also failed to inform its congressional overseers until this year of its informer's alleged involvement in the slaying, a circumstance that provoked criticism from the Republican chairman and senior Democrat of the Senate Select Committee on Intelligence. The CIA informer's link to the killing became public after Rep. Robert Torricelli (D-NJ) accused the Administration in a letter of deliberately misleading the public. ("U.S. Had Information in 1991 Tying CIA Informer to Killing," *The Washington Post*, March 24)

**MARCH** - Measuring violence against women has long been a statistical minefield, statisticians say. Historically, rape and domestic violence have been exceptionally difficult to reduce to solid numbers—in part because women often are reluctant to discuss such offenses. Relatively few studies deal directly with these topics, and even fewer are sufficiently rigorous in their methodology or sample size to be considered authoritative. ("In Debate Over Crimes Against Women, Statistics Get Roughed Up," *The Washington Post*, March 27)

**SPRING** - The Government Accountability Project, a member of the Coalition on Government Information, filed a lawsuit in February 1995 against the Navy in connection with the explosion of the Navy's battleship U.S.S. Iowa. The explosion occurred in April 1989, resulting in the death of 47 sailors. The G.A.P. lawsuit seeks to obtain a videotape of rehearsal sessions where it is believed high-ranking officers were coached about what to say to reporters concerning the U.S.S. Iowa explosion. G.A.P. believes that the tapes will provide factual evidence of what really happened aboard the ship and the Navy's knowledge of what these events.

The videotape is one of 90 records the government has refused to provide. For the past two years, journalist Charles Thompson has been trying to obtain the videotapes of the Navy's media interview preparation sessions. Don Aplin, G.A.P.'s lead attorney on the suit, commented: "The Navy cannot withhold material from the public merely because it is embarrassing. This videotape is part of a tax-supported disinformation campaign [that] must see the light of day." ("G.A.P. Sues to Prove Cover-up of U.S.S. IOWA Explosion," *Bridging the Gap*, Spring 1995)

**APRIL** - Designed and funded in secrecy, the Tri-Service Standoff Attack Missile was to be invisible to radar, guided by on-board computers, and capable of being launched by any of three military services. But after nine years of delays, contract disputes, failed tests, and \$3.9 billion in taxpayer funds, the Clinton Administration recently terminated the program. No one was held accountable for the end of the TSSAM. Defense Secretary William Perry attributed the cancellation simply to "significant development problems" and production costs that were "unacceptably high."

But the story of TSSAM provides a cautionary tale about Pentagon procurement gone awry. It reveals a mismanaged program, overly ambitious, that ran into trouble early and was allowed to go on faltering for nearly a decade. Northrop Corp. committed to doing the job at a preset price, then realized it had underestimated the challenge and was handicapped by the program's secrecy in recruiting experienced staff. ("Missile Project Became a \$3.9 Billion Misfire," *The Washington Post*, April 3)

**APRIL** - Three Senators who help oversee the CIA accused the spy agency of providing misleading information to Congress about links between a paid CIA informant in the Guatemalan military and the 1990 murder of a U.S. innkeeper in Guatemala. ("CIA Accused of Misleading Lawmakers," *The Washington Post*, April 6)

**APRIL** - In a nine-page excerpt from his book, *In Retrospect*, former Defense Secretary Robert McNamara discusses the credibility gap that developed in the mid-60s during President Lyndon Johnson's Administration. "During this fateful period, Johnson initiated bombing of North Vietnam and committed U.S. ground forces, raising the total U.S. troop strength from 23,000 to 175,000—with the likelihood of another 100,000 in 1966 and perhaps even more later. All of this occurred without adequate public disclosure or debate, planting the seeds of an eventually debilitating credibility gap. Although the President withheld this change in policy from the public, he sought the advice of many experienced people outside government, especially ex-President Eisenhower." ("We Were Wrong, Terribly Wrong," *Newsweek*, April 17)

**APRIL** - Writing in the "Outlook" section of *The Washington Post*, Jefferson Morley maintains that government secrecy helps to alienate Americans, causing distrust in government. He says there is no official department of secrecy, but there is a functional equivalent, bigger than many Cabinet agencies. It consists of the offices and archives in the Pentagon, the intelligence agencies, the FBI, the Bureau of Alcohol Tobacco and Firearms, and other federal agencies that classify and guard all sorts of information considered too sensitive to be shared with the American public. According to a 1994 *Washington Post* report, the secrecy system keep an estimated 32,400 people employed full-time—more than the Department of Education and the

Environmental Protection Agency combined. According to the Office of Management and Budget, the bureaucracy of secrets may cost as much as \$16 billion a year to run.

Morley says that elected officials can do something about the popular mistrust of the secrecy system. On April 17, President Clinton signed Executive Order 12958, establishing the least restrictive policy on government records since the beginning of the Cold War. Clinton's major innovation is that government records more than 25 years old will be declassified automatically instead of remaining secret indefinitely. But reformers within the Administration who hoped for substantive change in the day-to-day workings of the secrecy system were thwarted. National security agencies successfully lobbied for language in the order that protects most of their current prerogatives, according to Steven Aftergood of the American Federation of Scientists.

Energy Secretary O'Leary's release of long-secret documents of radiation experiments shows that full disclosure of embarrassing material is not political or institutional suicide. According to Morley, "We don't know what other abuses of governmental power, if any, the secrecy system is hiding. But we do know that a citizenry without access to its own history has no guarantee of democratic accountability. And as long as democratic accountability is in doubt, the citizenry, not just government office buildings, will remain vulnerable." ("Department of Secrecy," *The Washington Post*, April 30)

[Ed. note: Executive Order 12958, Classified National Security Information, was published in the April 20 *Federal Register*, pp. 19825-43.]

**MAY** - Project Censored (a member of the Coalition on Government Information) awarded Public Citizen's *Health Letter* for publishing what the project voted to be the #1 censored story of 1994. The story, "Unfinished Business: Occupational Safety Agency Keeps 170,000 Exposed Workers in the Dark About Risks Incurred on Job," describes how in the early 1980s, the National Institute for Occupational Safety and Health completed 69 epidemiological studies that revealed that 240,450 American workers were exposed to hazardous materials at 258 worksites. Many of the affected workers were unaware that they were being exposed to hazardous substances (such as asbestos, silica, and uranium) that were determined in those studies to increase the risk of cancer and other serious diseases.

In 1983, NIOSH and the Centers for Disease Control and Prevention concluded that NIOSH had a duty to inform workers of exposure "particularly when NIOSH is the exclusive holder of information and when there is clear evidence of a cause and effect relationship between exposure and health risk." Obviously, workers who learned they were at risk could undergo screening that could lead to earlier detection of cancer. Nonetheless, the Reagan Administration refused to fund a \$4 million pilot notification program and opposed legislation that would have required such notification. As a result, by 1994, fewer than 30 percent of the workers have been notified. Public Citizen's

Health Research Group learned that NIOSH has individually notified a maximum of only 71,180 (29.6 percent) of the original 240,450 workers, leaving 169,270, more than 60 percent, still in the dark about health risks from on-the-job exposure. ("*Health Letter* Gets Two Journalism Awards," *Health Letter*, May)

**MAY** - The Department of Commerce announced that it was seeking a private organization to compile and update its index of leading indicators and two companion indexes that anticipate or track turning points in the economy. Although the index—the government's chief forecasting gauge—is widely followed, it has fallen into disrepute among many professionals for emitting false signals of recession or failing to warn of actual ones. Department officials are confident that somebody would be found to take over the work of compiling and updating the three business-cycle indexes on which the government spends \$300,000 to \$400,000 a year. The privatization effort is inspired by a need to free resources for a sweeping overhaul of the department's national and international statistics.

Everett Ehrlich, the Under Secretary of Commerce for economic affairs indicated that if no one were interested in taking over the index of leading indicators, the agency would drop it. Unlike other government reports on the economy, the leading, coincident, and lagging indexes do not involve primary data collection, only mathematical compilation of data supplied by business, academic institutions, and other government agencies. "We need to redirect our resources away from statistical programs, such as the cyclical indicators, that no longer require a Government role, and towards these most pressing statistical issues," Ehrlich said. ("The Commerce Department Seeks to Privatize an Index," *The New York Times*, May 5)

**MAY** - On May 22, President Clinton signed P.L. 104-13, the Paperwork Reduction Act of 1995, saying it would further reduce government-required reports and help Americans conquer a "mountain of paperwork" wasting their time. ("Clinton Signs Law to Cut Paperwork," *The Washington Post*, May 23)

[Ed. note: The Paperwork Reduction Act covers a wide range of complex subjects, including the government's collection, management, and dissemination of information, its use of information technology and computer security. The list of restrictive factors, or "checklist," that was controversial in the library community during the long history of PRA reauthorization attempts, is not in the new statute.]

**JUNE** - "The Electronic Privacy Information Center has sued the White House, seeking documents related to a secret government group responsible for developing policies on information security. President Clinton last September established the Security Policy Board by a secret directive. According to David Sobel, EPIC counsel, very little information about the board's activities have [sic] been made public. Among the things the



lawsuit—under the Freedom of Information Act—seeks, is the presidential directive itself, said Sobel. Clinton's presidential directive, which established the board, is the latest in a line of White House actions on information security, going back to the Reagan Administration." ("Secret Info Highway Suit," *Government Technology*, June)

**JUNE** - In an 11-page article, Peter Carlson attempted to select some statistics used in Washington's policy wars, trace them back to their source, call in some experts, and see if the numbers were on the level. He says, "It was an awful idea. For weeks, it brought me nothing but headaches and confusion and the dizzy, disorienting feeling that nothing is really real. Searching for reality in Washington statistics is akin to exploring a mangrove swamp. Just when you think you're standing on the solid ground of an actual, verifiable fact, you begin to sink into the oozing muck of *maybe* and *sort of* and *it all depends on how*

*you look at it.*"

Carlson checked the following statistics: those that both Republicans and Democrats use to accuse each other of implementing "the largest tax increase in history"; the numbers being used in a battle raging over President Clinton's use of some questionable crime statistics promoting his "Violence Against Women" program; the conflicting information being used to attack the Administration's drug policy; the controversial statistics used to identify the number of hungry children in America; and the conflicting statistics about the Republican tax-cut plan.

Carlson summed up what he learned: "In Washington, statistics can simultaneously be accurate but misleading, legitimate but bogus, real but fake. In Washington, statistics tell the truth but not the whole truth." ("The Truth...But Not the Whole Truth," *The Washington Post Magazine*, June 4)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 110 Maryland Avenue, NE, Washington, DC 20002-5675; 202-547-4440, fax 202-547-7363. All orders must be prepaid and must include a self-addressed mailing label.



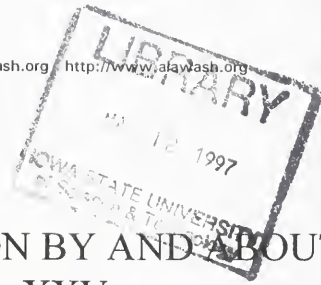
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## ALA Washington Office Chronology INFORMATION ACCESS

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXV *A 1995 Chronology: June - December*

## INTRODUCTION

For the past 14 years, this ongoing chronology has documented efforts to restrict and privatize government information. Since 1982, one of every four of the government's 16,000 publications has been eliminated. Since 1985, the Office of Management and Budget has consolidated its government information control powers, particularly through Circular A-130, Management of Federal Information Resources. OMB issued a revision of the circular in the July 2, 1993, *Federal Register*, changing its restrictive interpretation of the definition of "government publication," to which ALA had objected in OMB's draft circulars.

In their first three years in office, the Clinton Administration has improved public access to government information. The President signed P.L. 103-40, the Government Printing Office Electronic Information Access Enhancement Act. The implementation of the law in June 1994 provides electronic government information to the public through the Depository Library Program and more than 20 depository gateways around the country. Government information is more accessible through computer networks and the Freedom of Information Act. President Clinton signed a reauthorization of the Paperwork Reduction Act in May, saying it would further reduce government-required reports. The list of restrictive factors, or "checklist," that was controversial in the library history during the long history of PRA attempts, is not in the new statute.

However, barriers to access still exist. For example, National Performance Review recommendations to "reinvent government" to have every federal agency responsible for disseminating information to the nation's 1,400 depository libraries could result in a literal "tower of babel" as the American public would be forced to search through hundreds of federal agencies for publications they need.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time? Now that electronic products and services have begun to be distributed to federal depository libraries, public access to government information should be increased.

ALA reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States." In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about this series of actions. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.





## CHRONOLOGY

**JUNE** - In an editorial, *The Hill* deplored the decision of Andrew F. Brimmer to exempt from public scrutiny the District of Columbia financial control board he heads. Brimmer was appointed by President Clinton as chairman of the board, created by the 104th Congress to rescue the District of Columbia government from financial disaster. Brimmer was quoted in *The Washington Post*, "I see no advantage in trying to do this in public. . . . My model is the Federal Reserve. . . . There will be few public meetings rather than many. Privacy is required to assure the safety and confidentiality of the discussions." Brimmer promptly demonstrated that he intends to operate behind closed doors by holding the first meeting, in secret, after which he declared that almost all contacts between the board and Mayor Marion Barry and their respective aides will be "out of public view."

The editorial commented that there is no reason to doubt Brimmer's sincerity, but that is not the issue. Officials who conduct public business behind closed doors, no matter how well intentioned, cannot expect to gain public confidence in and support for their actions. ("Secrecy: the bane of democracy," *The Hill*, June 14)

**JUNE** - Reminiscent of a novel by Charles Dickens, details of the worldwide search in the 1950s for cadavers by the Atomic Energy Commission were revealed in newly declassified documents obtained by the presidential Advisory Committee on Human Radiation Testing. At the height of the Cold War, the government looked for people who could "do a good job of body snatching" to help scientists learn more about the effect of radioactive fallout. It was unclear how many human remains AEC operatives gathered, but investigators for the advisory panel said the total may have been as many as 1,500 cadavers in the United States and a half-dozen other countries from Europe to Australia. Code-named "Project Sunshine," the body collection was given top priority at the AEC as the government sought to learn the extent of radioactive fallout from bomb tests and what effect the contamination was having on humans in the United States and elsewhere. The searches were cloaked in secrecy, focusing mainly on urban areas and among the poor.

At a secret 1955 AEC meeting, Willard Libby of the University of Chicago (who in the 1960s won a Nobel Prize in chemistry) described the difficulties of obtaining human samples, especially from young people. The scientists discussed the need to obtain samples from all age groups from infants to the elderly. According to the transcript, AEC operatives had established a network of contacts in hospitals and among physicians in the United States as well as Canada, Europe, Australia, Latin America, Africa and the Philippines to collect body parts. Major sources of cadavers were urban centers, especially New York City, Houston and Vancouver. (The transcript did not say whether it was Vancouver, Canada, or Vancouver, Washington.) In these cities, as many as 20 bodies a month were expected, according to the transcript. "Down in Houston, they don't have all these rules. . . . They have a lot of

poverty cases and so on," explained J. Laurence Kulp of Columbia University, adding that in some cities, such as Houston, "we can get virtually everybody that dies." ("Agency Sought Cadavers for Its Radiation Studies," *The Washington Post*, June 22)

**JUNE** - Three government agencies are investigating the Air Force's handling of inquiries into major plane crashes after a former top safety official alleged that commanders falsified files to avoid embarrassment and disciplinary action in more than two dozen cases. In one case, a transport plane crashed after the wife of a pilot allegedly was allowed to take the controls. In another, two Navy fighter pilots and a navigator on a plane removed their clothes, helmets and oxygen masks and attempted to moon another plane's crew. They passed out and the plane crashed, killing them. In these incidents, the true causes of the crashes were covered up, according to Alan Diehl, who was the Air Force's chief civilian safety official for seven years until he was involuntarily transferred out of the job. Diehl has raised questions about 30 cases, supporting his claims by providing investigators with internal documents gathered while he was still in his safety job. ("False Reporting Is Alleged in Air Force Plane Crashes," *The Washington Post*, June 23)

**JUNE** - Several Senators attacked a pollution disclosure program, known as the Toxics Release Inventory, which requires that manufacturers disclose how much they pollute. Sen. J. Bennett Johnston (D-LA) and Sen. Trent Lott (R-MS) are trying to narrow the program that has spurred industry to reduce emissions of toxic chemicals voluntarily by billions of pounds a year. At the urging of chemical companies, a provision to scale the program back was included in a far-reaching regulatory-relief bill. The provision would strike hundreds of chemicals from the list of toxic emissions that must be reported each year to the Environmental Protection Agency, which then makes the data public, state by state and factory by factory. States and local residents have found the information a powerful and versatile tool for pressing companies to reduce pollution. Local officials also use it to plan how to handle industrial accidents, and labor unions have used it to demand in contract negotiations reductions in hazardous emissions in work places.

The latest reports show that industrial releases of toxic chemicals in the United States dropped by 12.6 percent in 1993, to about 2.8 billion pounds. That is a reduction of nearly 43 percent since 1988, when the program started. The scope of the disclosure law has steadily increased since the program started. The data now cover about 23,000 factories. Under the Senate proposal, EPA would have to drop hundreds of chemicals that were added to the list six months ago unless the agency could prove that removing a chemical from the list "presents a foreseeable significant risk to human health or the environment." Senate aides on both sides of the issue said the amendment was drafted with the help of lobbyists for the chemical industry. The EPA contends that it should bear no

such burden of proof since the program requires nothing beyond disclosure. "The whole point of it is, people have a right to know," said Carol M. Browner, the EPA's administrator.

Critics of the program say that the raw numbers disclose little or nothing about the risks posed by the emissions and that for this reason the program is fundamentally flawed. When Lott first introduced an amendment requiring the agency to justify its listings, he said: "The EPA has let the TRI misrepresent the toxicity of chemicals, and permitted unnecessary anxiety within local communities. This is terrible policy." But even the chemical companies that lobbied for the changes concede that the existing program has merit. Paul Orum, who heads the Working Group on Community Right-To-Know, an environmental advocacy group, said that despite its public stance, the chemical industry had been "trying to gut this law for years." ("Senate Measure Is a Threat to Efficient Pollution Rule," *The New York Times*, June 28)

**JUNE** - Charges of backroom deals and broken promises clouded the Clinton Administration's push to end a seven-year delay in implementing rules to crack down on shoddy nursing homes. The rules would impose stiff fines and tough sanctions on homes that mistreat patients. But both the nursing home industry and consumer groups are angry at the White House, with each side criticizing what it sees as double-dealing in negotiations over the rules' content. "All the delays have increased the pressure enormously, and it's compounded by the fact that all of this is being done in secret," said Sarah Burger of the National Citizens Coalition for Nursing Home Reform.

Clinton Administration officials angrily denounced the nation's largest nursing home lobby group for circulating a memo that said the Administration had, in effect, caved to industry pressure and would delay putting the new rules in place. But Health Care Financing Administration officials, in charge of drafting the rules, said there will be no delay and no such deal had existed. The HCFA is writing new rules because it oversees Medicare and Medicaid; about 85 percent of all nursing homes receive funds under those programs. The goal of the rules is to put muscle in nursing home reforms passed by Congress in 1987. The Bush Administration never put the reforms in place, and the Clinton Administration's already difficult task in doing so now has been complicated by the antiregulatory climate in Congress. ("Nursing Home Reforms at Risk," *USA Today*, June 28)

**JULY** - The Pentagon Inspector General said the Air Force lied in dealing with a story about a general who took a \$116,000 military flight from Italy to Colorado with his enlisted aide and pet cat. "The Air Force was inept in its response to media inquiries about the flight," the IG found. "The presentation of a series of incorrect facts, careless communications and lack of central direction . . . defined the Air Force performance. . . . The Air Force did not comply with its policy objectives regarding the quick and candid release of unfavorable information."

The *Newsweek* editor who broke the story, David Hackworth, said: "They just lied through their teeth, and none of these

spinmeisters who worked so hard to con me is being punished." ("Air Force Flew Loose With 'Facts,'" *The Washington Post*, July 5)

**JULY** - Congress has not given statistical agencies enough money to put into effect dozens of changes advocated by a government panel in the early 1990s to improve the nation's statistics, according to report by the General Accounting Office. GAO said that from fiscal 1990 through 1994 the agencies requested more than \$95 million and received about \$50 million to carry out the improvements. "Agencies generally cited budget limitations as reasons for not completing plans to implement the recommendations," said the report, which was requested by Rep. Henry Gonzalez (D-TX). Economists in and out of government have complained for years that the nation's statistics are inadequate, with some experts saying the data are outdated or just plain wrong. ("U.S. Said to Be Lax in Overhauling Data," *The New York Times*, July 10)

**JULY** - The Dictionary of Occupational Titles, first published in 1939 and last revised in 1991, was developed "in response to demand for standardized occupational information in support of job placement." The dictionary's first edition had 7,500 entries, while the latest (two volumes, 1404 pages, \$50 in hardcover) has 13,000. The 1991 edition, however, will be the last in print, said Arthur Jones, spokesman for the Department of Labor Employment and Training Administration, because the dictionary is going electronic next year. "The increasing need for up-to-date occupational information has become too massive and too dynamic to continue to rely on the DOT's traditional collection, publications and distribution methods," according to a news release. ("Slime Plier? French Frier? It's in There!" *The Washington Post*, July 11)

**JULY** - The Justice Department investigated whether FBI officials destroyed records and misled authorities as part of a coverup of the bureau's actions in the 1992 siege in Idaho that led to the killing of white separatist Randy Weaver's unarmed wife, Vicki. One high-ranking FBI official, E. Michael Kahoe, has been suspended after authorities alleged that he destroyed a document that could have altered the official account of what happened in the standoff on August 22, 1992. Kahoe was then a section chief in the criminal investigative division at FBI headquarters and prepared a report reviewing the circumstances of Vicki Weaver's death. The document, shredded within weeks of the incident, could have shed light on decisions made by top officials about the "rules of engagement" to be used when the FBI's hostage rescue team stormed Weaver's heavily fortified mountain cabin. The FBI authorized the raid in response to the slaying of a U.S. marshal who was shot while trying to arrest Weaver. ("Probe of FBI's Idaho Siege Reopened," *The Washington Post*, July 13)

**JULY** - Jack Anderson and Michael Binstein reported that the same members of Congress who are accusing President Clinton of a coverup of the federal raid at the Branch Davidian compound

near Waco, TX, have spent several weeks engaging in their own subterfuge and spin control. Aides to Rep. Bill Zeliff (R-NH), who is cochairing hearings into the Waco incident, did their best to keep secret the fact that they had arranged for the National Rifle Association to help bankroll a portion of the congressional investigation. "Unfortunately for Zeliff, his staff's clandestine operation was as badly botched as the original federal raid . . ." Anderson wrote. According to Anderson and Binstein, Zeliff, who wants to hold the President accountable for the mistakes allegedly made by subordinates at Waco, is passing the buck himself. Zeliff claims his staff didn't tell him about the NRA deal until early July. Zeliff said he would not fire his top aides, March Bell and Robert Charles, for "making a legitimate mistake." ("Waco Probe Entangled with NRA," *The Washington Post*, July 14)

**AUGUST** - The Patent and Trademark Office has a database that is a treasure trove for scientists, historians, students—anyone who needs to see the art and thinking of inventors. But to use it costs \$40 an hour, "a prohibitive price for any but the most specialized user. Alternatively, you can dial into a private data service like Lexis or Dialog and pay even more—fees that can amount to hundreds of dollars an hour for public information."

The patent office already has a high-band Internet connection. That could easily enable any of the millions of home and business computers with access to the Internet to plug into its system and see what a user sees at the PTO terminal, just as any computer can now plug into the New York Public Library's online catalog or the databases of thousands of other libraries. The public has already paid more than \$400 million to create a patent database available only to walk-in traffic. So why not go online? PTO Commissioner Bruce Lehman's responses echoed the reasoning of scores of other government agencies, federal and local, facing the same issue: It's not our job; we're doing it anyway, as fast as we can; and, we must not compete with the private sector. The last argument sounds attractive, but those companies are lobbying for the privilege of paying *more*—in other words, they want to forestall competition. "They belong to an industry that has used heavy, targeted campaign contributions to protect its stake in an economic model that is rapidly becoming obsolete: scarce data sold to specialists at high prices. West Publishing, with a near monopoly on the government's court databases, is a costly example, as lawyers quickly discover. The Internet has created a different model: information of all kinds, a mass audience, low prices. Lehman acknowledges that private-information services lobby him hard to keep prices up; he denies being influenced by their pleas. Nevertheless, the patent office, like many other federal agencies, sells its data mostly on old-style mainframe computer tapes, at prices low enough to guarantee enormous profits for commercial services but just high enough to prevent widespread distribution."

The article concludes with a quote from James Love, director of the Taxpayer Assets Project: "People are concerned about universal access—the wire running into your house will be the easy part. Certainly the one thing people shouldn't have to worry about is government information, the thing they own as taxpayers.

There'll be lots of other things they won't be able to afford. At least this should be available." ("Washington Unplugged," *The New York Times Magazine*, August 6)

**AUGUST** - In the opening salvo of a battle that would rage for the remainder of 1995, members of Congress and the President clashed over the release of documents in the ongoing congressional investigation of the Clintons' Whitewater investments and a failed savings and loan institution in Arkansas. Rep. Jim Leach (R-IA), chairman of the House Banking Committee, wrote Attorney General Janet Reno to accuse the Justice Department of deliberately withholding a document sought by the committee as it prepared for Whitewater hearings. A Reno spokesman called the letter political "theater." ("Document Dispute Escalates as House Whitewater Hearings Near," *The Washington Post*, August 6)

**AUGUST** - Testifying before Congress for the first time, L. Jean Lewis gave a detailed description of how an investigation of Madison Guaranty Savings & Loan that began in March 1992 was thwarted by Resolution Trust Corporation and Justice Department officials after President Clinton was elected president. She said there was "a concerted effort to obstruct, hamper and manipulate" her findings at high levels of the federal government. The Clintons were named as potential witnesses in criminal referrals that Lewis prepared, meaning that she suspected they may have had information about some of the alleged criminal activity. Those allegations included "rampant bank fraud," an "elaborate check-kiting scheme" and other potential criminal abuses found at Madison, she said. Lewis is an investigator in the Kansas City office of the RTC, the federal agency charged with disposing of failed S&Ls. ("Witness Says Probe Was Blocked," *The Washington Post*, August 9)

**AUGUST** - The Department of Energy has concluded that during four decades of the Cold War the agency conducted 435 different radiation experiments on 16,000 men, women and children. In a 200-page report, Energy Department officials described each of the experiments uncovered in its files, including a 1944 study in which workers were exposed to high levels of uranium oxide dust and a test stated in the early 1960s in which mentally retarded children were given doses of Iodine 131 to test the reactions of their thyroid glands. While many of the experiments had positive benefits for medicine, others raise serious ethical questions, senior Energy Department officials said. Energy Secretary Hazel O'Leary released the final tally on radiation experiments sponsored or supported financially by the Atomic Energy Commission—an agency that preceded the Energy Department—from the 1930s to the late 1970s. The findings followed an 18-month search of the agency's records. Unanswered questions remain about whether individuals exposed to the experiments gave their information consent prior to their participation, said Tara O'Toole, the department's assistant secretary for environment and safety. ("Final Data Released on Tests Involving Radiation Exposure," *The Washington Post*, August 18)



**AUGUST** - At a time when the Census Bureau would usually start increasing its spending to prepare for the next decennial census, the tight federal budget is forcing it to cut its operations and possibly even limit the amount of information it gathers for the count in the year 2000. Rep. Harold Rogers (R-KY), who heads the House subcommittee that oversees the Census Bureau's appropriation, says it asks Americans too many questions anyway and its operation should be simplified to save money. But social scientists, marketing firms and others who use census data say that the demand for demographic information is soaring. Reducing the amount of data gathered by the census would not save that much money, they say, and would be an information-age disaster.

Both sides in the debate agree that the problem for the Census Bureau will get only worse. As the bureau's costs escalate approaching the 2000 census, the Republicans will also be nearing 2002, when they have said they will have balanced the federal budget. As a result, Congress will be looking even harder at trimming federal spending, including the Census Bureau's share. Tight budgets have already caused census officials to cut back on the publication of reports on data from previous surveys and to reduce the number of locations this year for testing new methods of counting people for the next census. Further reductions could cause the Census Bureau to postpone buying new imaging technology that would allow it to scan data from census forms into its computer system. The cutbacks could also reduce the amount of testing the bureau will do this year on how many and what kind of questions it will ask on the 2000 census, already a highly contentious issue.

Rogers insists that if people really want specific kinds of data, they should pay for its collection. If government agencies need it, he said, they should finance its collection out of their own budgets. "I don't care if it is authorized or mandated by law," he said. "This subcommittee is not going to pay for it." ("Cut in Budget May Hamper 2000 Census," *The New York Times*, August 23)

**AUGUST** - The Food and Drug Administration announced new rules to help consumers know more about the drugs they take. The Patient Education program calls for pharmacies voluntarily to provide handouts with each prescription about a product's approved uses, possible side effects, and incompatibilities with other drugs. "The days of going into a pharmacy and being handed a bottle of pills with only very brief directions for use" are past, said FDA Commissioner David A. Kessler, who compared the initiative with the FDA's successful program to make food labels more readable and informative.

The new push to require the medical profession to provide standardized drug information to patients goes back to FDA proposals from the late 1970s. The initiative was blunted in 1982 as part of a regulatory rollback during the Reagan Administration, and the FDA opted for a voluntary plan. In the intervening years, pharmacies and HMOs have made increasing efforts to provide drug information to patients. A study cited by the FDA showed that by 1992 about one fourth of consumers were receiving written information that went beyond the label and stickers on the pill

bottle. By the end of last year, about 55 percent of patients received such handouts. ("Pharmacies Told to Give Patients Full Drug Data," *The Washington Post*, August 24)

**AUGUST** - Once citizens connect to "an interactive electronic government that answers its electronic mail, conducts virtual town meetings and makes millions of pages of public documents easily accessible to anyone with a personal computer," the reality of what is useful about electronic access to the government dissipates into a confusing labyrinth of worthless information and wasted, frustrating hours. Envisioned by Vice President Al Gore in 1994 as the torch-bearer for the electronic information revolution, the federal government has failed to live up to its potential. Eric Miller, who has helped develop an online presence for the Department of Justice, says that cybergovernment "is in its infancy. . . . I was frankly astounded at how difficult and how hard it was to find information. . . . It was a shock to me that it was not better. At this point, it seems that unless you know where you are going, you can't get there."

Miller says technological know-how and bureaucratic mix-ups are barriers. He also claims that some governmental workers are afraid of putting some types of information in such a public forum. "We have had people with the department saying they don't want stuff public on the 'net. They think it is too easy for people to find even though the information is publicly available," he said. Miller added that such fears are probably unfounded given the difficulty he's had finding information. "First, they've got to find it," he said.

For example, with fewer than one third of the congressional offices capable of responding to e-mail, most constituents are still better off sending a letter through the U.S. Postal Service. Access is no better elsewhere in the government. Once computer users succeed in connecting into government sites, what they find may be weeks or months out of date and the information less than helpful. The majority of the government homepages now online offer press releases and speeches by department heads, information about the department, logos, pictures and a roster of contacts. At the Department of Justice, the State Department and the Department of Veterans Affairs Internet sites, the most current releases were more than a week old. Some economic and census information available through the Census Bureau and the federal economic bulletin boards were more than two years old. A few pages, like the White House Homepage (<http://www.whitehouse.gov>) and the Library of Congress' THOMAS legislative server (<http://thomas.loc.gov>), have excelled by offering useful and entertaining information. Despite their efforts, however, most other government agencies are years away from providing fully interactive services to the public. ("The Information Beltway: The Feds Aren't Really Online Yet," *Ann Arbor (MI) News*, August 31)

**SEPTEMBER** - In an op-ed piece, Robert Samuelson complained that scores of Census Bureau reports are being eliminated. In 1992, Census issued 1,035 reports; in 1994 the number was 635, and the retreat from print has only begun. Gone are, among others:

"Earnings by Occupation and Education," "Poverty Areas in the United States" and "Language Use in the United States." He said: "This is absurd. We go to great trouble to collect this information, and now Census is suppressing it. The losers are not just statistics addicts. Our public conversations depend heavily on these dry numbers. They shape the concept of who we are, of how society is performing and of what government should or shouldn't do. Political speeches routinely spit out statistics that can be made to tell stories: some true, some not so true. Keeping the conversations honest requires that the basic data be easily accessible to anyone who wants them."

Samuelson continued: "When I say Census is 'suppressing,' I don't mean that it's deliberately hiding its surveys. As a reporter, I've asked Census for information hundreds of times; I can't recall an instance when answers, when available, weren't provided quickly. The culture of the place is to release information. By its lights, Census isn't abandoning print so much as it's shifting its data to the Information Superhighway. Statistics are being distributed by CD-ROMs and the Internet. Already, Census brags that its World Wide Web site is receiving 50,000 hits a day. Sounds amazing. It isn't. Those 50,000 daily hits are a lot less breathtaking than they seem, even if the figure is accurate (and I have my doubts.) In May, *Interactive Age*, a trade publication, surveyed Internet sites. It reported that Pathfinder (the site for Time Warner publications, such as *Time* and *People*) had about 686,000 daily hits, *Playboy* had about 675,000 and *HotWired* had about 429,000. I mention these popular sites because they belong to magazines. As yet, none is forsaking the printed page for the glories of the Internet."

He went on to say: "Census's shift from print clearly discriminates against people (including me) who don't surf the Internet or use CD-ROMs. We remain the vast majority. *American Demographics* magazine recently reported a number of surveys that tried to measure U.S. Internet use in 1994. The surveys put usage of the World Wide Web between 2 million and 13.5 million people, which is at most about 5 percent. The average income of Internet households was \$67,000, which is the richest fifth of Americans." Carl Haub, a demographer at the Population Reference Bureau, observes, "It's going to be a disaster for the average analyst." Downloading and printing data from the Internet can take hours. Getting a number from a CD-ROM is often a lot harder than getting it from a book. To Haub, Census is transferring a lot of the cost—in time and money—of making statistical information useful to people like him.

Samuelson points out that print's other great virtue is that it guarantees a historic record. He says Census should be issuing its data in computer-friendly ways, but not as a substitute for printed reports. ("Out of Print," *The Washington Post*, September 6)

[Ed. Note: Martha Farnsworth Riche, director of the Bureau of the Census, responded to Samuelson's article in a letter to the editor in *The Washington Post* on September 18. She said that printed reports will still be available, but to help defray costs, the Census Bureau is forming partnerships with private and nonprofit

organizations to print and distribute some reports. As an example, she mentioned a recent report on Hispanic population trends that was printed and distributed by the National Association of Hispanic Publications.]

**SEPTEMBER** - The White House withheld a handwritten notebook kept by Vincent W. Foster Jr. about the controversial firing of White House travel office employees from federal investigators for a year after Foster's death. The file was not disclosed to Robert B. Fiske Jr., the first Whitewater independent counsel, until July 1994, the month after Fiske completed a report that concluded Foster committed suicide and that the travel office affair weighed heavily on his mind. The file was also withheld from the Justice Department, which was investigating the FBI's role in the travel office firings. The notebook, made public by the White House in July 1995, discusses the actions of the FBI, First Lady Hillary Rodham Clinton and the White House counsel's office in the travel office, which erupted into a public controversy two months before Foster's death. ("White House Kept Foster's Travel Office Notebook From Investigators for a Year," *The Washington Post*, September 16)

**SEPTEMBER** - Recently declassified CIA documents relating to the 1963 killing of President John F. Kennedy show that the agency blocked the release of records to keep from acknowledging the bugging of the Soviet Embassy in Mexico City and other clandestine operations. The Assassination Records Review Board, in releasing 39 CIA JFK documents, said some words and phrases would remain secret and in almost every case found that "the redacted information contains no substantive information about the assassination of President Kennedy or about Lee Harvey Oswald," the man accused of killing the president in Dallas. ("CIA Bugged Soviet Embassy in Mexico City," *The Washington Post*, September 22)

**SEPTEMBER** - The National Reconnaissance Organization, the federal agency that manages the nation's spy satellite program, has accumulated unspent funds totaling more than \$1 billion without informing its supervisors at the Pentagon and CIA or Congress, according to Capitol Hill sources. The ability of the agency to salt away so much money from its classified, multimillion-dollar budget reaffirmed longstanding concerns in Congress that intelligence agencies sometimes use their secret status to avoid accountability. Following congressional complaints about the NRO's finances, CIA Director John M. Deutch launched an inquiry and recently ordered a restructuring of the NRO's financial management and spending.

The National Reconnaissance Organization, whose name was classified until three years ago, supervises design, development, procurement and launching of satellites and maneuvers them, at the direction of CIA and Pentagon program managers. The unspent funds were discovered after the Senate intelligence committee raised questions about a luxurious, \$300 million new headquarters complex NRO was building in Fairfax County, whose officials had

been told the building was for Rockwell International Corporation. ("Spy Agency Hoards Secret \$1 Billion," *The Washington Post*, September 24)

**SEPTEMBER** - The Supreme Court has agreed to review the government's refusal to adjust the 1990 census results to correct an acknowledged undercount that missed a disproportionate number of black and Hispanic residents of large cities. The Clinton Administration appealed the census case to the Court in defense of a policy judgment made in 1991 by the Bush Administration. The case does not present the Court with the ultimate and highly charged question of how the 1990 census should have been conducted. There is no dispute that the census missed about five million people, or that the statistical adjustment the Bush Administration considered and rejected would have changed the size of four states' congressional delegations and realigned power in other states. The legal question for the Court is whether the Bush Administration's policy choice was entitled to deference from the federal courts in which it was challenged by New York City and other big cities, or whether the government should have to meet a high standard of proof in justifying its decision, as the federal appeals court in New York ruled last year. The case, *Wisconsin v. New York City*, No. 94-1614, will be argued in January 1996. ("High Court to Hear Case on Government's Refusal to Adjust Census," *The New York Times*, September 28)

**SEPTEMBER** - Two Senators who oversee the Central Intelligence Agency said they would ask the Justice Department to determine whether senior CIA officials broke the law by not telling Congress that the agency's paid agents in the Guatemalan military were suspected of murder and torture. Sen. Arlen Specter (D-PA), chair of the Senate Intelligence Committee, and Sen. Robert Kerrey (D-NE), its ranking member, said the agency had "knowingly misled" the committee about the depth of human rights abuses by the Guatemalan agents. CIA Director John M. Deutch told the Senators in a closed-door hearing that "Congress was not kept informed as required by law." He said CIA officers had also failed to tell the truth to their own colleagues as well as to two successive United States Ambassadors to Guatemala. Deutch said, "I expect to find further instances" of falsity or failure to disclose the facts by the agency's covert operations divisions.

A 1980 law requires the CIA to keep Congress "fully and currently informed" about its activities abroad. The law, which carries no criminal penalties, is the foundation of a painstaking series of rules designed to keep the secret agency within the realm of democracy. But it was broken said Tony Harrington, a Washington lawyer and chairman of the President's Intelligence Oversight Board, an independent panel reviewing the Guatemalan affair. "There was a violation of the law here—there can be no dispute," Harrington said. "You would think that between 1980 and now somebody would have implemented the law through a thoughtful process. But Deutch is committed to making this a serious process. He's nailed to the front door a statement saying this is important." ("Senators Seek Legal Inquiry on C.I.A. in

Guatemala," *The New York Times*, September 30)

**SEPTEMBER** - The following article is quoted in its entirety:

Toxics Release Inventory (TRI) disinformation is being disseminated by the Heritage Foundation in its book *A Citizens Guide to Regulation* (page 13). Senator Orrin Hatch (R-Utah) used the foundation's material, apparently without further investigation, in a "Top Ten List of Silly Regulations" released on July 11. Number one was:

1. *Fining a company \$34,000 for failing to fill out "Form R" in spite of the fact that the company does not release toxic materials.*

In fact, however, the company (a San Diego, Calif., manufacturer of electronic components) reports TRI off-site transfers of about 10,000 pounds of toxic copper wastes each year. Further, the fine was reduced to \$4,500. In addition, EPA had already changed the TRI requirements to exempt releases or transfers of less than 500 pounds from detailed reporting.

Copper is toxic if it becomes bioavailable. It damages the liver and kidneys at high levels, and can harm the nervous system. Infants and children are especially susceptible. Approximately 50 Superfund sites need clean up for copper contamination—the very type of problem that TRI reporting helps to prevent.

("Disinformation Watch," *Working Notes on Community Right-to-Know*, September-October)

**OCTOBER** - When Rep. Newt Gingrich (R-GA) wrote Nashville real estate developer Ted Welch a letter encouraging him to make a \$10,000-a-year contribution, he offered a glimpse into GOPAC's strategy that illustrates why the highly secretive group became so controversial. That letter and two others obtained by *The Washington Post* shed light because little has been known about how GOPAC raised and spent money in its early years. Concern about GOPAC's secrecy and whether it was violating federal election laws has only heightened since Republicans gained control of Congress in 1994 in keeping with the group's long-range goal. The Federal Election Commission recently brought suit against GOPAC, questioning the legality of its operations during several years when it was not yet registered as a federal political action committee but working to gain a GPO majority.

Gingrich wrote Welch that GOPAC was "active in 22 congressional districts" and working with the National Republican Congressional Committee to develop a "farm team" of GOP congressional candidates who would help the party gain control of Congress. Gingrich, now the House speaker, has insisted repeatedly that GOPAC was not involved in raising money for national political races until after it registered as a federal political action committee in May 1991. But GOPAC's activities and its secretive operating style have been a recurring issue for Gingrich, who used the fund-raising arm to build his national reputation and lend support to his GPO allies across the country. ("Gingrich Letters Offer Insight on GOPAC's Goals," *The Washington Post*, October 2)



**OCTOBER** - The Advisory Committee on Human Radiation Experiments proposed that surviving subjects of three research projects—or the families of deceased subjects—should receive monetary damages and an apology from the government. Following an 18-month search of hundreds of thousands of documents from the Atomic Energy Commission and other agencies sponsoring the experiments involving tens of thousands of individuals between 1944 and the mid-1970s, the panel issued a 1,000-page report. Apparently individuals in vulnerable population groups including children, pregnant women and African Americans were involved unwittingly. In one case, mentally retarded teenagers at the Fernald School in Massachusetts were fed irradiated cereal. In another, the testicles of federal prisoners in Oregon and Washington state were irradiated with heavy doses of X-rays.

Ruth Faden, chair of the radiation panel and a bioethicist at Johns Hopkins University, said one of the most unfortunate aspects of the experiments was the great pains taken to conduct them in a shroud of secrecy. Individuals taking part in tests should have a right to know of their participation, she added. Faden said the panel has created a detailed database available to individuals who suspect they or their relatives may have been subjects. The data will be widely available to the public through files and on the Internet. Even today, she said, rules could allow some experiments to be conducted in secret. The panel also proposed establishing guidelines to protect the rights of subjects in future experiments. It suggested that the federal government sharpen the rules for gaining consent of participants and for public disclosure about the nature of experiments. ("Panel Urges Compensation for Radiation Subjects," *The Washington Post*, October 3)

[Ed. Note: Copies of the report can be obtained by writing to the U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250 or by calling 202-512-1800.]

**OCTOBER** - During a congressional hearing on October 24, representatives of five federal agencies that reviewed the White House's handling of the firings of White House travel office employees said documents, facts or witnesses were kept from them. Michael Shaheen of the Justice Department's Office of Professional Responsibility was the most blunt. He said that the White House's lack of "cooperation and candor" was "unprecedented," rating the Administration as a four on a scale of 10 for openness. On one level, Shaheen gave the Administration the benefit of the doubt for being inexperienced in May 1993, but he said the White House staff should have handled the situation better and been more cooperative, especially since Clinton promised Attorney General Janet Reno that they would be forthcoming. ("Papers Detail Clinton Friend's Contract Push," *The Washington Post*, October 25)

[Ed. Note: The former head of the White House travel office, whose dismissal became an embarrassment for the Clinton Administration, was acquitted of criminal charges that he had

embezzled \$68,000 paid by news organizations for presidential trips. ("Ousted White House Travel Chief Is Cleared of Embezzlement," *The New York Times*, November 17)]

**OCTOBER** - Sen. Daniel Patrick Moynihan (D-NY) accused the White House of deliberately suppressing a study of the pending Senate welfare reform bill that concluded it would push 1.1 million children into poverty and make families already below the poverty line worse off. The study, by the Department of Health and Human Services, has not been officially made public. But word of its existence leaked out among Democrats who say the White House has suppressed it because the President wants to sign some form of legislation overhauling welfare, as he has promised to do. After Moynihan charged that the White House was hiding the poverty study, the White House press secretary Michael McCurry referred inquiries to the Department of Health and Human Services. But a department official denied that such a study existed. ("White House Held On to Study of Senate Bill's Harm," *The New York Times*, October 28)

**OCTOBER** - In a 13-page article in *The Washington Post Magazine*, George Wilson and Peter Carlson described the U.S. Navy's A-12 Avenger, a plane that has never flown and never will, a procurement fiasco that has already cost American taxpayers more than \$3 billion and is quite likely to cost them \$2 billion more. In 1988, the A-12 was the Navy's great hope for the future. The A-12 was killed in 1991 by Secretary of Defense Richard Cheney who was angry that the plane was at least a billion dollars over budget and a year behind schedule, facts that the Navy and its contractors had concealed from him until after he testified to Congress that the A-12 project was proceeding just fine. When the bad news finally surfaced, there were several congressional hearings into the debacle, plus a criminal investigation by the Defense Department's inspector general. The investigation never led to the filing of any criminal charges, and the Pentagon promptly classified the investigators' report to the inspector general, even though it contains no military secrets. ("Stealth Albatross," *The Washington Post Magazine*, October 29)

**OCTOBER** - The CIA passed to U.S. presidents and other top officials in the late 1980s and early 1990s misleading information obtained from Soviet double agents put in place by the KGB with the help of confessed spy Aldrich H. Ames, according to two new CIA reports. As a result of this "massive disinformation campaign" by the Soviets, one former top intelligence official said, "the U.S. released publicly wrong information and may have wasted millions of dollars retooling military equipment to meet fabricated changes in Soviet capabilities." The disclosure of the KGB's double agent operation is contained in the damage assessment of the year-long inquiry into the effect of Ames' espionage prepared by Richard L. Haver, executive director of Intelligence Community Affairs, and a follow-up investigation by CIA Inspector General Frederick P. Hitz. The apparent delivery of double agency material to Presidents Ronald Reagan and George Bush is particularly

embarrassing for the CIA, one former top official said, "particularly if we were disseminating information that was fake and the agency knew it." A former top CIA official said some agency personnel disagree with Hitz and say that the nature of the sources was described in the reports. ("CIA Passed Bogus News to Presidents," *The Washington Post*, October 31)

[Ed. Note: A November 17 article, "Tainted Intelligence Issue Blunted," in *The Washington Post* reported that a Defense Department review had been unable so far to find any policy or weapon purchase decision that "in and of itself" was shaped by tainted Soviet intelligence provided to the Pentagon by the CIA between 1986 and 1994. On the other hand, when the CIA released a report in December, Director John Deutch concluded that the Soviet deception scheme "diminished our ability to understand" crucial political, military and diplomatic developments inside the Soviet Union and Russia for nine years, and the consequences were enormous. ("C.I.A. Chief Says Moscow, With Help From Double Agent, Warped U.S. Perceptions," *The New York Times*, December 9)]

**NOVEMBER** - In a notice published in the October 16 *Federal Register*, the FBI has proposed a national wiretapping system of unprecedented size and scope that would give law enforcement officials the capacity to monitor simultaneously as many as one out of every 100 phone lines in some high-crime areas in the country. Such a surveillance ability would vastly exceed the current needs of law enforcement officials around the country, who in recent years have conducted an annual average of fewer than 850 court-authorized wiretaps—or fewer than one in every 174,000 phone lines. The plan, which needs congressional approval for the funds to finance it, would still require a court warrant to conduct wiretaps. Still, the proposed expansion of the government's eavesdropping abilities raises questions about why the FBI believes it may require such broad access to the nation's phone network in the future. And privacy-rights advocates see the specter of a Big Brother surveillance capability whose very existence might encourage law enforcement officials to use wiretapping much more frequently as an investigative tool. ("F.B.I. Wants Advanced System to Vastly Increase Wiretapping," *The New York Times*, November 2)

**NOVEMBER** - The Clinton Administration is withholding intelligence from an international court investigating war crimes in Bosnia. "There's certain types of intelligence information that our government cannot share with the international community," said Michael McCurry, the White House spokesperson, when asked about complaints from the court's chief prosecutor that the United States had not cooperated. It was the first time that despite its stated policy of cooperating fully with the tribunal the United States could not give the court all the information it is seeking, both the White House and State Department acknowledged. ("U.S. Says It Is Withholding Data From War Crimes Panel," *The New York Times*, November 8)

**NOVEMBER** - The Clinton Administration spent \$13.4 million preparing its doomed health care initiative and another \$433,966 defending a lawsuit that challenged the secrecy in which First Lady Hillary Rodham Clinton and others assembled the plan, congressional investigators said. The overall price tag, prepared by the General Accounting Office, is well above White House estimates and raised new charges from Republican legislators about the Administration's credibility. The White House initially predicted the President's Task Force on National Health Care Reform would cost "below \$100,000" but later raised the figure to about \$200,000. ("GAO Price Tag on White House's Failed Health Care Initiative: Almost \$14 Million," *The Washington Post*, November 10)

**NOVEMBER** - The partial shutdown of the federal government is jeopardizing the flow of government statistics to many users, including federal policymakers, business executives, investors, bond traders, landlords, forecasters and state and local governments. At risk are the Labor Department statistics on the number of people filing initial claims for jobless benefits during the previous week, the consumer price index and the household employment and unemployment figures for November. Meanwhile, the Commerce Department was unable to issue a scheduled report on sales and inventories for the manufacturing, wholesale and retail trade sectors of the economy in September. ("Shutdown's Next Casualty May Be Government's Numbers," *The Washington Post*, November 16)

**NOVEMBER** - Tom Blanton wrote an article in the Outlook section of *The Washington Post* adapted from his new book, *White House E-Mail: The Top Secret Computer Messages the Reagan/Bush White House Tried to Destroy*. He described the remarkable case of the White House e-mail when hundreds of senior White House staff during the 1980s believed that the stream of computer messages they generated would never be seen by outsiders. In fact, in the last weeks of the Reagan Administration in January 1989, they cleared out their computer disks. But the e-mail survived, on backup computer tapes, thanks to a six-year legal battle waged by public-interest groups, historians and librarians against the Reagan, Bush and Clinton Administrations. Some 5,907 computer tapes and disk drives are now in the National Archives, undergoing preservation copying. ("New Rules for the E-Mail Generation," *The Washington Post*, November 26)

[Ed. Note: ALA is one of the plaintiffs in the case, *Armstrong v. Executive Office of the President*, Blanton discusses.]

**NOVEMBER** - Three people suspected of paranormal powers known as "remote viewers" have been employed by the U.S. military for years, working at Fort Meade, MD. The effort, which cost \$11 million from the mid-1980s to the early 1990s, was of uncertain value, according to a study conducted recently for the CIA. The agency was told by Congress to take over the secret program from the Pentagon last summer and decided to take a

close look at what it was getting into. CIA officials said they have concluded that no more public funds should be spent on it. ("Pentagon Has Spent Millions on Tips from Trio of Psychics," *The Washington Post*, November 29)

**NOVEMBER** - The Federal Election Commission has charged that GOPAC, the political organization led for years by Speaker Newt Gingrich, provided him with more than \$250,000 in hidden support in 1990 as he faced his toughest reelection campaign. In court documents, the commission said the support included paying the salaries and expenses of GOPAC political consultants who devoted much of their work to helping Gingrich. GOPAC's stated mission at the time, which freed it from federal regulation and supervision, was to help Republicans in elections for state and local offices. The committee made donations averaging \$300 to \$500 to candidates in 1990, the election commission said. The FEC is not saying that Gingrich benefited illegally from the GOPAC support. Instead, the commission is charging that the group violated federal election law by actively attempting to influence federal campaigns without registering as a federal political committee, a step that would have required, among other things, disclosure of donors and expenditures.

Gingrich told the FEC that he was aware of the need to keep GOPAC and his campaign separated, but he left that to others. Democrats have argued that Gingrich misused GOPAC, making it into a secret political arsenal. GOPAC decided this year to disclose the identity of its donors, a break from past practice. ("Election Panel Says Gingrich Got Hidden Aid," *The New York Times*, November 30)

**DECEMBER** - Independent Counsel Joseph diGenova called the 1992 preelection search of then-candidate Bill Clinton's passport by Bush Administration officials "stupid, dumb and partisan." But he said the government owed an apology to those who subsequently "were unjustly accused of violating the law." ("Independent Council Calls '92 Clinton Passport Search 'Stupid' but Not Illegal," *The Washington Post*, December 1)

**DECEMBER** - Asserting the attorney-client privilege for the second time in a week, the White House ordered an adviser to President Clinton not to answer questions from the Senate Whitewater Committee about a November 1993 meeting of the President's top personal and government lawyers and other officials to discuss Whitewater. William Kennedy, former White House associate counsel, repeatedly declined to answer questions from Senators about the meeting or notes he took at it. Sen. Alphonse D'Amato (R-NY) who heads the Whitewater Committee, said after the hearings that, if the White House refused to cooperate, he would ask the committee to issue subpoenas. ("Clinton Adviser Is Ordered Not to Answer Whitewater Queries," *The New York Times*, December 6)

[Ed. Note: Paving the way for a constitutional and political clash, D'Amato announced that the Whitewater Committee would issue

a subpoena for the notes of a 1993 meeting where President Clinton's top lawyers and other officials discussed Whitewater. ("Senate Panel Will Subpoena Notes of Whitewater Meeting," *The New York Times*, December 7)]

**DECEMBER** - Over the protests of the Department of Defense, the Clinton Administration has decided to return to Haiti tens of thousands of sensitive documents that were seized by American troops during the 1994 intervention and which have become the source of friction between Haiti and the U.S. military and intelligence officials took the position that the documents did not belong to the Aristide government because they were records from the previous regime. U.S. officials had said they would not turn over the papers for fear the Haitian government would use them to retaliate against people named in the documents. ("U.S. to Return Documents Seized Last Year in Haiti," *The Washington Post*, December 6)

**DECEMBER** - Archivist of the United States John Carlin announced that the Justice Department has decided not to appeal a federal court ruling that voided an agreement made hours before President Bush left office. The agreement, signed by then-Archivist Don Wilson, gave Bush "exclusive legal control" over all White House computer records and backup tapes. Wilson later became executive director of the George Bush Presidential Studies Center at Texas A&M University and his agreement with the President became the subject of a lawsuit and conflict-of-interest allegations. In February, U.S. District Judge Charles R. Richey overturned the agreement, ruling that it violated the Presidential Records Act, a law enacted after Watergate to prevent future presidents from destroying presidential documents. Kate Martin, an attorney with the National Security Archive, said the Clinton Administration had recognized "that a president cannot make a private deal" about what happens to White House records. The Administration's decision also establishes the principle that presidential decisions about those records are subject to review by the courts, Martin said.

Archivist Carlin said he agreed with the judge's decision voiding the agreement and that the Clinton Administration's appeal was planned "on technical grounds." Carlin said in a statement: "On behalf of the National Archives, I strongly support the decision of the solicitor general and I am pleased that this litigation is finally behind us." ("White House Drops Appeal of Ruling in E-Mail Case," *The Washington Post*, December 16)

[Ed. Note: ALA is a plaintiff in the above-mentioned lawsuit, *American Historical Association v. Peterson/Carlin*, originally filed by the National Security Archive and others.]

**DECEMBER** - The official historian for the Internal Revenue Service, Shelley Davis, is resigning in protest from the agency. Her job for seven years has been to catalog the historical records of an agency that is ubiquitous in American life, and chronicle its past. But she complains that the agency that forces millions of taxpayers



to keep meticulous financial records, dumps its own historical files in a basement or in desk drawers—or shreds them. The IRS, she has been told, even has begun an investigation of her, fearful that she may have passed on to outsiders too much history.

When Davis came to work at the IRS in 1988, she found there were hardly any records about IRS operations after 1930. And the agency, which by law must turn over records of historical significance to the National Archives, had last done so in 1971—and those papers involved tax-assessment lists from 1909 through 1917. The IRS replies that it is caught between contradictory federal statutes. One requires it to turn over historical records to the National Archives, but another one prohibits it from turning over any individual tax information to outsiders. When Davis found about 70 boxes of records in a basement office, one box had files relating to President Nixon's 1970 and 1971 tax audits. Then unknown to her, in the spring of 1994 IRS officials recommended shredding nearly the whole load, while saving a few boxes in a records warehouse. Davis tried to halt the destruction and contacted the National Archives, which sent a stiff letter to the IRS, complaining about the "paucity of the IRS's records among our holdings" and urging the agency to save the records. She also complained to the IRS's internal-security division. Her tactics worked; the boxes remain intact in the IRS basement. By last summer, an IRS investigation of Davis appeared to be underway. Davis considered the investigation to be harassment, and cited it in her December 8 letter of resignation, which is effective December 29. "It was this final instance of retaliation that made me realize I had exhausted all available internal channels," she wrote. "Without solid policies and programs in place to ensure that vital documentation is not destroyed, there can be no history." That isn't much of a problem anymore for the IRS. The agency says it is abolishing the historian's post after Davis leaves. ("IRS Historian Quits Over How Agency Is Treating Its Past," *The Wall Street Journal*, December 15)

[Ed. Note: U.S. Archivist John Carlin has given the IRS 90 days to come up with a plan to identify, safeguard and eventually turn over to his office records that may have historic value. His 50-page evaluation cited "serious shortcomings" in IRS recordkeeping and questioned whether some important records had been lost or destroyed. ("U.S. Archives Warns I.R.S. Over Secrecy," *The New York Times*, December 21)]

**DECEMBER:** The Senate voted 51-45, breaking entirely on party lines, to approve a resolution to ask a federal judge to order President Clinton to comply with subpoenas and turn over Whitewater material that the White House has said is protected by the lawyer-client and executive privileges. The material, notes of a 1993 meeting of President Clinton's senior aides and his lawyers to discuss Whitewater, has been the subject of a bitter fight between the White House and Republicans on the Senate Whitewater Committee for the several weeks. Republicans have speculated that the notes could show that White House aides improperly provided confidential information about two politically

sensitive investigations to private lawyers for the President and his wife, Hillary Rodham Clinton. The White House has said the notes will shed no significant new light on the conduct of the Clintons or their aides. In the sharpest Republican attack yet, Sen. Lauch Faircloth (R-NC) said on the Senate floor that Mrs. Clinton had lied to federal investigators, in violation of the law, about how she and her law firm had come to represent the savings and loan association, Madison Guaranty Savings and Loan. Democrats responded angrily that Faircloth and others had distorted the conclusions of investigators and that months of federal and congressional investigations had uncovered no crimes on the part of the Clintons.

On December 20, the White House dropped most of its remaining conditions for releasing the material and said it would make the documents public if the House Banking and Financial Services Committee, which is also investigating Whitewater, agreed that such a disclosure would not waive the President's lawyer-client privilege. The White House's new posture came shortly after it announced Administration officials had said that the Whitewater independent counsel, Kenneth W. Starr, agreed to this condition. ("Senate Asks Judge to Order President to Yield on Notes," *The New York Times*, December 21)

**DECEMBER -** The following article is quoted in its entirety.

Usually, the Federal Aviation Administration issues rules by the pound, filling shelves in law offices and libraries all over America with weighty tomes printed in tiny agate type. Recently it switched: In releasing what was described as the most comprehensive aviation rulemaking in more than 25 years, it handed out floppy disks. And nothing else.

The rulemaking covered new standards for commuter airplanes, a proposal for new limits on how many hours a pilot can be on duty and a justification for forcing airline pilots to retire at the age of 60. It came to 1.4 megabytes, on two floppies.

"The printing costs would sink us," said Drucie Andersen, a spokeswoman for the agency, explaining the decision. A printed publication of the regulation would have been 1,000 pages long.

The agency was not required to hand out any copies; under the Administrative Procedures Act, all it had to do was deliver one to the Federal Register for publication. The Register is still a magazine-sized paper document, but the quicker way to gain access to its contents would be via the World Wide Web on the Internet (at the address <http://www.access.gpo.gov/su-docs/>). Among the advantages of using the site is its built-in search function.

As a practical matter, though, the F.A.A. was looking for publicity and had to give out something to the dozens of reporters it gathered for the release of the new rules. The material on the disks included narrative text and charts, showing when each of various regulations would take effect, complete with a rich harvest of footnotes, asterisks and caveats.

Releasing data electronically is not new for the Gov-

ernment, but releasing rules, not merely information, in that format only is unusual. The Environmental Protection Agency has distributed information that way exclusively. For example, it has provided electronic data bases, like toxic release inventories and summaries of advice on limiting consumption of freshwater fish from polluted waters. President Clinton's ill-fated health care reform package was distributed electronically as well.

The Justice Department, in issuing data on compliance with the Americans with Disabilities Act, published a braille edition, Ruth Pontius, a senior editor at the Federal Register, said.

The Federal Government issues a compilation every two

years of all the data bases it maintains that have information about individuals in them. The last edition, published in 1994 and covering 1993, was issued only on CD-ROM, Ms. Pontius said.

"It's probably going to be the wave fo the future," she said.

But maybe not for the F.A.A. itself. Developing new computers and software for air traffic control, it had at one point decided to store all the numerous procedures electronically, but later gave up on the idea as too cumbersome; the plan now is that they will stay on paper, in three-ring binders chained to desktops.

("F.A.A., Publicizing New Rules, Passes on Paper to Choose Disks," *The New York Times*, December 25)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 1301 Pennsylvania Avenue, NW, #403, Washington, DC 20004-1701; 202-628-8410, fax 202-628-8419. All orders must be prepaid and must include a self-addressed mailing label.

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXVI *A 1996 Chronology: January - June*

## INTRODUCTION

For the past 15 years, this ongoing chronology has documented efforts to restrict and privatize government information. For the first time, it is an electronic publication. The ALA Washington Office plans to distribute a printed version of this chronology in September 1996.

While government information is more accessible through computer networks and the Freedom of Information Act, there are still barriers to public access. The latest damaging disclosures facing the Clinton Administration involve allegations of concealing information and claiming executive privilege. Continuing revelations of Cold War secrecy show how government information has been concealed, resulting in a lack of public accountability and cost to taxpayers.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time?

On the other hand, the Government Printing Office GPO Access system and the Library of Congress THOMAS system have enhanced public access by providing free online access to government databases. A recent study for Congress prepared by GPO recommends a five to seven year transition to a more electronic depository program instead of the rapid two-year transition proposed in 1995 by the House of Representatives.

ALA has reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by ALA's Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States."

In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, members should be concerned about barriers to public access to government information. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access...: A 1988-1991 Chronology*. The following chronology continues the tradition of a semi-annual update.



## CHRONOLOGY

**JANUARY** - According to the General Accounting Office, the Postal Service is spending \$11.9 million to survey businesses on how well it delivers their mail, but is keeping the results secret, fearing the information would help its competitors. In 1993 when the Postal Service contracted with the Gallup Organization to survey its business customers, many businesses expected the results to be made public. According to GAO, it was after the Postal Service got the first results in April 1994 that the agency decided against making them public.

The GAO report comes six weeks after postal officials confirmed that they will no longer publicize a key consumer satisfaction rating that the postal service developed to gauge how residential customers around the country view their mail service. The GAO suggested in its report to Representative John McHugh (R-NY), chair of the House Postal Service Subcommittee, that the agency should have been making greater—not less—public use of the ratings. ("Postal Service Won't Reveal Data from Customer Survey," *The Washington Post*, January 3)

**JANUARY** - *The New York Times* editorialized: "Too little has been made of a landmark victory for open government. Hundreds of millions of classified documents will soon become public thanks to Executive Order 12958, which came into force Oct. 15 and requires the automatic declassification of most U.S. Government files more than 25 years old. The struggle against obsessive secrecy is far from over, but President Clinton has honored his promise to let more sunshine in. It has begun to shine even at the Central Intelligence Agency."

The editorial maintains that the Executive Order is "nothing less than an act of liberation for the National Archives, guardian of five billion Federal documents. Uniform standards for classification will apply for the first time to all Federal agencies, and the burden is now on officials to show why a document should be kept secret for 10 years, the new limit for most files. In theory, this should sharply reduce the number of secret files. In practice, it will require continuous oversight by citizens to make sure their public servants abide by the new rules." ("The Struggle Against Secrecy," *The New York Times*, January 3).

**JANUARY** - A new prosecutor agreed to drop felony charges against former Secretary of Interior James Watt in exchange for Watt's guilty plea to a single misdemeanor. Watt had been indicted in 1995 on 25 counts charging him with lying to Congress and a grand jury and obstructing prosecutors. Watt's legal troubles stemmed principally from his insistence that he had few documents of "marginal, if any, relevance" to the grand jury investigating political favoritism and mismanagement at the Department of Housing and Urban Development during the Reagan Administration. But during a search of his family garage early in 1995, Watt found documents including letters he had written to then-HUD Secretary Samuel R. Pierce Jr., another focus of the investigation, as well as to business associates

and a HUD under secretary about certain projects of interest to clients of Watt, a consultant. When Watt turned them over, prosecutors were incensed because he had failed to turn them over sooner. The independent counsel even blamed Watt for dragging out his investigation, which began in 1990, and driving up its expense. Its cost increased \$3 million since January 1995. ("When Subpoenaed in 1990, Watt Made the Wrong Call," *The Washington Post*, January 5)

**JANUARY** - A memo by David Watkins, a former top Clinton aide, depicts Hillary Rodham Clinton as the central figure in the 1993 travel office dismissals, a politically damaging episode that the aide said resulted from a climate of fear in which officials did not dare question her wishes. The newly released draft memo also sharply contradicts the White House's official account of Mrs. Clinton as merely an interested observer in the events that led to the dismissal of the White House travel staff and their replacement with Clinton associates from Arkansas. Watkins was dismissed in 1994 after using a government helicopter for a golf outing, and White House officials discounted his description of Mrs. Clinton's role as inaccurate.

The Federal Bureau of Investigation inquiry on the travel office resulted in the indictment of Billy Dale, the travel office director, in December 1994, on charges that he embezzled \$68,000 paid by news organizations for Presidential trips. In November 1995, a jury acquitted him. ("Memo Places Hillary Clinton at Core of Travel Office Case," *The New York Times*, January 5)

**JANUARY** - After nearly two years of searches and subpoenas, the White House said that it had unexpectedly discovered copies of missing documents from Hillary Rodham Clinton's law firm that describe her work for a failing savings and loan association in the 1980s. Federal and Congressional investigators have issued subpoenas for the documents since 1994, and the White House has said it did not have them. The originals disappeared from the Rose Law Firm, where Mrs. Clinton was a partner, before President Clinton took office. The newly discovered documents were copies of billing records from the Rose firm, where Mrs. Clinton helped to represent Madison Guaranty, a savings association run by the Clinton's business partner in the Whitewater land venture. The Clinton's personal attorney said the documents show that the work Mrs. Clinton performed was limited both in time and scope, as she has repeatedly said. ("Elusive Whitewater Papers Are Found at White House," *The New York Times*, January 6)

**JANUARY** - A coalition of big cities, led by New York City, argued their case before the Supreme Court against the Department of Commerce for making a statistical adjustment to the 1990 census to offset a racially skewed undercount. After winning a lower court decision, the cities argued that a constitutional principle was violated because members of minorities were disproportionately missed by

census-takers. Although the decision not to adjust the count was made during the Bush Administration, the Clinton Administration decided to appeal the lower court's decision to the Supreme Court. By the end of the hour long argument, it was clear that whatever the merits of a statistical adjustment as a question of policy, the Court is not about to order it as a matter of constitutional law. ("High Court Hears Arguments for Census Alteration by Race," *The New York Times*, January 11)

**JANUARY** - The Army revealed another layer of Cold War secrecy by disclosing the amount and types of its chemical weapons--30,000 tons of nerve and blister agents, stored in eight states and being destroyed at a cost of \$12 billion. The approximate size of the American chemical weapons arsenal has been known for years. By dropping official secrecy, the Army provided a more detailed breakdown of where the deadly materiel is stored and the kinds of chemical agents in the actual rockets, cartridges, missiles and other weapons. Maj. Gen. Robert Orton, head of the Army's chemical weapons destruction project, told a Pentagon news conference that declassifying the information will expedite efforts to get the environmental clearances needed to incinerate the weapons. "It also may enhance our credibility by confirming that we are not holding back from regulators and the public," Orton said.

Asked why the information was being declassified only now, several years after the chemical weapons destruction effort began, Maj. Gen. Edward Friel said chemical weapons were part of the U.S. war-making arsenal until 1993, when the United States officially renounced them. The overall figure of 30,599 tons is not the true total. It is only the amount of "unitary" chemical weapons in the stockpile, or those with one active chemical component. The Army also stores 680 tons of "binary" weapons, a newer and safer technology, armed by mixing two active components. The Army also has 13,630 tons of chemical agents not counted in its active inventory, which are used for testing, research and other purposes. ("U.S. Army Details Extent and Content of Chemical Arsenal," *The Washington Post*, January 23)

**JANUARY** - Voices shaking with emotion, seven fired White House travel office employees accused the Clinton Administration of abusing its power when it dismissed them nearly three years ago and of continuing to spread "lies" about them, especially former director Billy Dale. The longtime employees, some of whom served presidents as far back as John F. Kennedy, told the House Government Reform and Oversight Committee that they continue to suffer White House attacks.

Dale is still waiting for completion of an Internal Revenue Services audit launched during the criminal investigation of the travel office. Each of the former employees has gone into debt--close to \$600,000 total--to pay for the lawyers they had to hire to debunk White House charges that there were gross financial mismanagement in the office. All seven workers denied that they ever did anything wrong. While they realized that they served at the pleasure of the president, they did not expect to be given two hours to clear out of

their offices, they said. "What they didn't seem to understand about the seven of us that staffed the travel office under the administrations of as many as eight presidents is that we were their people," said John Dreylinger, a 25-year office employee.

The White House had recently released a memorandum written by David Watkins, former director of White House administration. In it, Watkins said he felt pressured coming from Hillary Clinton to fire the employees or there would be "hell to pay." The memo appeared to contradict Clinton's repeated contentions that she played "no role" in the controversial firings on May 19, 1993, that resulted in intense criticism of the White House and accusations of cronyism and misuse of the FBI by bringing in agents to investigate the employees. ("Ex-Travel Office Workers Condemn Administration 'Lies'" *The Washington Post*, January 25)

**JANUARY** - On January 26, first lady Hillary Rodham Clinton spent four hours testifying before a federal grand jury about the disappearance and sudden recovery of her law firm billing records along with other matters related to the Whitewater scandal. ("First Lady Testifies for Four Hours," *The Washington Post*, January 27)

**JANUARY** - The National Reconnaissance Office, the secret agency that builds spy satellites, lost track of more than \$2 billion in classified money in 1995, largely because of its own internal secrecy, intelligence officials say. Critics of the reconnaissance office said that the money was hidden in several rainy-day accounts that secretly solidified into a "slush fund." One Senate intelligence committee aide described the misplaced money as a severe accounting problem, which grew from a lack of accountability, in turn created by the extraordinary secrecy under which the reconnaissance office works.

The reconnaissance office operates in the deepest secrecy of any government agency. Financed by the \$28-billion-a-year "black budget" (classified above top secret) for military and intelligence programs, it spends an estimated \$5 billion to \$6 billion annually, outside analysts say; the sum varies from year to year, depending on how many satellites the agency is building.

The reconnaissance agency is really a set of secret offices--so secret that they have been shielded from each other, like safes locked within safes. Each office, and each program, had separate management and accounting systems, all "black." When these offices and programs were consolidated in the reconnaissance office's new headquarters in 1995, its top managers found that "no one had a handle on how much money they had," the Senate intelligence committee aide said. There was little or no accountability because of the office's secrecy, he said. In the past, Congressional oversight of the reconnaissance office has been sketchy, he said, because few members of Congress understood the highly technical language of spy satellites and some did not know what they were approving when they authorized billions of dollars a year in secret spending. ("A Secret Agency's Secret Budgets Yield 'Lost' Billions, Officials Say," *The New York Times*, January 30)

**JANUARY** - The collection and release of community right-to-know

information from industry will be delayed due to the recent government shutdown. The reporting delay affected the data which include for the first time reports on the 286 chemicals EPA Administrator Carol M. Browner added to the list in November 1994. The shutdowns in December 1995 and continued budget cuts also have led to a delay in the Agency's ability to process right-to-know data already collected from 1994. The public will receive 1994 community right-to-know information more than two months late this year than the usual March release date.

Widespread public access is available from libraries, state and federal environmental offices, CD-ROM, and a toll-free hotline. Since 1986, reported releases of toxic chemicals under the community right-to-know laws have declined by 43 percent nationwide. ("Community Right-to-Know Reporting Program Delayed by Government Shutdown," OMB Watch, January 30)

**JANUARY** - The United States Ambassador to Austria, Swanee Hunt, provided the Austrian government with the location and contents of 79 arms caches the U. S. set up in Austria in the early 1950s. The weapons were stockpiled in the zone of American occupation after World War II and were meant for anti-Communist partisans in the event of a Soviet invasion. The existence of the stockpiles came to light when the CIA and other U.S. government agencies examined cold-war programs. Hunt apologized to the Austrians for keeping the stockpiles secret for so long. She gave the secret list to Interior Minister Caspar Einem, who said Austria had found five of the weapons depots over the years. ("U.S. Reveals Secret Arms Caches in Austria," *The New York Times*, January 30)

**FEBRUARY** - House Speaker Newt Gingrich's (R-GA) office released the names of members of a task force he authorized to develop recommendations for states to reform the workers' compensation system. The disclosure came after *Roll Call* on January 25 reported that the task force--whose membership had not previously been made public--was headed by Richard Scrushy, an Alabama health care executive who is a major fundraiser for Gingrich.

Tony Blankly, Gingrich's press secretary, in a letter to *Roll Call*, disputed the use of the word "secret" to describe the membership of the group, arguing that the list of members was readily available in the report, which was "presented last December to the American Legislative Exchange Council, a 3,000-member group of state legislators." But ALEC, a conservative, free-market group, disavowed producing the report Gingrich's office released even though its name appeared on the cover in large typeface. The cover indicated that the proposals came from ALEC's Business & Labor Task Force Study Group on workers' compensation. In a statement, ALEC said it had "no direct relationship" with the task force and that the proposals "are not a product of ALEC, nor has ALEC adopted them in any fashion." ("Gingrich's Office Releases Task Force Names," *Roll Call*, February 1)

**FEBRUARY** - A long-sealed Justice Department report on the

White House travel office was released on January 31. It criticized White House officials for engaging in "ill-advised and erroneous actions" in abruptly dismissing seven employees of the office in 1993. But the report did not find, as Republicans have suggested, that presidential aides had pressured the FBI to investigate the dismissed employees. The report was completed in March 1994 by the Office of Professional Responsibility, the Justice Department's internal ethics unit. The report focused primarily on the White House dealings with the FBI, finding that the agency had engaged in no wrongdoing by investigating the travel office. Signed by Michael E. Shaheen, Jr., the report says the White House had created the appearance that it had pressured the FBI to embark on an investigation by hurriedly dismissing the employees and disclosing the existence of the FBI inquiry, which had already begun. Shaheen's report on Billy Dale, former director of the travel office, was released in response to Freedom of Information Act requests by several news organizations. It had been withheld pending the outcome of Dale's prosecution. ("Justice Department Faults White House in Travel Office Dismissals," *The New York Times*, February 1)

**FEBRUARY** - In the months after the United States invasion of Haiti, American officers repeatedly told their troops that the country's most dreaded paramilitary group was actually a legitimate opposition political party. "They're no different from Democrats or Republicans," soldiers in Haiti dutifully echoed when asked about their instructions. But a review of classified cables sent by the American Embassy in Haiti to the Defense and State Departments shows that for a year before the invasion in September 1994 the Pentagon knew that the official version was not true.

Within weeks of the founding of the Front for the Advancement and Progress of Haiti, the papers indicate, American intelligence agencies had concluded the group was a gang of "gun-carrying crazies" eager to "use violence against all who oppose it." With the United States troops now in Bosnia pursuing some of the same objectives as in Haiti, the documents raise questions about the soldiers' mission, the information they are given by superiors and the action they take in the field.

Human rights observers and others who have seen the papers say they also raise the question whether the military ordered American troops to ignore human rights abuses committed before they arrived. What remains uncertain is why the Pentagon took a public stance clearly at odds with the classified information it had collected in Haiti. A Pentagon official denied that there was any conflict between the official position and the inside information. ("Cables Show U.S. Deception on Haitian Violence," *The New York Times*, February 6)

**FEBRUARY** - American makers of nuclear weapons have been classifying virtually everything for so long that the Department of Energy now has more secrets than it can cope with, and the department and its contractors may have released information they should have kept secret, officials said. The department has 100 million pages of documents that it wants to review for possible release but does not have the resources to do the reviewing. It is



spending \$3 million to develop a computer program to scan the documents and make an initial assessment. The goal is to reduce the secrets to a manageable quantity.

In the Department's current scheme, ideas are "classified at birth," or presumed secret until proved otherwise, and some department officials and employees of contractors have lost track of what needs to be kept quiet. Hazel R. O'Leary, the Energy Secretary, said that most of what was still secret had "occasional mention of something that was perhaps born classified." She said much of that could probably be declassified. Some material that is still classified is guarding useless secrets but would be useful in defining the environmental and health damage associated with the production and testing of nuclear weapons, Energy Department officials said.

Mrs. O'Leary gave another reason for declassification: to provide the public with information that could be used in deciding what to do with nuclear wastes. The plutonium inventories that the department detailed will eventually have to be disposed of. ("Millions of Secrets Burden Energy Agency," *The New York Times*, February 7)

**FEBRUARY** - Two years before he died, Helen Frost says her husband, Robert, returned from his sheet-metal job at a top-secret Air Force base with flaming-red skin that soon began peeling off his face. Mrs. Frost is one of two widows, who along with four former civilian workers, are suing the Defense Department in a so-called citizen's lawsuit. They contend that it violated federal hazardous-waste law by repeatedly burning ordinary chemicals and highly toxic classified materials in open pits at the base, which is located 125 miles from Las Vegas. The workers, who say their exposure to toxic fumes throughout the 1980s caused health problems ranging from skin lesions to cancer, are seeking information to facilitate medical treatment and help with medical bills but no other monetary damages. As employees of government subcontractors some of the plaintiffs say they have no medical insurance. They also want a court order requiring the government to follow the law and dispose of such waste safely. They themselves can't bring criminal charges.

So far, the government refuses to confirm or deny their allegations or to respond to their request for criminal prosecution. Instead, it asked a U.S. District Court judge to dismiss the lawsuit, arguing that almost any disclosure about the base could pose a "serious risk" to national security. The strategy is startling because the government apparently has never before invoked the so-called national-security privilege in a case in which the effect is to shield itself from criminal liability. The privilege is intended to prevent courtroom disclosures of state secrets involving intelligence gathering or military planning. But the burning alleged by the workers is a serious crime, punishable by up to 15 years in prison and a \$1 million fine. Constitutional experts say the case could ultimately go to the Supreme Court because it tests the limits of executive-branch power. The government in effect argues that the national-security privilege gives the military more leeway than the president has to keep information secret, even if it involves a crime. ("Secret Air Base Broke Hazardous-Waste Act, Workers' Suit Alleges," *The Wall Street Journal*, February 8)

**FEBRUARY** - CIA Director John M. Deutch said that the agency maintained the right to use U.S. journalists or their organizations as cover for intelligence activities but only under restrictive regulations published 19 years ago. Disclosure that the CIA's ban on recruiting U.S. journalists or using American news organizations as cover could be waived under a little-publicized regulation has surprised many journalists and former government officials. It also undercut a recommendation made recently by an independent blue-ribbon panel sponsored by the Council on Foreign Relations. The group, unaware the ban on using "journalistic cover" could be lifted by the director in extraordinary circumstances, called for "a fresh look" at whether the CIA should ease the ban on use of journalistic and other non-official covers for clandestine activities overseas.

Leslie H. Gelb, president of the council and a member of the panel, took issue with the group's recommendation and with current CIA policy. Gelb said, "I was and am flatly opposed to using American journalists as spies and American spies as journalists." He made clear the panel's views were not those of the entire council, an exclusive, nonpartisan organization whose members include many journalists. ("CIA to Retain Right to Use Journalistic Cover," *The Washington Post*, February 17)

**FEBRUARY** - An article, "A Small Arms War on Children," in the February 18 *San Francisco Examiner* described how the United States has sold or given away tens of thousands of rifles, shotguns, land mines and other weapons to foreign countries, where they are helping fuel an alarming rise in the number of children, killed or traumatized by war. A new report by the United Nations Children's Fund cites "the proliferation of light weapons" as a major reason for the upsurge of war-related violence against children and the growing practice of using children under the age of 15 as soldiers. UNICEF estimates that about 2 million children have been killed in conflicts during the past decade, with 4 million disabled, 12 million left homeless and 10 million traumatized.

U.S. policy requires the weapons be sold only to friendly government and not resold. But over time, the weapons may change hands or be resold for use in new conflicts. Fifty countries, including the U.S., manufacture small arms, and the majority of the United Nations' 185 members make small arms ammunition. The profusion of small arms makes it virtually impossible to track them, CIA officials say. And while the Clinton Administration is working with 27 other nations for new export controls on the arms trade, it has excluded small arms from consideration.

On the same page with the above article is one describing how the secrecy surrounding the small-arms trade is a major reason why controlling these weapons is difficult. Information obtained through the Freedom of Information Act by the Federation of American Scientists, a nonprofit research group, shows that U.S. sales and grants since 1980 include at least 50,000 pistols and revolvers; 170,000 rifles and shotguns; 12,000 grenade launchers as well as anti-personnel land mines; more than a million hand grenades, demolition charges and flechette rockets whose warheads spew clouds of lethal steel darts. Almost 325,000 land mines were sold to

El Salvador, Columbia, Ecuador, Lebanon, Niger, Thailand and Somalia; and 1.4 million hand grenades to Belize, Colombia, El Salvador, Lebanon, Panama, Somalia, Sudan, Trinidad, Bolivia and Antigua.

Although much of this weaponry was intended for the anti-communist campaigns of the 1980s, the lethal legacy lives on. Today, bloody wars are being fought with U.S.-supplied small arms in Columbia, Liberia, Somalia and Angola, and the weapons are used in continuing political violence in the Philippines, Haiti and elsewhere. Officially, the Clinton Administration supports increased openness of its own small arms dealings. But the State Department, which oversees U.S. arms exports, has turned down repeated requests for data on small arms exports, and State Department officials decline to discuss arms policy or its ramifications. Similarly, the Pentagon routinely withholds information on the weapons it sells or gives away abroad. ("Why Control Is So Difficult," *San Francisco Examiner*, February 18)

**MARCH** - A report released by the CIA's inspector general concluded that blunders by agency operatives trying to gather secret information on French trade negotiations and economic espionage led to an international embarrassment. One legendary spy resigned, the CIA's role in gathering economic intelligence may be damaged, and its reputation may suffer another self-inflicted wound as a result of the internal investigation into the CIA's Paris station, officials familiar with the report said. The classified report is likely to intensify the debate over the risks and rewards of spying on allies for economic intelligence. It found that the CIA station chief in Paris, Dick Holm, kept the United States Ambassador to France, Pamela Harriman, in the dark about important aspects of his work. Holm retired last year while the inspector general's investigation was underway. The chief of the Europe division of the CIA's clandestine service has been placed in administrative limbo and at least four covert operators have been recalled from Paris.

Soon after several CIA operatives set up a two-pronged project--to undercover French positions on world trade talks and to counter French economic espionage against American companies-- French counterintelligence officials knew there was a network of CIA officers operating against them. The French, ignoring the traditional protocol in such cases, raised an uproar over the spying rather than letting the four accused spies working under diplomatic cover slip out of the country for activities, "incompatible with their diplomatic status." The ensuring publicity raised questions about whether spying on allies for economic data is a worthy pursuit for the CIA, or whether its operatives would do better to concentrate on the activities of terrorists and other deep political secrets abroad. ("C.I.A. Confirms Blunders During Economic Spying on France," *The New York Times*, March 13)

**MARCH** - Citing budget cuts, officials of the Internal Revenue Service say they may discontinue Publication 17, "Your Federal Income Tax," a handy summary of tax rules affecting individuals. Publication 334, "Tax Guide for Small Business," might also be

dropped. A spokesman said all the information in these free publications is contained in other IRS materials, adding that "budget pressures cause tough decisions." Some members of the House of Representatives are incensed by this idea and by the IRS's move earlier in the year to reduce the number of taxpayer-service walk-in offices. Some IRS tax specialists say eliminating Publication 17 would be a mistake and would antagonize taxpayers. ("The IRS May Eliminate Some Popular Publications Next Year," *The Wall Street Journal*, March 20).

**MARCH** - By a unanimous vote, the Supreme Court ruled that the federal government need not adjust 1990 census figures to compensate for the undercounting of Blacks, Hispanics and other minority groups in the nation's cities and along the border. The decennial census figures are important because, among other purposes, they are used to draw congressional districts and to calculate federal funding to states. The case arose after New York, several other cities and civil rights groups challenged the Commerce Department's decision not to increase some cities' 1990 population counts. The department, parent agency for the Census Bureau, had questioned the value of adjusting the figures although it acknowledged Blacks had been undercounted by 4.8 percent, Hispanics by 5.2 percent, Native Americans by 5 percent and Asian-Pacific Islanders by 3.1 percent.

The 2nd U.S. Circuit Court of Appeals in New York ruled for the cities, saying Commerce failed to make a good-faith effort to obtain an accurate population count. Reversing that ruling, the Supreme Court said the Constitution gives Congress virtually unlimited discretion for the census and Congress has delegated authority to the Secretary of Commerce. Chief Justice William Rehnquist wrote, "The secretary's decision not to adjust needs bear only a reasonable relationship to the accomplishment of an actual enumeration of the population." He said the Census Bureau had "made an extraordinary effort to conduct an accurate enumeration, and was successful in counting 98.4 percent of the population." ("Census Need Not Adjust for Minority Undercount, Justices Rule," *The Washington Post*, March 21)

**MARCH** - Bosnia's representative at the United Nations accused the United States of failing to turn over information on a notorious Serbian paramilitary leader, known as Arkan, who has been linked to killings of Bosnian Muslims as late as the fall of 1995. The representative, Muhamed Sacirbey, essentially charged that the United States, needing the cooperation of Serbian President Slobodan Milosevic to enforce the Dayton peace accords, was holding back information that might lead to questions about Serbian involvement in the massacres of Bosnians. Sacirbey said Milosevic had been handed an account of the activities of Arkan by Richard Holbrooke, the former Assistance Secretary of State who brought the Balkan parties together at the Dayton conference. "If Mr. Milosevic is entitled to that written information, then I'm not sure why we, the Bosnians, the international community, or The Hague war crimes tribunal is not," Sacirbey said. ("U.S. Said to Withhold War-Crime

Data," *The New York Times*, March 28)

**APRIL** - The National Security Agency said that it had declassified more than 1.3 million pages of secret documents, some from before World War I. All the declassified material is more than 50 years old, older than the agency itself, and represents a tiny fragment of the billions of pages of government documents that have been kept secret on the grounds that their release would damage national security. Agency officials were at a loss to explain why these documents, now at the National Archives, had remained secret for so long.

Among the documents declassified was a January 1919 memorandum from Army Col. A. W. Bloor, a commander of the American Expeditionary Force in France, explaining the origin of the "code talkers," American Indian soldiers who spoke in their native tongues to confound enemy code breakers in World War I and World War II. Their languages were largely unwritten and largely unstudied by foreigners, and so constituted an instant code translatable only by the speakers. Col. Bloor wrote that he had a company of Indians in his regiment who among them spoke 26 languages or dialects, and that "there was hardly a chance in a million" that the Germans could translate them. David Hatch, the National Security Agency's historian, said Choctaws, Navajos, Comanches, Winnebagos, Pawnees, Kiowas and Cherokees served as code talkers. In World War II, he said, the Marine Corps used more than 400 Navajos as communicators in the Pacific campaign. Hatch could not explain why the documents stayed secret for so long. The agency's archives run into the billions of pages, and the agency, loath to disclose anything concerning codes, has only begun to consider declassifying documents in the past four years. ("Pentagon Spy Agency Bares Some Dusty Secret Papers," *The New York Times*, April 5)

**APRIL** - The CIA publicly promised in 1993 to release its files within a few months on its most important covert actions of the cold war--coups in Iran and Guatemala and the Bay of Pigs. However, the documents remain secret because of "a clash of cultures" inside the CIA pitting cold warriors against open-minded historians. Another factor may be that the agency has devoted only three ten-thousandths of its budget and seven full-time employees to the task of making the documents public. A stack of secret files taller than 50 Washington Monuments awaits them.

The CIA has another explanation. They say that Oliver Stone's 1991 movie, "J.F.K.," which insinuated that a military-industrial-espionage conspiracy killed President Kennedy in 1963, led Congress to establish a J.F.K. Assassination Records law in 1992. It ordered that the government files on the assassination be made public. President Clinton took nearly a year to name members of a review board to oversee the release of the files. Now the CIA's historians are explaining to the board every one of the thousands of excisions they want to make in its documents. That time-consuming effort made the pledge on the covert-action records impossible to keep, the agency said. ("C.I.A. Is Slow to Tell Early Cold War Secrets," *The New York Times*, April 8)

**APRIL** - House Speaker New Gingrich (R-GA) said that President Clinton misled Congressional leaders about the United States' true role in Bosnia at a time the Administration was secretly acquiescing in the creation of an Iranian arms pipeline to the Bosnian Muslims. Gingrich said that he, Senate Majority Leader Robert Dole (R-KS) and other lawmakers had many meetings with Clinton about U.S. Bosnia policy over the past three years--at a time when the U.S. was publicly upholding the international arms embargo against Bosnia. Never, he said, did the president indicate that the United States had given a green light to Iranian arms smuggling.

In response, White House press secretary Michael McCurry denied that Gingrich had been misled. Congressional leaders had full access to U.S. intelligence information that provided clear evidence of Iranian arms shipments into Bosnia, McCurry said. "Those are truly extraordinary comments by the speakers, given the high degree of attention that we presume the Congress was paying to Bosnia at the time," McCurry said. "It was clear, from the intelligence information available to the speaker and his staff at the time, what our understanding was about the nature of arms flows into Bosnia. And at any time there could have been a more thorough discussion of the arms flows into Bosnia, because that information was widely available to Congress." ("Gingrich Charges Clinton With Misleading Congress," *The Washington Post*, April 11)

**APRIL** - The White House will assert executive privilege and refuse to give Congress a secret internal report on President Clinton's 1994 decision to do nothing about weapons shipments from Iran to Bosnian Muslims. "Consistent with the practice of past administrations," a senior Administration official said, "we will insist on protecting the confidentiality of internal deliberations and communications between the President and his advisers."

At least six Congressional committees are contemplating hearings on the President's decision. The claim of executive privilege appears likely to anger Congress and provide ammunition for Clinton's opponents in the 1996 Presidential election. ("Congress Is Denied Report on Bosnia," *The New York Times*, April 17)

**APRIL** - The White House announced that beginning this year it would ask Congress to release an overall "bottom line" figure for the budget of American intelligence agencies, a figure now widely estimated at \$24 billion to \$30 billion a year. In making the figure public, the White House said, it hoped to foster a new sense of openness in the intelligence community. ("White House Seeks Release of Intelligence Budget Total," *The New York Times*, April 24)

**MAY** - A 10-page article, "Nuclear Reactions," in May 5 *The Washington Post Magazine* describes efforts to clean up the area around Hanford, Washington--"the biggest environmental disaster in America." The cleanup is expected to cost about \$230 billion over 75 years. The area around Hanford's plutonium factory, built during World War II as part of the U.S. effort to develop an atomic bomb, is home to two-thirds of the country's high-level radioactive waste.



In 1986, when an environmental group in Spokane forced the release of classified documents from Hanford, the public learned that the plutonium factory had made a practice of poisoning it downwind and downstream neighbors. Huge atmospheric releases of radiation, all them secret and some of them deliberate, occurred throughout the second half of the 1940s and early 1950s. Hanford documents show that biologists secretly discussed the "advisability of closing" a downstream stretch of the Columbia River to public fishing and hunting in the late 1950s when plutonium production was at its peak and resident fish and ducks showed dangerously high concentrations of radioactive phosphorus. But no warnings were issued. "Nothing is to be gained by informing the public," Herbert M. Parker, the head of health and safety at Hanford, wrote in 1954.

**MAY** - Columnist Mary McGrory wrote of the struggle of Sister Dianna Ortiz, an Ursuline nun, to pry out of intelligence agencies the documents that could tell her why and with whose help she was kidnapped, tortured and raped by Guatemalan security forces in 1989. "My crime," she said at one point during her packed news conference at the J.W. Marriott Hotel, "was to teach little Mayan children to read and write." ("CIA's Unlikely Exorcist," *The Washington Post*, May 7)

**MAY** - The House Government Reform and Oversight Committee voted along party lines to cite the White House counsel, Jack Quinn, for contempt of Congress for refusing to turn over subpoenaed documents related to the firings in the White House travel office. Committee Chair William Clinger (R-PA) has waged an aggressive campaign to capture the full paper trail on the 1993 firings of seven travel office employees. He has sharply criticized the White House for not being fully forthcoming, while the White House has countered by calling Clinger's demands vague and overly broad. ("House Panel Votes for Contempt Citation," *The Washington Post*, May 10)

**MAY** - In a complete collapse of accountability, the highly secretive National Reconnaissance Office accumulated about \$4 billion in unaccounted secret money, nearly twice the amount previously reported to Congress. The secret agency was unaware until very recently exactly how much money it had accumulated in its classified compartments. To put the \$4 billion in perspective, the agency lost track of a sum roughly equal to the combined annual budgets for the Federal Bureau of Investigation and the State Department. All the money spent by the secret agency, a clandestine branch of the Air Force, is hidden through various false line items that comprise the co-called "black budget," which finances secret intelligence and military programs and is shielded from public scrutiny.

The reconnaissance office issues secret government contracts to build systems and components for space satellites that take pictures, record radar images and eavesdrop on telecommunications. It spends about \$6 billion in secret money a year building the satellites for the CIA, the Air Force and the Navy. The agency's secrecy made Congressional oversight next to impossible, intelligence officials said. Thus, the Congressional intelligence committees kept appropriating

money for the secret agency, unaware that it was building up a surplus of billions of dollars. ("A Spy Agency Admits Accumulating \$4 Billion in Secret Money," *The New York Times*, May 16)

**MAY** - *The Washington Post* editorialized about the game the Administration and Congress are playing over proposals to make public the aggregate figure for U.S. intelligence spending. Each is waiting for the other to move first to make this information public. "The White House has put out word that the president is 'determined to promote openness in the Intelligence Community' and 'has authorized Congress to make public the total appropriation.' But it is the executive branch that has classified this information in the first place, and the president doesn't need the consent of Congress to declassify it. He may want company in taking this step, but he has the authority to act on his own. If Congress is reluctant to move, he should take the lead." ("The Intelligence Number," *The Washington Post*, May 27)

**MAY** - Russian military analyst Harriet Scott, and her husband, Bill, are unhappy that they have to use a computer to access the CIA's *Foreign Broadcast Information Service* (FBIS), the most comprehensive media-monitoring service in the world. The FBIS publishes translated transcripts from hundreds of sources per day, including the world's leading news agencies, newspapers and broadcasts. For decades, its output has been indispensable to national security and foreign policy-makers. But FBIS efforts to keep up with the electronic revolution have provoked a furious reaction from critics who say that instead of making the product more accessible, FBIS is doing the opposite. Before the computer age, FBIS published an indexed pamphlet that readers could easily scan for information. But thanks to the information revolution--as implemented by the U.S. government--that simple chore can take nearly two hours, Mrs. Scott said.

"It takes me a minute or so to download a piece of e-mail into my computer. That's fine. But the way they've formatted the FBIS material, 100 items are all packaged as separate pieces of e-mail, so it takes me 100 minutes just to download them before I can even think about starting to read them," she said. Mrs. Scott's complaints are being widely echoed. After this summer, FBIS material will only be available electronically on the World News Connection of the National Technical Information Service. An academic from the Midwest who has used FBIS material for his graduate students noted that key documents once could be easily photocopied and distributed. But now his students have to line up at one or two terminals that have Internet access.

Ending the daily mountain of published FBIS reports saves significant money according to CIA officials. But critics of the way the change was handled say this kind of talk is trendy techno babble. One Congressional analyst said, "The result is that, for all their talk, people in the government, as well as a lot of the experts who use FBIS products to avoid being dependent on government statements and interpretations of events, are not going to have the time or the opportunity to use the product." Some government officials who use

the FBIS said they will not have time to keep up with it once it becomes electronic only. ("Lost in Computer Age," *The Washington Times*, May 28)

**MAY** - The White House provided Congress with some 1,000 pages of documents it had withheld on the 1993 travel office firings, but declined to turn over twice as many more, leaving the House to consider whether to go forward with a threatened contempt of Congress citation against presidential aides. Instead, the White House provided an 11-page list of the documents for which it is exerting a constitutional claim of executive privilege. ("White House Gives Congress 1,000 Page of Travel Office Papers," *The Washington Post*, May 31)

June When the White House relinquished a thousand documents at the end of May to the House Government Reform and Oversight Committee, it included a request for background information on Billy Dale, the ousted head of the White House travel office. This information quickly became one of the biggest stories of the month because it led to the revelation that White House officials obtained FBI background material on Dale and hundreds of other officials, some of whom had worked at the White House in previous administrations. ("White House Obtained FBI Data on Fired Travel Chief," *The Washington Post*, June 6)

June Three months after it introduced plans for improving the nation's census in 2000, the Census Bureau is being challenged by minority groups and some Republicans. The minority groups say the sampling technique planned by the bureau would worsen, not lessen, the problem of undercounting the nation's Black and Hispanic population, and the Republicans say that technique would result in improperly drawn legislative districts. Representative Carrie Meeks (D-FL) introduced a bill that would forbid the Census Bureau to proceed with its plan: to count at least 90 percent of the households in each county and then use statistical sampling methods to estimate the number missed. She proposed an alternative statistical method for estimating the nation's uncounted population. Representative Thomas Petri (R-WI) introduced legislation that would prohibit the Census Bureau from applying sampling techniques of any kind to determine a population count. He said the bureau should do whatever it takes to obtain an accurate count without relying on sampling.

The twin challenges to Census' plans add to the burdens on an agency that is under pressure to increase the accuracy of the next census, hold down costs and at the same time respond to concerns of lawmakers who control its budget, who generally have little understanding of statistical methods and whose districts are drawn on the basis of its work. ("Census Plan for 2000 Is Challenged on 2 Fronts," *The New York Times*, June 6)

**JUNE** - Louis Freeh, the Director of the FBI, said that he and the bureau had been "victimized" by improper requests from the Clinton White House for files on more than 400 people, most of them employees of prior Republican Administrations. In issuing a report on the bureau's inquiry into the episode, Freeh said the White House and the FBI committed "egregious violations of privacy" when the bureau delivered summaries from these files to Presidential aides, beginning in late 1993 and continuing for several weeks. The FBI and the White House, which has described the requests as a result of an innocent bureaucratic mistake, said that new controls had been adopted to prevent future abuses. Freeh blamed himself for a lack of vigilance in safeguarding a longstanding system, vulnerable to political abuse, in which the FBI routinely complied with White House requests for sensitive information.

The Director's choice of words seemed to puzzle the White House, "I do not understand that statement," said President Clinton's press secretary Michael McCurry, who added, "There has been no abuse of the information in the files." ("Request for Files 'Victimized' F. B. I., Its Director Says," *The New York Times*, June 15)

**JUNE** - The Senate Whitewater Committee closed after 13 months, releasing a 768-page report. The final report accused the Clinton White House of stonewalling and obfuscating; and the Democrats, in a minority rebuttal, claimed that the President and Mrs. Clinton had been victimized by a modern-day witch hunt. ("The Hearings End Much as They Began," *The Washington Post*, June 19)

**JUNE** - Independent Counsel Kenneth Starr was given authority to investigate the FBI files controversy, concentrating first on the former White House aide who obtained confidential reports about Clinton White House. The investigator, Anthony Marceca, was the only one named in the two-page court order expanding Starr's jurisdiction, but the mandate is broad, covering any other "person or entity" who might have committed a serious federal crime, engaged in an unlawful conspiracy or aided or abetted any offense.

The order was issued at the request of Attorney General Janet Reno by the special three-judge court in charge of independent counsels. Reno said she had conducted a truncated preliminary inquiry, enough to convince her that it would be "a political conflict of interest" for the Justice Department to go any further because the matter "necessarily will involve an inquiry into dealings between the White House and the FBI." ("Starr Gets Authority for FBI Files Probe," *The Washington Post*, June 22)

Semi-annual updates of this publication have been compiled in two indexed volumes covering the periods April 1981-December 1987 and January 1988-December 1991. *Less Access...* updates are available for \$1.00; the 1981-1987 volume is \$7.00; the 1988-1991 volume is \$10.00. To order, contact the American Library Association Washington Office, 1301 Pennsylvania Avenue, NW, #403, Washington, DC 20004-1701; 202-628-8410, fax 202-628-8419. All orders must be prepaid and must include a self-addressed mailing label.





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December 1996

# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXVII *A 1996 Chronology: June - December*

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXVII

*A 1996 Chronology: June - December*

## INTRODUCTION

For the past 15 years, this ongoing chronology has documented efforts to restrict and privatize government information. It is distributed as a supplement to the ALA Washington Office Newsletter and as an electronic publication at <http://www.ala.org/washoff/lessaccess.html>.

While government information is more accessible through computer networks and the Freedom of Information Act, there are still barriers to public access. The latest damaging disclosures facing the Clinton Administration involve allegations of concealing information and claiming executive privilege. Continuing revelations of Cold War secrecy show how government information has been concealed, resulting in a lack of public accountability and cost to taxpayers.

Another development, with major implications for public access, is the growing tendency of federal agencies to use computer and telecommunication technologies for data collection, storage, retrieval, and dissemination. This trend has resulted in the increased emergence of contractual arrangements with commercial firms to disseminate information collected at taxpayer expense, higher user charges for government information, and the proliferation of government information available in electronic format only. This trend toward electronic dissemination is occurring in all three branches of government. While automation clearly offers promises of savings, will public access to government information be further restricted for people who cannot afford computers or pay for computer time?

On the other hand, the Government Printing Office GPO Access system and the Library of Congress THOMAS system have enhanced public access by providing free online access to government databases. A study prepared in July 1996 by GPO for Congress recommends a five to seven year transition to a more electronic depository program instead of the rapid two-year transition proposed in 1995 by the House of Representatives.

ALA has reaffirmed its long-standing conviction that open government is vital to a democracy. A January 1984 resolution passed by ALA's Council stated that "there should be equal and ready access to data collected, compiled, produced, and published in any format by the government of the United States."

In 1986, ALA initiated a Coalition on Government Information. The Coalition's objectives are to focus national attention on all efforts that limit access to government information, and to develop support for improvements in access to government information.

With access to information a major ALA priority, library advocates should be concerned about barriers to public access to government information. Previous chronologies were compiled in two ALA Washington Office indexed publications, *Less Access to Less Information By and About the U.S. Government: A 1981-1987 Chronology*, and *Less Access to Less Information By and About the U.S. Government: A 1988-1991 Chronology*. The following selected chronology continues the tradition of a semi-annual update.

## CHRONOLOGY

### JUNE

#### Has Big Brother found a way around the Constitution?

*The Washington Post Magazine* featured a 10-page article, "Someone to Watch Over Us", by Jim McGee and Brian Duffy describing the workings of a secret court in the U.S. Department of Justice that authorized a record 697 "national security" wiretaps in 1995 on American soil. These wiretaps were outside normal constitutional procedures. The authors asked: "Is the world growing more dangerous—or has Big Brother found a way around the Fourth Amendment?"

According to Justice Department statistics, in 1994 federal courts authorized more wiretaps for intelligence-gathering and national security purposes than they did to investigate ordinary federal crimes—576 to 554. In 1995, surveillance and search authorizations rose to 697 under the Foreign Intelligence Surveillance Act (FISA).

This 1978 law permits secret buggings and wiretaps of individuals suspected of being agents of a hostile foreign government or international terrorists organization, even when the target is not suspected of committing any crime. Under FISA, requests for such warrants are routed through lawyers in the Office of Intelligence Policy and Review in the Department of Justice. If these lawyers decide a warrant request has merit, they prepare an application and take it before a judge who sits in a restricted area of the courtroom in the Department.

McGee and Duffy assert that the FISA system's courtroom advocacy is monumentally one-sided. In the closed FISA court, when a Justice Department lawyers presents an application for a national security wiretap, no lawyer stands up to argue the other side of the case. Moreover, the target of FISA surveillance normally is never told about it and has no opportunity for formal review or redress later, as would the target of surveillance protected by the Fourth Amendment.

According to the article, the FISA court has never formally rejected an application. The FISA system raises the question of when evidence gathered for national security purposes can be used for regular criminal prosecutions. Yet, the authors acknowledge, sometimes national security wiretaps turn up vital, important evidence of serious domestic crimes. (McGee, Jim and Brian Duffy. "Someone To Watch Over Us." *Washington Post Magazine*, 23 June 1996, 9-13, 21-5.)

#### The cost of keeping secrets secret revealed

Representative David Skaggs (D-CO), a member of the

House Intelligence Committee, reported that the federal government—not counting the Central Intelligence Agency—spent at least \$5.6 billion in 1995 keeping secret documents secret.

The CIA provides no public report on how much it spends to maintain classified documents. Security officials estimate that billions of pages of classified documents exist, although no one knows for sure. Skaggs says that less than 1 percent of the \$5.6 billion is being spent on declassifying documents. A billion-page backlog has built up of documents that are more than 25 years old and thus by law are ready for declassification and release to the public.

The Pentagon spent nearly 90 percent of the \$5.6 billion. But other agencies spent, too: the Department of Agriculture (\$1,153,000), the Federal Reserve Board (\$305,000), the Federal Communications Commission (\$156,000) and the Marine Mammal Commission (\$1,000).

Military and intelligence agencies that hold the classified documents maintain that the high cost of declassification is delaying the release of documents older than 25 years that President Clinton has ordered to be made public. (Weiner, Tim. "Lawmaker Tells of High Cost of Keeping Secret Data Secret," *New York Times*, 28 June 1996, A20.)

#### CIA knew of abuses in Guatemala

The Intelligence Oversight Board, a presidential advisory panel, revealed that the Central Intelligence Agency during the past decade employed many informants in the Guatemalan government and military who agency officials knew were involved in assassinations, torture, kidnappings and murders. The board also concluded that CIA officials kept information about these crimes and other human rights abuses from Congress, violating U.S. law. The board blamed the agency's failure to heed the issue of human rights until 1994. A series of reforms instituted early this year by CIA director John Deutch included "a new directive generally barring the recruitment of unsavory informants except when senior CIA officials decide their assistance is warranted by national interests." ("Panel Confirms CIA Officials Knew of Abuses," *The Washington Post*, 29 June 1996, p. A1.)

### SEPTEMBER

#### Report questions credibility of Pentagon on Gulf War illness

Investigators for the Presidential Advisory Committee on Gulf War Veterans' Illnesses, created in 1995 by President Clinton, said that the credibility of the Department of



Defense had been "gravely undermined" by its inquiry into the possible exposure of American troops to Iraqi chemical weapons during the 1991 gulf war. They recommended that an outside body take over the investigation from the Pentagon. Despite reports of mysterious illnesses among thousands of gulf war veterans, the Pentagon insisted publicly until 1996 that it had no evidence that large numbers of American soldiers were exposed to chemical or biological weapons.

At the same time, a long-classified intelligence report was released showing that officials at the White House, the Pentagon, the Central Intelligence Agency and the State Department were informed in November 1991 that chemical weapons had been stored at an ammunition depot demolished by American troops in March of that year. (Shenon, Philip. "Report Is Sharply Critical of the Pentagon Inquiry into Troop Exposure to Nerve Gas," *New York Times*, 6 September 1996, A22.) [Ed. Note: This article was one of the earliest on this issue which at press time continues to unfold.]

#### **Scope of Special Counsel's report questioned**

No findings, analysis, conclusions or recommendations are included in the document produced by James Cole, the outside counsel hired by the House Committee on Standards of Official Conduct (Ethics), to investigate House Speaker Newt Gingrich (R-GA). One of the former outside counsels who worked for the House ethics committee on prior cases was surprised at the description of Cole's report. "It's very unusual," said Richard Phelan, the Chicago attorney who served as outside counsel in the case that resulted in the resignation of House Speaker Jim Wright (D-TX). "I would say that the committee is minimizing [Cole's] role," Phelan said. "There were no such restrictions placed on my work. I was able to come to conclusions and make recommendations." (Chappie, Damon. "Was the Gingrich Special Counsel Limited in His Probe of Speaker?" *Roll Call*, 9 September 1996.)

#### **Documents show U.S. knew North Korea held American P.O.W.'s**

Recently declassified documents from the Dwight D. Eisenhower Presidential Library and other government depositories show that the United States knew immediately after the Korean War that North Korea kept hundreds of American prisoners known to be alive at the end of the war. The documents deepen the mystery over the fate of Americans still considered missing from the Korean War, adding to growing speculation that American prisoners might still be alive and in custody there.

In June a Defense Department intelligence analyst

testified before a Congressional subcommittee that on the basis of "very compelling reports," he believed that as many as 15 Americans were still being held prisoner in North Korea. The Defense Department has said it has no clear evidence that any Americans are being held against their will in North Korea, and has pledged to continue to investigate reports of American prisoners there. (Shenon, Philip. "U.S., in 50's, Knew North Korea Held American P.O.W.'s." *New York Times*, 17 September 1996, A1.)

#### **House rejects release of preliminary report on House Speaker**

The House voted—without debate—against a Democratic move to force the ethics committee to make public its counsel's preliminary report on charges against Speaker Newt Gingrich. Representative John Lewis (D-GA) accused Republicans of a "systematic, deliberate effort to cover up this report." (Clymer, Adam. "House Rejects Bid to Force Release of Ethics Report on Gingrich," *New York Times*, 20 September 1996.)

#### **U.S. Army intelligence manuals instructed Latins on coercion**

According to a secret Defense Department summary of intelligence manuals compiled during a 1992 investigation, counterintelligence agents should use "fear, payment of bounties for enemy dead, beatings, false imprisonment, executions and...truth serum." Pentagon documents show that U.S. Army intelligence manuals used to train Latin American military officers in Army school from 1982 to 1991 advocated executions, torture, blackmail and other forms of coercion against insurgents, a violation of Army policy and law at the time they were in use. The manuals were used in courses at the U.S. Army's School of the Americas, located at Fort Benning, GA, where nearly 60,000 military and police officers from Latin American and the United States have been trained since 1946.

The Defense Department said the school's curriculum now includes mandatory human rights training. "The problem was discovered in 1992, properly reported and fixed," said Lt. Col. Arne Owens, a Pentagon spokesman. When reports of the 1992 investigation surfaced this year during a congressional inquiry into the CIA's activities in Guatemala, spokesmen for the school denied the manuals advocated such extreme methods of operation. The Defense Department is trying to collect the manuals but, as the 1992 investigation noted, "due to incomplete records, retrieval of all copies is doubtful." (Priest, Dana. "U.S. Instructed Latins on Executions, Torture," *Washington Post*, 21 September 1996, A1.)

### Priest vindicated by military's disclosure

In her column, Mary McGory describes how Father Roy Bourgeois, a Maryknoll priest, was imprisoned for six months in the Atlanta Federal Penitentiary for leading a nonviolent civil disobedience protest at Fort Benning. Now he believes he has been vindicated because the Army has finally admitted the existence of the grisly manuals used in the Army's School of the Americas. The Freedom of Information Act was used to obtain information about the manuals. "They lied," fumed the priest over the prison telephone. "They have kept on lying about it as recently as last month. In an interview with the *Columbus Ledger* the commandant of the school talked about 'the small percentage of graduates who have done some terrible things; we cannot take responsibility for those who have gone astray.' He denied there was a manual." (McGory, Mary. "Manuals for Murders." *Washington Post*, 26 September 1996, A2.)

### Six-month gap disclosed in White House logs

Senate Republicans disclosed there is a six-month gap in White House logs showing who checked out confidential FBI background reports from the Office of Personnel Security. The lapse began in March 1994, after an investigator for the personnel office, Anthony B. Marceca, stopped collecting files on hundreds of Republicans from the Reagan and Bush Administrations. Senator Orrin Hatch (R-UT), chair of the Senate Judiciary Committee, stressed there was still no conclusive evidence to show whether the files were used for a "nefarious purpose." The White House blamed poor record keeping for the gap. (Lardner, George. "GPO Says White House Logs on Readers of FBI Reports Have 6-Month Gap," *Washington Post*, 26 September 1996, A10.)

## OCTOBER

### Gulf War combat logs fail to report explosions

An apparent gap in Gulf war combat logs that should have recorded the destruction of an Iraqi ammunition bunker—an incident that may have exposed more than 15,000 American troops to nerve gas and other chemical weapons—is being investigated by the Pentagon. Defense Department officials said that combat logs showed a gap between March 3 and March 12, 1991. The explosions in questions occurred on March 4 and on March 10. The logs may have been lost, destroyed, or there may never have been entries for that period, officials cautioned.

GulfWATCH, a veterans group, got copies of the logs from the Pentagon under the Freedom of Information Act, and detected the gap. GulfWATCH and other veterans organizations said the gap is evidence that the Defense

Department has hidden information about the exposure of American troops to Iraqi chemical weapons in the gulf war and afterward. A Pentagon spokesman, Captain Michael Doubleday, said "That absolutely is incorrect," and asked for patience as the Pentagon tried to determine if American troops had been exposed to Iraqi chemicals. (Shenon, Philip. "Records Gap on Gulf War Under Scrutiny," *New York Times*, 9 October 1996, A14.)

### Government no longer maps Gulf Stream due to budget cuts

After 21 years of charting the position of the Gulf Stream, government oceanographers at the National Oceanic and Atmospheric Administration have been forced by budget cuts to stop mapping the position of the ever-shifting Gulf Stream, a swift current that forms in the Caribbean and flows north to Greenland and Iceland. Thousands of fishermen, researchers, yachtsmen, and freighter captains who navigated by the government's thrice-weekly Gulf Stream charts will be left to find their own way. "People are going to be just a little bit more unsafe than they were before," said oceanographer Stephen Baig. Baig faxed the Gulf Stream charts for free to anyone who asked. David Hendrix of Savannah said, "It helps us to decide in small boats whether to go out or not." Baig's maritime clientele had grown to about 10,000 users a year—including NASA, which used the service to help recover space shuttle boosters.

NOAA, as a matter of government policy, decided to leave the business to several private companies—mostly fishing forecasters—because they provide some limited Gulf Stream charting by fax. While one government agency may be saving money, its action means more expenses for other public agencies that need to know the Gulf Stream's location. The Coast Guard, marine researchers, fishery analysts and hazardous materials experts must now pay up to \$50 apiece for a Gulf Stream chart. "We don't really have the money to buy that service," said Karen Steidinger, a research scientist with the Florida Marine Research Institute in St. Petersburg, who has relied on the Gulf Stream charts to help track red tides before they reach shore. Bradford Benggio, with NOAA's Hazardous Materials Response and Assessment Division, has used the charts to predict the course of oil and chemical spills along the eastern seaboard. "We had so many incidents where that information was really critical," he said. Now his agency must use public money for private Gulf Stream locators. (Nolin, Robert and Maya Bell. "Government No Longer Follows the Gulf Stream," *Washington Post*, 15 October 1996, A13.)

### U.S. military warned by Czechs of nerve gas detected during the Gulf War

Czech soldiers whose responsibility during the 1991 Persian Gulf war was chemical detection say that American military commanders were repeatedly warned that sensitive detection equipment had identified Iraqi chemical weapons on the battlefield—and that the toxins were spreading over unprotected American troops. Combat logs of officers working for General H. Norman Schwarzkopf show that American commanders ignored Czech warnings that low levels of nerve and mustard gas had been detected in the vicinity of American troops. The Defense Department was informed after the war that Czech soldiers suffered from many of the same health problems that have afflicted the American veterans, according to former Czech military officials. Interviews with Czech officials raise new doubts about public statements from the Pentagon, which has been criticized over its treatment of gulf war veterans. ("Czechs Told U.S. They Detected Nerve Gas During the Gulf War," *New York Times*, 19 October 1996, A1.)

### Declassifying documents delayed at the CIA

In 1995, when President Clinton ordered the CIA and other government agencies to release all classified documents more than 25 years old (that would not compromise current national security), the files contained some 40 million pages. Included was the CIA's assessment of the vast military research effort of the former Soviet Union. In their declassification effort, the CIA decided to set up a series of powerful computer workstations, scanners and printers. Technicians would feed the pages into the scanners, while retired CIA employees, reading each file on screen, would electronically tag information that must remain classified, such as sources whose safety might be endangered if their identity were known. A declassified version of the document would then be printed out and made public.

The CIA was supposed to declassify 9 million pages of historical documents this year, but so far not a single document has been released. Embarrassing technical problems have undermined the effort. Apparently, the CIA tried to modify its existing software to censor the sensitive passages, only to discover the software was too inflexible. The agency had to start again from scratch with a newer set of commercial computer programs. Mark Mansfield, a CIA spokesman, refused to tell how much money was spent on the first attempt at the project. The new system is scheduled to go into production by March 1997, but some advisers are not sure it will work. "We appreciate the CIA trying to figure out a way to declassify a lot of records, but we're skeptical as to whether this is going to work," says Page Putnam Miller of the National Coordinating

Committee for the Promotion of History, who is a member of a panel that advises the CIA on declassification policy. (Kiernan, Vincent. "Why Cold War Secrets Are Still Under Wraps," *New Scientist*, 19 October 1996.)

### Editorial advocates resumption of crowd counts

The *Washington Post* editorial, "When the Park Police Don't Count," encouraged the resumption of crowd counts in major demonstrations by the Park Police. When the Park Police were asked for a crowd estimate for the Latino March in mid-October, spokespersons for the National Park Service said Congress prohibited their crowd estimates. They cited the latest appropriations bill for the Department of the Interior, which stated that if event organizers want crowd counts, they should hire an outside agency. The issue drew attention after the Million Man March. After the Park Police came up with a rough estimate of 400,000, organizers threatened to sue. ("When the Park Police Don't Count," *Washington Post*, 20 October 1996.)

### Former FBI aide pleads guilty for role in Ruby Ridge

A senior official of the FBI, E. Michael Kahoe, agreed to plead guilty to obstruction of justice for destroying an internal review of the 1992 siege in Idaho known as Ruby Ridge. The charge against Kahoe involves a review of the FBI's actions at Ruby Ridge that his superiors ordered him to prepare. As Kahoe and his colleagues completed the review in early 1993, federal prosecutors in Idaho asked the FBI to turn over all papers it had about the deadly siege. Kahoe and "certain of his superiors at F.B.I. headquarters," who were not identified, had resisted that request according to the criminal charge. Court papers say that Kahoe then withheld the internal review from the Idaho prosecutors, destroyed his copies of the review and ordered a subordinate to destroy other copies to make it appear as if the review had never existed. (Labaton, Stephen. "FBI Official to Plead Guilty to Destroying Files on 1992 Siege," *New York Times*, 23 October 1996, A19.)

### Publisher puts Gulf War data on the Internet

Publisher Bruce Kletz of Insignia Publishing made public more than 300 government documents about Iraqi chemical weapons removed from a Defense Department Internet site, known as GulfLINK, earlier this year. According to the article, the documents were removed from the Defense site at the request of the CIA. Kletz posted the documents on the Internet because he believes government leaders are "trying to hide the documents only to avoid political and personal embarrassment." The documents concern the release of Iraqi chemical and biological weapons near U.S. troops during the 1991



Persian Gulf War. Kletz declined to tell the *New York Times* how he obtained the documents. ("Civilian defies Pentagon, puts Gulf War data on Internet," *CNN* 31 October 1996, <http://cnn.com/US/9610/31/gulf.war.reports/index.html>) [Ed. Note: Soon after this article appeared, the CIA announced that it had restored hundreds of other intelligence reports to the Pentagon's Internet site, known as GulfLINK (<http://www.dtic.dla.mil/gulfink/>.) (Shenon, Philip. "CIA Orders Inquiry Into Charges of Chemical Arms Cover-Up," *New York Times*, 2 November 1996, P9.)]

## NOVEMBER

### Advocates of less secrecy try to make government research available

Michael Ravnitzky, technical director of the Industrial Fabrics Association International in St. Paul, MN, has been trying to pry information out of the Defense Technical Information Center (DTIC) in Alexandria, VA, for the past nine years. "Decades of work done by the Defense Department and its contractors in the area of safety and protective fabrics would be of enormous use to our industry," Ravnitzky says.

The data could aid the development of protective clothing, helping companies make more fire-resistant tents, sleeping bags and children's clothing. Even defense contractors who build supersecret weapons systems urge more openness. Jack Gordon is the president of Lockheed Martin's famous Skunk Works, which developed the U-2 spy plane and the F-117 stealth fighter. Last year he told a government commission that a "culture of secrecy" often leads the military to classify too much and declassify too little. "The consequence of this action directly relates to added cost, affecting the bottom line of industry and inflating procurement costs to the government," he wrote.

The government is well aware of the potential payoff in declassification and less secrecy. In 1970 the Pentagon produced a study showing that "the U.S. lead in microwave electronics and in computer technology was uniformly and greatly raised after the decision in 1946 to release the results of wartime research in these fields." The same study said an open research policy also benefited nuclear reactor and transistor technology development. (Dupont, Daniel G. and Richard Lardner. "Defense Technology: Needles in a Cold War Haystack," *Scientific American*, November 1996, p. 41.)

### U.S. does not participate in chemical arms treaty

Hungary ratified an international treaty banning production or use of nerve gas weapons, becoming the 65th nation to do so, and setting enforcement in motion. With Hungary's deposit of its ratification documents with the United

Nations, a six-month clock starts that will bring the Chemical Weapons Convention into force April 29, 1997. Because the Senate has not ratified the treaty, the United States is precluded from participating in enforcement preparations, will have no representatives on the treaty's executive council in The Hague, will not be represented on the teams conducting international challenge inspections and will not have access to information those inspections develop. "If we don't ratify, we'll be the loser, because we'll have to live under an enforcement regime devised by other countries," said State Department Spokesman Nicholas Burns.

The United States promoted the treaty beginning in the Reagan Administration. The treaty has strong bipartisan support, but the Clinton Administration did little to press for ratification when Democrats controlled the Senate. When control of the Senate shifted, conservative Republicans, including Majority Leader Trent Lott (R-MS) and Foreign Relations Committee Chair Jesse Helms (R-NC) opposed ratification, despite support for the treaty from the Pentagon, the State Department and the major U.S. chemical manufacturers. (Lippman, Thomas W. "Chemical Arms Treaty Heads for Enactment Without U.S. Participation," *Washington Post*, 2 November 1996, A9.)

### Bosnian arms policy criticized

The Senate intelligence committee criticized the secrecy of the Clinton Administration's policy of turning a blind eye in 1994 to Iranian weapons shipments to Bosnia's Muslim government. The committee said that the policy caused confusion among high-ranking U.S. policy makers and kept Congress in the dark. "Very, very grave risks are involved here when you violate the protocol and the standard rules," Committee Chairman Senator Arlen Specter (R-PA) told reporters in discussing the White House decision to keep secret from its allies a policy that, he said, "supported a violation of the U.N. arms embargo." He also said, "There are obvious penalties for misleading Congress." At the time Congress was debating whether the United States should unilaterally withdraw from the United Nations embargo without knowing of the Administration's actions. (Pincus, Walter. "Policy on Bosnia Arms Gets Mixed Review," *Washington Post*, 8 November 1996, A26.)

### EPA loses hundreds of confidential documents

Confidential documents collected in 1994 and 1995 by the Environmental Protection Agency containing sensitive data belonging to chemical companies have been lost by the Environmental Protection Agency. The 200 lost documents may contain trade secrets that could be worth millions to the companies. Agency officials have no evidence the

papers were stolen, indicating that they may have been misplaced or destroyed. EPA is conducting an investigation and has tightened security. An internal memo obtained by the Associated Press said the incident "Will be an embarrassment to the agency which could damage our reputation and put into question, our ability to handle sensitive information." The agency said the missing documents are not a serious security breach. "More than one-half million of these papers are managed annually by EPA, and about 200 may have been misplaced, most likely within the agency," said Lynn Goldman, assistant administrator for prevention, pesticides and toxic substances. ("EPA Loses Papers," *Washington Post*, 14 November 1996, A19.)

### **Compensation awarded to survivors of government radiation experiments**

Energy Secretary Hazel O'Leary said the federal government has agreed to pay \$4.8 million as compensation for injecting 12 people with radioactive plutonium or uranium in secret cold war experiments. The settlement is part of an effort to compensate those subjected to experiments carried out by government doctors, scientists and military officials from 1944 to 1974. Secretary O'Leary said government officials should make a commitment "that never again will the Government of the United States perform tests on our citizens and do so in secrecy." Soldiers were marched through nuclear explosion sites, without informing them of possible risks, while other experiments involved injecting people with radioactive substances, again without their knowledge. (Hilts, Philip J. "Payments to Make Amends for Secret Tests of Radiation," *New York Times*, 20 November 1996, A1.)

### **Air bag safety questioned in 1969**

It was not until 1991 that the National Highway Traffic Safety Administration warned parents that children in infant safety seats should not be placed in front of an air bag, although federal and auto industry officials suspected since 1969 that air bags could injure or kill some children and small adults. And it wasn't until late 1995 that the agency publicly stated that air bags could cause injuries and death. According to documents spanning more than 20 years of debate over air bags, the government did not warn the public as it campaigned to win widespread public acceptance of the devices.

Until recently, when news of fatalities caused by air bags became widespread, much of the debate over the safety of the bags was held behind closed doors. Lobbyists, industry representatives, consumer groups, insurers and the government fought over proposed

regulations governing their use. As the government struggled to come up with "passive restraint" regulations, the safety aspects of the proposed rules were stuck in political, economic and marketing battles waged among these same groups. (Brown, Warren and Cindy Skrzycki. "U.S. Doubts on Air Bags Date to '69," *Washington Post*, 21 November 1996, A1.)

### **Sexual misconduct probed at Army's top levels**

Army Secretary Togo West has ordered an investigation into the responsibility of those in the chain of command at Maryland's Aberdeen Proving Ground concerning the sexual abuse scandal there. In addition, the Pentagon said it does not know how many female service members are victims of sexual violence each year because it does not collect the information, although a 1988 law requires it to do so. Some of the services do not keep centralized statistics on sexual crimes such as rape and indecent assault. Holly Hemphill, a Washington attorney and chairwoman of a defense advisory panel on women in the armed services, said the committee had tried many times to get the services to give it information on sexual violence against female soldiers but "we kept getting the wrong information." She said the services collect statistics on spouse abuse, but not abuse of their female members.

Defense Department spokesman Kenneth Bacon said one problem was that Congress had not given the department any money to create the new database. Congress, he added, still had not come up with any new funds "but basically, after this hadn't been done for awhile, somebody decided that it was time to do [it]..." He said the directive was issued October 15. The information in the new Defense Incident Base Reporting System also will be shared with the Justice Department. Other federal agencies are under the same mandate to report crime in their ranks to the Justice Department, but many have not complied either, Pentagon officials noted. (Priest, Dana. "Army Probe to Focus on Top Levels," *The Washington Post*, 22 November 1996, A1.)

## **DECEMBER**

### **Public government information increasingly is privatized**

In an op-ed piece, "When Public Business Goes Private," in the December 4 *New York Times*, Bill Kovach warns that watchdog journalism is facing a new and little-noted challenge. Kovach, curator of the Nieman Foundation at Harvard, describes how for-profit and nonprofit organizations increasingly displace government agencies in running public programs. He points out that as tax-subsidized public programs become privatized, they may

move largely outside the reach of the press. As examples, he gives these:

- The Reporters Committee for Freedom of the Press says that a publisher in Mississippi has exclusive rights to distribute and sell the electronic version of the state's laws.
- The National Technical Information Service grants exclusive rights to private companies to sell once-public data from the National Institutes of Health, the Social Security Administration and the Federal Communications Commission.
- The Ameritech Corporation wants to acquire the rights to become the sole electronic source of more government information.

In addition to the disappearance of government information into private databases, still another problem will result from the new welfare law: less information about the allocation of public funds will be available. Access to the public and the press to this information will depend on state laws and how each state writes its welfare regulations. Private contractors may take over some state welfare programs. For example, in Texas, Electronic Data Systems, an information technology company, and Lockheed Martin, a military contractor, are bidding to take over the state's \$563 million welfare program.

Will corporate rights to privacy be invoked if journalists tried to obtain information about such operations? Kovach warns his colleagues: "If these examples are part of a trend, then the press and the public are being slowly blinded. A press dedicated to the watchdog role is discovering that it lacks the tools to adequately monitor corporate managers of the public weal. Freedom of information laws...do not cover private businesses." (Kovach, Bill. "When Public Business Goes Private, *New York Times*, 4 December 1996, A29.)

### **We cannot afford not to know accurate numbers**

Robert J. Samuelson, writing an op-ed piece, "The Squeeze on Statistics," says that accurate numbers are society's eyes and ears and that we cannot afford not to know them. He says that statistics allow us to judge the economy, social conditions and government policies. Without reliable numbers, we cannot say how well—or poorly—we are doing. And the numbers do not simply materialize; they must be collected, verified and analyzed. "It's exacting, time-consuming work that Congress is slowly crippling by starving it of money."

Samuelson provides this example: This year, faced with a tight budget, the Bureau of Economic Analysis ended its annual survey of pollution-control spending by business. In 1994 (the survey's last year), companies spent \$77

billion to control pollution. But in the future, we won't know exactly how much they're spending. Debates over environmental policy will proceed with less information on costs and benefits. BEA's experience is typical; not enough money is being spent on statistical agencies to keep up. Between fiscal 1990 and 1997, the BEA requested \$36.7 million for statistical improvements. Of the request, Congress approved only \$6.5 million. In five of seven years, no money at all was approved. (Samuelson, Robert J. "The Squeeze on Statistics," *Washington Post*, 4 December 1996.)

### **Security clearance revoked for disclosing secret to Congress**

Departing CIA Director John Deutch revoked the security clearance of a senior State Department official who revealed a CIA secret to Senator-elect Robert Torricelli (D-NJ). The action effectively ends the government career of the official, Richard Nuccio, who was the State Department's envoy on peace talks between the Guatemalan military and Guatemalan guerrillas. Two years ago Nuccio discovered that a paid informer for the CIA, a Guatemalan colonel, was involved in the killing in Guatemala of an American innkeeper and of a captured Guatemalan guerrilla who was married to an American lawyer. Convinced the CIA was covering up, and that Congress had been misled about what happened, he gave this information to Torricelli. When Torricelli told *The New York Times*, the disclosure led to the dismissal of several CIA officials who had failed to provide Congress and CIA headquarters with clear information about the case. Reportedly, Deutch "felt that the CIA's absolute need to protect the secret identities of its informers outweighed the burden the information had placed on Mr. Nuccio's conscience." (Weiner, Tim. "CIA Chief Disciplines Official for Disclosure," *New York Times*, 6 December 1996, A20.)

### **FBI still does not know who leaked Jewell information**

FBI Director Louis Freeh acknowledged to the Senate Judiciary Committee that Justice Department investigators have been unable to find the law enforcement official who told reporters that security guard Richard Jewell was a leading suspect in the bombing at the Summer Olympic Games in Atlanta. In late October, the Justice Department said that Jewell was no longer a suspect.

Senator Arlen Specter (R-PA), who chaired the hearing, suggested he might introduce legislation that would make it easier to prosecute government employees who give confidential information to reporters. But Specter stressed, "We've tried to make clear our oversight is over the federal government—not the media."



Freeh also disclosed that investigators have been unable to identify the leaker who tipped reporters about the pending arrest of Unabomber suspect Theodore Kaczynski and the planned search of his Montana cabin. (McAllister, Bill. "Probe Has Failed to Detect Leaker in Jewell Episode, Freeh Tells Panel," *Washington Post*, 20 December 1996, A25.)

#### **Independent panel finds incomplete data on nerve gas exposure**

An independent panel of scientists from the Institute of Defense Analysis said there is Pentagon may never be able to determine with any accuracy the number of troops who were exposed to chemical agents in the one verifiable release known to have occurred during the Persian Gulf War. The group said there is not enough reliable data about the quantity of nerve gas released or about weather conditions at the time to determine how many U.S. troops might have been exposed. Without firm data, the Pentagon has nonetheless estimated that 20,000 troops may have been exposed in the release. The Pentagon is trying to contact the 20,000 troops and is encouraging them to participate in a special medical evaluation program, which so far 2,000 have joined. (Priest, Dana. "Data Lacking on Nerve Gas Exposure," *Washington Post*, 21 December 1996, A3.) [Ed. Note: Two studies of Gulf War veterans' health published in the *New England Journal of Medicine* concluded that the health of veterans of the Persian Gulf War has differed slightly from that of other groups of soldiers, but not in a way that suggests a "mystery illness" is afflicting them. (Brown, David and Bill McAllister. "Two Studies Find No Gulf 'Mystery Illness,'" *Washington Post*, 14 November 1996, A3)]

#### **House Speaker admits to ethical wrongdoing**

After more than two years denying wrongdoing, House Speaker Newt Gingrich (R-GA) on December 21 admitted that he broke the rules of the House of Representatives and "brought down on the people's house a controversy which could weaken the faith people have in their government." Responding to allegations of the House Committee on Standards of Official Conduct (Ethics), he said: "In my name and over my signature, inaccurate, incomplete and unreliable statements were given to the committee, but I did not intend to mislead the committee." Gingrich admitted to the charges in the House ethics committee's 22-page "Statement of Alleged Violations", the House version of an indictment. It said Gingrich failed to

ensure that a college course he taught and a televised town hall would not violate federal tax law. Both were financed with tax deductible contributions. Gingrich's admission does not end the committee's investigation of him. (Yang, John E. "Speaker Gingrich Admits House Ethics Violation," *Washington Post*, 22 December 1996, A1.) [Ed. Note: The "Statement of Alleged Violation" and the "Respondent's Answer to Statement of Alleged Violation" are available from the House Committee on Standards of Official Conduct (202-225-7103).]

#### **Democratic National Committee will allow access to records**

The Democratic National Committee (DNC) said it would allow reporters to have access to some 3,000 documents connected to former political fundraiser John Huang shortly after it cut off media access to the documents. The reversal came after the White House heard the DNC had decided reporters had "ample opportunity" to look at one set of the records during the 10 hours they were available. DNC spokeswoman Amy Weiss Tobe would not comment on how the decision was made to shield the records from further media scrutiny. (Schmidt, Susan and Anne Farris. "In Reversal, DNC Decides Not to Close Records Connected to Huang," *Washington Post*, 24 December 1996, A6.)

#### **Panel "shielded from all information" about Gingrich investigation**

Representative Jim McDermott (D-WA), senior Democrat on the House Committee on Standards of Official Conduct, said that he and five other committee members were "shielded from all information" while other members of the Committee worked with special counsel James Cole to develop facts on the complex financial transactions and determine that there was reasonable cause to believe Gingrich violated House rules. "At this point, none of the six of us is clear what really occurred. If there are to be public hearings before we set the speaker's punishment, we have to be prepared to ask intelligent questions of Mr. Cole and the speaker's attorney and the speaker himself, if he chooses to appear." McDermott said he had been told by another member of the ethics committee that the files and notebooks they have to review are "voluminous." (Broder, David S. and Helen Dewar. "Swift Vote on Gingrich Faces Hurdle," *Washington Post*, 30 December 1996, A1.)

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