



**ALA Washington Office Chronology  
INFORMATION ACCESS**

American Library Association, Washington Office  
1301 Pennsylvania Avenue, NW, Suite 403  
Washington, D.C. 20004 -1701

Tel: 202-628-8410 Fax: 202-628-8419 E-mail: [alawash@alawash.org](mailto:alawash@alawash.org) <http://www.ala.org/washoff>  
December 1997

**LESS ACCESS TO LESS  
INFORMATION BY AND ABOUT  
THE U.S. GOVERNMENT: XXIX  
*A 1997 Chronology: June - December***

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# LESS ACCESS TO LESS INFORMATION BY AND ABOUT THE U.S. GOVERNMENT: XXIX *A 1997 Chronology: June - December*

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**INTRODUCTION**

For the past 16 years, this ongoing selective 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>. 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.

Recognizing that some federal agencies are succeeding in using technology to enhance public access to government information, this update includes selected examples of such successes.

ALA continues to reaffirm 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. Since 1989, the Coalition has presented the James Madison Award to champions of the public's right to know. The awardees are listed in this update.

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. ♦

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# CHRONOLOGY

## JUNE

### Federal agencies disagree about evidence regarding veterans' illnesses

The Pentagon took the unusual step of disputing a General Accounting Office draft report before it was to have been released later the same month. The GAO report asserted there is "substantial evidence" that low-level exposure to poison gas weapons could cause delayed or long-term ailments of Gulf War veterans. The Pentagon and a presidential panel appointed by President Clinton to look into the Gulf War veterans' illnesses said the GAO had reached different and unwarranted conclusions after analyzing the same scientific research and data they had reviewed.

In a 10-page rebuttal, Joyce C. Lashof, chair of the Presidential Advisory Committee on Gulf War Illness, said overall the GAO report "misrepresents" her panel's work, is "lacking in substantiation and analytic rigor," and makes statements that are "specious and misleading." The presidential advisory committee concluded that "stress, rather than Iraqi chemical and biological weapons, were the likely cause of veterans' health problems." The GAO said the panel had "overemphasized stress as a factor."

Like the Pentagon, members of the presidential advisory committee have also been accused by veterans advocates and others as part of a government-wide coverup of the facts about Gulf War veterans' illnesses. (Priest, Dana. "GAO Draft Report Suggests Link Between Gas, Gulf Vets' Illness," *The Washington Post*, June 17, 1997, A2.)

[Ed.Note: The 140-page General Accounting Office report, Gulf War Illnesses: Improved Monitoring of Clinical Progress and Reexamination of Research Emphasis Are Needed (GAO/NSIAD-97-163), can be found on the World Wide Web at: <http://www.gao.gov>]

### House Committee criticizes U.S. intelligence agencies

The U.S. House of Representatives Intelligence Committee criticized U.S. intelligence agencies in a sharply written report on the fiscal 1998 intelligence authorization bill. The report said the agencies have "limited analytical capabilities" and an "uncertain commitment and capability to collect human intelligence on a worldwide basis through espionage." The Committee also said the continued expenditure by the Central Intelligence Agency of "billions" on high-tech satellites is disturbing because it failed to allocate adequate funds to review, analyze and present the data to policy makers and military commanders in a usable form. "Expending resources to collect intelligence that is not being analyzed is simply a waste of money," the report said.

The House panel pointed out that other countries are learning how to block satellite coverage that "will affect how the intelligence community collects information and...what targets remain viable." Joining earlier criticism by the Senate Intelligence Committee, the House panel cited "a largely inexperienced work force, lack of foreign language skills and limited in-country familiarity." (Pincus, Walter. "Intelligence Community Faulted by House Panel," *The Washington Post*, June 19, 1997, A19.)

### Research needed before government databases can be easily accessible to public

According to a new report, "Toward the Digital Government of the 21st Century," private industry and government need to research how public information can be aggregated, updated, and made easily accessible through several World Wide Web sites. Herbert Schorr, executive director of the University of Southern California's Information Sciences Institute, coauthor of the study, said: "The Internet has exacerbated the expectations of people. We need to provide citizens with more access to the information the government has about them as well as other data they seek."

The report states, "The federal government is still

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providing information services using technology that is, in large measure, several generations behind the current Internet and Web style of information." Among the things the authors recommend from the government are: coordinate agency research so that more government databases are compatible and simpler to connect to the Net; create standards for maintaining federal and local statistics so they can be easily combined and published online; allow data to be seen using multiple interfaces; and build "virtual agencies" so that people can access documents or services. (Macavinta, Courtney. "Report: Government files a mess," news.com, June 25, 1997 - <http://www.news.com/News/Item/0,4,11926,00.html>)

#### **Army charged with destroying sex survey data**

A researcher charged a secretive Army panel looking into sexual misconduct with destroying some highly sensitive data it had collected from a survey of 9,000 troops. Leora Rosen, who works in the department of military psychiatry at Walter Reed Army Medical Center, said "the Panel's apparent intention is to suppress this information in order to avoid making the Army look bad." Rosen, who has filed a whistleblower complaint with the Office of Special Counsel, analyzed 613 surveys that escaped destruction. The data purged included questions about the use of prostitutes and pornography in Army units.

"A spokesman for the Army confirmed that some survey data had been destroyed. 'The raw data from those sex questions no longer exists,' Col. John Smith said." An Army statement said the questions destroyed were "inflammatory and offensive and felt by some soldiers to be an invasion of privacy to the extent that some of them refused to comply with the survey." Rosen said Army officials had spoken at a panel meeting about the possibility of destroying all the raw survey data, not just the most controversial questions, in order to control how the results were interpreted. The Army would not say whether the raw data would be available in full, although the survey results will be released in some form.

The panel, appointed by Army Secretary Togo D. West, Jr. after revelations of wide-spread sexual

abuse at the Aberdeen Proving Ground, has gone to extraordinary lengths to keep its work secret. Madeline Morris, a Duke University law professor who consulted with West, said the Army's actions "raises questions about why the Army would eliminate data they had already collected, rather than analyze it, when that data could be relevant to the questions they are asking: What causes sexual harassment?" (Priest, Dana. "Army Panel Destroyed Data on Sex Survey," *The Washington Post*, June 27, 1997, A21.)

#### **More troops were exposed to chemicals in area of Iraqi dump**

The Pentagon has again revised upward the number of troops estimated to have been exposed to an Iraqi chemical dump when it was destroyed in the 1991. The estimate was said to be 27,000, up from 21,000 made earlier in 1997. Thousands of Persian Gulf War veterans have complained of ills, but no cause has been found for the complaints. Congress has accused the Pentagon and White House of failure to properly investigate the matter. (Reuter. "U.S. Raises Estimate of Troops Near Iraqi Chemical Arms," *The Washington Post*, June 27, 1997, A26.)

#### **ALA joins in suit to preserve electronic federal records**

Several independent researchers and nonprofit organizations, including the American Library Association, filed a law suit in federal court against the Archivist of the United States because he issued guidance in 1995 that authorized government agencies to destroy electronic mail and other computerized records without regard for their content. The regulation permits destruction of electronic records once they have been copied on paper or some other format and are "no longer needed for updating or revision." The complaint sought to invalidate the rule and accused Archivist John Carlin of abdicating his responsibility to appraise the value of the electronic records on an agency-by-agency basis. "It's the electronic shredder," protested one of the plaintiffs, author-researcher Scott Armstrong.

Justice Department lawyers argued that the regula-

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tion was solidly grounded and that federal agencies cannot have efficient records-management programs if they cannot get rid of unneeded records. Justice Department Attorney Anne Weismann said that "the vast majority" of government agencies are not equipped to preserve computer records in an electronic format. Public Citizen attorney Michael Tankersley said, "The archivist has opened the floodgates, allowing agencies to destroy records without regard for their historical value." (Lardner, George. "Record-Destruction Order Assailed," *The Washington Post*, June 28, 1997, A8.)

[Ed. Note: On October 22, U.S. District Court Judge Paul Freidman ruled that the Archivist was wrong to allow federal agencies routinely to destroy the electronic versions of word processing and electronic mail records even if paper copies were made. (Miller, Page Putnam. "Court Rules Against the National Archives in Case on Regulations for Destroying Electronic Records." *NCC Washington Update*, vol. 3, #44, November 6, 1997.)

#### **Right-to-know week celebrated**

An editorial in the *San Francisco Chronicle* announced that the American Society of Newspaper Editors had designated "Your Right to Know Week" to celebrate the First Amendment and sunshine laws that help the public keep an eye on the inner workings of government. It pointed out that with a few, clearly defined exceptions, "there is relatively little official business that legally can be kept secret from the public. However, there continues to be a struggle between reporters who always want more and bureaucrats whose instincts are often to conceal, especially information that might embarrass them or their bosses." The editorial also said that the Internet has brought new opportunities for government access, and that the press and public must be alert to new technology that can expand access to government. ("Your Right to Know Week," *San Francisco Chronicle*, June 30, 1997, A22.)

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## **JULY**

### **Freedom of Information Act implemented unevenly**

After President Lyndon Johnson signed the Freedom of Information Act in 1966, it was amended in the 1970s to make it quicker and easier to use. Since then its use has increased steadily, and currently, about 600,000 FOIA requests are filed with the federal government each year. Most experts estimate that reporters file about 5 percent of the requests. The act's users also include historians, prisoners and individual citizens trying to find out such things as what files the government has on them. John Fialka, a *Wall Street Journal* reporter and author, writes that 60 percent of FOIA requests are filed by businesses trying to gather information on competing firms. He said it costs up to \$100 million a year to carry out the federal law, and believes fees for commercial users should be sufficient to cover the law's overhead. Otherwise, the law should be abolished, he said.

"The backlog of FOIA requests at some agencies is so great that users often wait one to three years." Some researchers and reporters have waited up to 10 years to have requests filled. The act's nine exemptions cover national security, confidential business information and records that would violate an individual's privacy. Experts say the latter exemption has been used increasingly to deny access to records. "The approach that some agencies have taken is that anything that has somebody's name on it will be withholdable, either in whole or part," said Jane Kirtley, executive director of the Reporters Committee for Freedom of the Press. Tom Blanton, director of the National Security Archive, has had to battle the impulse of many agencies to deny requests even when disclosure of records would appear harmless. Blanton said, "It's a reflexive secrecy. You tap on a knee and the foot kicks out. You call an agency and the top-secret stamp hits the page."

But the author says that some agencies are forthcoming with records, like the Food and Drug Administration, the Department of Health and Human Services, and the Defense Department.

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Agencies notorious for responding slowly include the State Department, the Federal Bureau of Investigation and the Central Intelligence Agency. (Armstrong, Ken. "The Trickle of Information Act Is Closer to Truth," *Chicago Tribune*, July 4, 1997, 19.)

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## AUGUST

### State Department implements 900 number for passport information

Americans seeking passport information were charged as much as \$60 on their phone bills when they called a 900 number operated by AT&T Corporation. Unlike the 800 number system used by agencies such as the Social Security Administration and IRS, the 900 is not toll free. Customers are charged 35 cents to hear basic recorded information or \$1.05 per minute to talk to a representative. The telephone representatives no longer are employees of the Department of State, but work on a contract through AT&T. "This is a bad precedent to allow," said Representative Gary Ackerman (D-NY), "You could wind up with every federal agency taxing the citizenry a second time for basic information." Nyda Budig, spokeswoman for the State Department's Bureau of Consular Affairs, said privatizing the function improved service and saved most taxpayers money by making users pay for it.

But critics of the contract arrangement think it should be the department and not customers who pay for the service. The House passed a State Department authorization bill that would earmark \$5 million to pay for 800 number lines to be run by the contractors. Although similar language is not in a comparable Senate bill, Ackerman said it may be approved by budget negotiators. (Daniel, Lisa. "Passport Office Charging Callers," *Federal Times*, August 4, 1997, 7.)

### CIA criticized for withholding information

The *New York Times* criticized the CIA's withholding of information about its own files on crimes in

Latin America as truth commissions in several countries began to investigate the human rights abuses of the past. At the same time, the *New York Times* acknowledged that the CIA had released some records on the 1954 military coup it organized in Guatemala, and promised more coup records in the months ahead.

But it has declassified practically nothing on the security forces that have killed more than 110,000 Guatemalans since the coup. "Washington trained and supported some of these forces. It also backed abusive internal security organizations in Nicaragua, Haiti, Honduras and El Salvador. It owes the victims of these groups whatever information it has." The editorial concluded that the agency's continued secrecy serves to protect it from embarrassment. ("History That Remains Hidden," *The New York Times*, August 5, 1997 - <http://www.newyorktimes.com/yr/mo/day/editorial/05tue3.html>.)

### Cold War deception fueled UFO controversy

According to CIA historian Gerald Haines, during the 1950s and 1960s, the Air Force and CIA "willfully misled" the public by claiming that thousands of sightings of unidentified flying objects were caused by ice crystals, temperature inversions and other natural causes, when actually they were produced by the flight of super-secret spy planes. Writing in the declassified version of *Studies of Intelligence*, Haines concluded that more than half of all UFO sightings in the United States for decades "were accounted for by manned Reconnaissance flights."

During this time, believers in UFOs thrived on the belief that the U.S. government covered up crucial information about mysterious flying objects. Haines said that in thousands of cases, they were right. His study found that the government concocted the explanations both to calm fears about UFOs and to maintain secrecy about its most advanced espionage aircraft at the time, the U-2 and the SR-71 Blackbird.

National security officials justified their deception "to allay public fears and protect an extraordinarily sensitive national security project," wrote Haines. "While perhaps justified, this deception added fuel to the later conspiracy theories and the coverup contro-



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versy" of later years. Questioned in early August 1997, Air Force Brig. Gen. Ronald Sconyers said, "I cannot confirm or deny that we lied. The Air Force is committed to providing accurate and timely information within the confines of national security." The spokesman said, "Corporately and institutionally, there is no Air Force or Defense Department game plan" currently in place to intentionally mislead the public in order to conceal secrets. UFO experts and government secrecy watch-dogs said the CIA study is a refreshingly revealing document but unlikely to repair the government's credibility problem among those who believe that the government has tried to conceal evidence of extraterrestrial visitors to Earth. (Priest, Dana. "Cold War UFO Coverup Shielded Spy Planes," *The Washington Post*, August 5, 1997, A4.)

### **Intelligence community delays release of historic records**

The annual report of the Historical Advisory Committee (HAC) is highly critical of the intelligence community, primarily the Central Intelligence Agency, for maintaining barriers to opening the historical record of United States foreign policy and diplomacy. The government-appointed panel was created following the embarrassment that resulted from publication in the late 1980s of a volume of the *Federal Relations of the United States (FRUS)* that ignored the use by the U.S. government of covert activities to influence U.S.-Iranian relations in the mid-1950s. For four years the CIA has acknowledged conducting at least eleven covert activities during the Cold War, but has declassified enough information to delineate U.S. foreign policy only in British Guiana. As a result, a number of volumes of the *FRUS* are delayed awaiting the outcome of repeated declassification appeals.

The report states that "a number of *FRUS* compilations now stand in never-never land, and the HAC is forced to contemplate recommending against publication because the thirty-year old historical record is or will fall grossly short of a complete record including the relevant intelligence involvement." The Committee said it is "increasingly disinclined" to

resort to stating in Prefaces to the *FRUS* that the volume in question constitutes an inaccurate and incomplete record when the Committee "knows that the documentary record is or is likely to be available in government archives." The Committee said many covert activities have been revealed in various official (e.g. Congressional hearings) and semi-official (memoirs by CIA agents) sources. "Such a compromise is especially ludicrous with regard to the specific covert activities now acknowledged by the CIA."

The Report of the Advisory Committee on Historical Diplomatic Documentation to the United States Department of State is in the form of a June 26, 1997, letter to Secretary of State Madeleine Albright from Warren F. Kimball, Chair. The report came weeks after the CIA acknowledged it had destroyed some records of covert activities undertaken in the 1950s and 1960s but the agency said destruction was to clear out shelf space, not to conceal its activities. CIA spokesman Mark Mansfield said "The reason why information would be withheld concerns protection of sources and methods." But Dr. Kimball said the committee was not trying to publish such sensitive information. (Haworth, Karla. "Committee of Historians Says CIA Balks at Releasing 30-Year-Old Documents," *The Chronicle of Higher Education*, August 11, 1997 - *Academe Today* electronic news service.)

[Ed. Note: The report is available online at: <http://www.fas.org/sgp/advisory/hac96.html>]

### **Privatizing the public's business deplored**

In an opinion piece, Robert Kuttner said: "A hallmark danger of this era is that the public's business is becoming privatized. Industry wants to replace public agencies and public processes with private contractors and private deals. And there is far too little public protest." He observed that the Food and Drug Administration appears to be "public enemy number one." As an example of efforts to weaken the FDA, he pointed to the proposed tobacco accord reached through secret negotiations. Kuttner said "a group of self-appointed spokesmen for the public's health and some state attorneys general, lured by the prospect of

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a large payment from the tobacco industry, have cut a proposed deal that limits the industry's total liability for damages and reins in the FDA."

Kuttner then pointed to efforts by the medical device industry to limit the ability to ensure the safety and efficacy of everything from artificial heart valves to super-tampons. The \$50-billion-a-year medical device business is one of America's most profitable. He said this industry hopes to get Congress to pass legislation that would partly privatize the FDA's function of certifying safe products. "Instead of having to pass muster with the FDA, a manufacturer could submit a new product to a private review firm selected by the very company seeking approval." And these same private consultants could do other contract work for the device manufacturers, setting up a conflict of interest.

Kuttner asked: "What entrepreneur would put other business at risk by vetoing a client's new product application?" The author maintained that instead of trying to cripple the FDA, industry should be thankful for it since the FDA offers their products a worldwide seal of approval that consumers can trust—contributing to the industry's global preeminence. (Kuttner, Robert. "Privatizing the Public's Business," *The Washington Post*, August 29, 1997, A23.)

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## SEPTEMBER

### Gag ordered on Air Force readiness reports

Louis Finch, Defense Department deputy undersecretary for readiness, issued a gag order to his staff who go on field trips to assess military readiness. In the August 7 memorandum he also reserved the right to declare secret what they learn. According to his ground rules, trip information:

- "Will not contain editorializing, opinions or speculations of team members or others."
- "Will not be transferred electronically among participants or shared with others without my consent."
- "Will not be printed on letterhead, contain refer-

ence to intended recipient or indicate coordinating officials until it is in final form."

- "Will not contain the names of anyone visited in the field."

Finch's memo was issued after a draft "trip report" concluded "limited wartime sortie generation capability exists today" in the Air Force because so many planes can't fly for lack of engines and spare parts. The report also said morale was low among active-duty personnel and that they distrust senior leaders. (Wilson, George C. "Gag Order Issued on Readiness Reports," *Federal Times*, September 1, 1997, 11.)

### Film makers warned about bomb blasts, but not the general public

During the 1950s, the government assured the public that there was no health threat from atmospheric nuclear tests. Yet at the same time, the Atomic Energy Commission regularly warned film manufacturers about fallout that could damage their products according to a review of documents made public as part of an "openness initiative" by former Secretary of Energy Hazel O'Leary. The nonprofit Institute for Energy and Environmental Research said Eastman Kodak had threatened to sue the Atomic Energy Commission when some of its film was fogged before use and the problem was traced to fallout from U.S. and Russian nuclear tests. The AEC then promised to warn Kodak about future tests.

The National Cancer Institute said in August that fallout from the blasts had probably caused 10,000 to 75,000 extra thyroid cancers. Senator Tom Harkin (D-IA) said, "It really is odd that the Government would warn Kodak about its film but it wouldn't warn the general public about the milk it was drinking." Iodine-131 is absorbed by cows and incorporated into milk. In humans, it concentrates in the thyroid gland, where it can cause cancer. Senator Harkin said that part of his thyroid was removed 17 years ago and that his brother died of thyroid cancer last year. (Wald, Matthew L. "U.S. Alerted Photo Film Makers, Not Public, About Bomb Fallout," *The New York Times*, September 30, 1997, A18.)

[Ed.Note: The final fallout report of the National

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*Cancer Institute is available online at  
http://rex.nci.nih.gov/massmedia/Fallout/  
index.html]*

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## OCTOBER

### **CIA reveals U.S. intelligence budget \$26.6 billion**

After 50 years of secrecy, under pressure from a Freedom of Information law suit, the CIA disclosed that the United States spends \$26.6 billion a year on intelligence matters. The agency, which itself spends about \$3 billion a year, oversees a covertly appropriated sum from which billions are drawn by other government intelligence agencies including the National Security Agency and the National Imagery and Mapping Agency. CIA director George Tenet said the disclosure "does not jeopardize" national security and "serves to inform the American people." Kate Martin, the attorney who filed the law suit, said: "now we can begin to have some real democratic debate on the size of the intelligence budget. The C.I.A.'s refusal to disclose the figure didn't protect national security. It shut citizens out of the debate about the usefulness and future of the C.I.A." Martin, director of the Center for National Security Studies, filed the suit on behalf of the Federation of American Scientists' government secrecy project. (Weiner, Tim. "For First Time, U.S. Discloses Spying Budget," *The New York Times*, October 16, 1997, 27)

### **Government contractor threatens to sue to prevent release of transplant data**

The United Network for Organ Sharing, a private group that operates the national organ donor network, is threatening to sue the federal government to prevent the release of data on individual heart and kidney transplant centers. The Richmond, VA-based contractor oversees the organ allocation system compiles information about organ transplants that is submitted to the U.S. Department of Health and Human Services. The records include median waiting times

and the numbers of organ offers that are turned down both for medical and non-medical reasons. The requests for the records were filed by *The Plain Dealer* under the FOIA in June 1996. Since then the *Detroit Free Press*, ABC news and two grassroots transplant groups have made similar requests. On October 16, federal officials informed UNOS that they will release the data unless a federal judge orders otherwise.

Charles E. Fiske of the National Transplant Action Committee asked, "But what is UNOS there for? Is it there to protect patients or to protect the institutions?" (Wendling, Ted, Dave Davis and Joan Mazzolini. "Organ donor group threatens suit to keep files private," *The Plain Dealer* [OH], October 31, 1997, 10-A.)

*[Ed.Note: In mid-November, under threats that the government was preparing to release turndown data for organ transplants, UNOS' board voted unanimously to release the information. (Wendling, Ted, Dave Davis and Joan Mazzolini. "Florida, California lead in organ turndowns," *The Plain Dealer* [OH], November 21, 1997, 1A.)*

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## NOVEMBER

### **Compromise reached on sampling for the 2000 census**

Following months of controversy about the potential use of sampling in the 2000 census, the White House and Republican Congressional leaders reached a compromise on the use of the politically sensitive statistical technique. They agreed to allow the Administration to experiment with statistical sampling to achieve a more accurate count but gave Republicans time and resources to challenge the technique in court. The issue has been controversial because it could affect the future political composition of the House of Representatives.

House Republican leaders have opposed the Administration's planned use of statistical sampling

to supplement traditional person-by-person head counts, fearing the technique could be used to produce more House districts dominated by racial minorities, who tend to vote for Democrats. They also argue that sampling is unconstitutional. The Administration and Congressional Democrats argued that minorities traditionally have been undercounted in the decennial census and that by using statistical sampling, undercounting will be reduced. The compromise helped clear the way for final passage of the FY1998 appropriations bill for the Departments of Commerce, Justice and State. (Pianin, Eric and Helen Dewar. "Congress Also Clears FDA Changes, Works Late on Spending Bills," *The Washington Post*, November 10, 1997, A04.)

#### **National Academy of Sciences exempted from open access law**

Congress passed legislation to exempt the National Academy of Sciences from a law mandating open access to its deliberations and federal oversight of its committees, but the Academy "will have to provide extensive public information about many aspects of its work." Activist groups argued in law suits that the NAS committees, which traditionally are appointed without public consultation and conduct key meetings in private, violated the 1972 Federal Advisory Committee Act. That law requires open meetings, "balanced" committee membership and federal oversight for organizations that advise the federal government.

The NAS countered that Congress never intended the FACA to apply to the Academy, which must apply its own professional standards for committee membership and maintain confidentiality in meetings to ensure that its advice is "independent from government...as well as from potential outside political and special-interest pressures." (Suplee, Curt. "Congress Addresses Access to Academy of Sciences," *The Washington Post*, November 17, 1997, A21.)

#### **Plan revealed to blame Castro if Glenn mission failed**

Previously classified records revealed that had John Glenn's space flight in February 1952 failed,

American military planners were thinking of blaming Fidel Castro. The operation was called Operation Dirty Trick, and according to long-secret documents recently made public, the idea was "to provide irrevocable proof that, should the MERCURY manned orbit flight fail, the fault lies with the Communists *et al.* Cuba." The planners suggested in a February 2, 1962, memo that this could be accomplished "by manufacturing various pieces of evidence which would prove electronic interference on the part of the Cubans." (Lardner, George, Jr. and Walter Pincus. "Military Had Plan to Blame Cuba If Glenn's Space Mission Failed," *The Washington Post*, November 19, 1997, A2.)

#### **National Archives destroys Naval Research Laboratory historical records**

Archivist of the United States John Carlin has ordered an investigation into the destruction by the National Archives of records that the Naval Research Laboratory considered of permanent historical value. Carlin said, "If the process is flawed, or the evaluation criteria are inadequate, then obviously the situation must be fixed." Paul Gaffney, the Chief of Naval Research, wrote to Carlin on November 13, stating that "the historical record of our nation's scientific and technical heritage has suffered a serious and irreparable loss." The destroyed records included material that documented the work of the pioneers of American radar, path-breaking acoustic and oceanographic research, early sonar research, the first U.S. satellite program, and the early rocket-based astronomical research.

Gaffney contends that Naval Research Laboratory personnel received no notification of the National Archives' plan to destroy these records they considered permanently valuable and which constituted the core of the agency's corporate memory. Carlin contends the records were destroyed following procedures established years ago for evaluating naval laboratory records, and that National Archives staff did not consider the destroyed material to meet the tests for permanent value. Carlin pointed out that the Navy had been notified about the pending destruction and had "raised no objection." (Miller, Page Putnam.

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"Archivist Orders an Investigation of Recent Destruction of Naval Laboratory Records," *NCC Washington Update*, vol. 3, #46, November 19, 1997.)

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## DECEMBER

### **Tape transcripts reveal Nixon White House media strategy**

Transcripts of Nixon White House tapes released in October further reveal a President obsessed with efforts to improve his image and eagerly plotting to discredit his detractors. The National Archives released 200 hours of conversations after a long court battle. In a July 2, 1971, tape recorded discussion with aide Charles Colson, Nixon said the best way to intimidate the nation's three major television networks was to keep the constant threat of an antitrust suit hanging over them. Colson played a major role in pressuring the news media to change their critical coverage of the Nixon Administration. Colson told Nixon "keeping this case in a pending status gives one hell of a club on an economic issue that means a great deal to those three networks...something of a sword of Damocles."

Nixon responded, "Our gain is more important than the economic gain. We don't give a goddamn about the economic gain. Our game here is solely political....As far as screwing them is concerned, I'm very glad to do it." The White House kept the Justice Department from filing suit until April 1972 when the government accused the networks of monopolizing prime-time entertainment with their own programs. The suits were dismissed in 1974 after the Nixon White House refused to turn over subpoenaed records. (Pincus, Walter and George Lardner Jr. "Nixon Hoped Antitrust Threat Would Sway Network Coverage," *The Washington Post*, December 1, 1997, A1.)

### **U.S. role in melting Nazi gold revealed in long-secret documents**

"According to long-secret documents that the Federal Reserve Bank of New York plans to release

to a conference of historians tracking Nazi gold," in 1952 the United States melted down gold plates, buttons, coins and smoking-pipe ornaments that were apparently looted from Hitler's victims. The gold bars were then turned over to European central banks. Jewish groups and the United States Government plan to use the documents to press their case that \$54 million in gold remaining in the possession of the Tripartite Commission for the Restitution of Monetary Gold, the panel assembled to return looted assets to central banks, should be given to Holocaust survivors and their heirs.

Other recently declassified documents from American archives reveal details from recent investigations of the trail of wartime assets that have now spanned the globe. For example, a declassified coded message released by the National Security Agency shows what happened to millions of dollars paid by the United States and Switzerland for the care of prisoners of war held by the Japanese. The newly released transcript of a coded message written by Swiss officials—the neutral country that handled the funds—shows that a secret deal was reached in August 1944 by Swiss and Japanese officials to divert 40 percent of those funds to pay off Japan's debts to Swiss businesses. (Sanger, David E. "U.S. Melted Down Gold Items from Nazis," *The New York Times*, December 1, 1997, A8.)

### **U.S. argues that cutting would jeopardize Nixon tapes**

A federal court ordered the National Archives to return all "personal or private conversations" on the Nixon White House tapes to the late president's estate. In an appeal brief Justice Department lawyers said this would jeopardize "virtually all" of the 950 reels of tape from the Nixon presidency that Congress confiscated by law in 1974 to keep Nixon from destroying them. The Justice Department said that it has no obligation to cut out portions of the tapes to satisfy the demands of Nixon's estate. Nixon's privacy interests, the Justice brief said, will be preserved because the original tapes will be kept intact in a special vault, without any provision for public access. A hearing is scheduled for late

February. (Lardner, George Jr. "U.S. Argues Against Return of Excerpts of Nixon Tapes," *The Washington Post*, December 2, 1997, A17.)

### **U.S. sued for violating Freedom of Information Act**

Public Citizen filed a federal lawsuit in U.S. District Court for the District of Columbia to enforce recent federal statutes designed to make it easier for the public to obtain access to government information. The suit charged that seven major federal agencies have not complied with statutes requiring that they make available guides and indices to help the public obtain agency records. "The Clinton Administration has failed to live up to its commitment to make government information more open to the public...," said Michael Tankersley, the Public Citizen Litigation Group attorney who filed the suit.

In 1995, Congress directed all federal agencies to compile a "current and complete inventory: of their information resources, including directories that could be used to establish an electronic service for locating major government information systems. The following year, in the Electronic Freedom of Information Act Amendments, Congress directed agencies to make available a guide containing an index with a description of all major information and record locator systems and a handbook describing how to obtain information from these systems under the FOIA and other statutes.

According to Public Citizen, the Office of Management and Budget was supposed to take a leadership role in implementing these requirements. But many agencies, including OMB, have ignored these mandates. The seven agencies named as defendants are OMB; the Office of Administration in the Executive Office of the President; the Office of the U.S. Trade Representative; the Department of Education; the Department of Energy; the Department of Justice; and the Department of State. "This lawsuit will force these agencies to give the public the tools needed to navigate through the bureaucratic corridors of cyberspace," said Lucinda Sikes, another Public Citizen working on the case. (Public Citizen press release. "Federal Agencies

Violating Freedom of Information Act, Lawsuit Alleges," December 4, 1997.)

[Ed. Note: The press release is available online at <http://www.citizen.org/foiasuit.htm>]

### **Tobacco industry turns over documents to Congress**

A dramatic confrontation between Representative Thomas Bliley (R-VA) and the tobacco industry has resulted in a cache of sensitive internal company documents being turned over to a Congressional committee—a departure from years of legal maneuvering to keep industry secrets hidden. Over 800 documents were delivered to Congress, less than 24 hours after Bliley, a long-time industry supporter, issued a subpoena for them. "Today's development will give Congress the information it needs to make more informed and responsible decisions" on the proposed settlement, Bliley said.

The documents were not released publicly, however, and Bliley gave no indication of when that might happen, saying only that the committee will establish "a bipartisan process for reviewing and disclosing" them. "These documents are only the tip of the iceberg," said Senator Patrick Leahy (D-VT). And Minnesota Attorney General Hubert H. Humphrey said, "The smoking guns are trickling out, but the smoking howitzers remain under lock and key." Matthew Myers, of the National Center for Tobacco-Free Kids, said he hoped that Bliley's comments were not an indication that the documents would be kept private. "It's as important for the American public to see these documents as for Congress—so that the citizens of the country can make an informed decision about what Congress should do," Myers said. (Torry, Sandra and John Schwartz. "Tobacco Industry Delivers Documents to Congress," *The Washington Post*, December 6, 1997, A9.)

### **White House continues pattern of belated release of subpoenaed material**

Throughout the summer and fall of 1997, many articles have appeared in the press about the belated release of subpoenaed material to Congress, includ-

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ing video tapes, concerning President Clinton's fund-raising activities for the 1996 presidential campaign. This article is about notes taken in the White House during discussions of the growing campaign finance controversy. Although the notes appear to add little to the ongoing campaign finance investigations, they could become a new source of controversy for the Clinton Administration. White House spokesman Lanny J. Davis said he could not explain the delay in finding the notes, which he acknowledged fall within the scope of subpoenas for materials relating to fund-raising in the White House that were issued as long ago as March 24. (Schmidt, Susan. "White House Gives Aide's Notes to Congress," *The Washington Post*, December 9, 1997, A6.)

#### **Attorney General declines to hand over FBI memo to Congress**

Attorney General Janet Reno refused to comply with a Congressional subpoena for a confidential memorandum in which FBI Director Louis Freeh urged her to seek an independent counsel in the campaign finance scandal. The House Government Reform and Oversight Committee, having called Reno and Freeh to testify at a hearing on December 9, sought the memorandum as part of its investigation of Reno's handling of the independent counsel issue. Reno declined to provide the document, pointing to the need to protect an ongoing investigation and to preserve the confidentiality of the decision-making process within the Department of Justice. (Suro, Roberto. "Reno Declines to Hand Over Freeh Memo," *The Washington Post*, December 9, 1997, A6.)

#### **Judge orders government to pay sanctions for withholding information**

In a follow-up to a "*Less Access*" item from four years ago, a federal judge ordered the U.S. government to pay sanctions of \$285,864 for the "dishonest" and "reprehensible" conduct of the White House and Justice Department in failing to reveal to the court key information about the membership of the health care reform task force chaired by Hillary Rodham Clinton. "[I]t is clear that the decisions here

were made at the highest levels of government, and the government itself is--and should be--accountable when its officials run amok," U.S. District Court Judge Royce C. Lamberth wrote in his opinion. "It seems that some government officials never learn that the cover-up can be worse than the underlying conduct." (Locy, Toni. "Government Ordered to Pay Sanctions for Dishonest About Health Care Task Force," *The Washington Post*, December 19, 1997, A21.)

#### ***A handful of examples are also available about "More Access" during this same period:***

##### **EPA plans expansion of "right-to-know"**

The Environmental Protection Agency announced plans for an ambitious project to expand its "right-to-know" initiatives so that people who live near hundreds of factories in five major industries can have easy online access to additional data about the pollution from those plants. This is the first time, profiles of the environmental performance of the producers of oil products, steel, other metals, autos and paper have been made available, indicating which factories may present the biggest environmental problems.

Industries argued the evaluation is misleading. The project expands on the Toxics Release Inventory, an annual survey, published online and in printed reports, that has been credited with encouraging companies to voluntarily control their pollution.

The new project is called the Sector Facility Indexing Project, but the affected industries consider it the Scarlet Letter Initiative, because they fear that it will unfairly identify some of them as polluters. The industries are trying to block the project, arguing that the release of the information will confuse and alarm the public. (Cushman, John H. Jr. "E.P.A. Is Pressing Plan to Publicize Pollution Data," *The New York Times*, August 12, 1997, <http://new.york.times.com/library/cyber/week/081297pollute.html>)

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## Americans can provide more information about themselves

The Clinton Administration announced that for the first time Americans will be able to choose more than one racial category to describe themselves on census and other federal forms. The decision ends a long-standing practice of requiring people to identify themselves as a member of only one racial group despite growing complaints that the nation's racial composition is increasingly diverse. "This gives far more flexibility for people to express their multiracial heritage," said OMB Director Franklin Raines. How the census collects data is important because the numbers are used to redraw political boundaries, enforce civil rights protections and administer many programs that depend on racial data.

In the last census, Americans could mark just one box and were given these choices: white, black, American Indian, Eskimo, Aleut or several Asian or Pacific Islander groups. The result was a set of population figures that could be neatly tabulated, but left many dissatisfied at being forced to choose one heritage over another. Nearly 10 million Americans marked "other" rather than choose one of the basic categories. In the 2000 census people can check off as many categories as they like, yielding a much more complex view of the American population. (Vobejda, Barbara. "Census Expands Options for Multiracial Families," *The Washington Post*, October 30, 1997, A11.)

## Best federal government web sites chosen

Joyce Kasman Valenza, a high school librarian, wrote an article for a Philadelphia newspaper featuring a number of local, state, and federal government web sites she considered among the best that exemplify Thomas Jefferson's axiom, "Whenever the people are well-informed, they can be trusted with their own government." Valenza said: "To Jefferson, an informed citizenry was essential to the proper functioning of a democracy. Self-government would not be possible unless citizens were well-educated and had free access to information. Jefferson would have really liked the World Wide

Web." She observes that young citizens can read the actual texts of laws, speeches, judicial decisions, and, of course, political propaganda. Among the best of the federal executive and legislative branch web sites she chose are:

- <http://www.whitehouse.gov/WH/Welcome.html>
- <http://www.whitehouse.gov/WH/kids/html/kidshome.html>
- <http://www.odci.gov/cia/publications/pubs.html>
- <http://www.state.gov/www/background-notes/index.html>
- <http://www.state.gov/www/regionsdigital.html>
- <http://www.census.gov>
- <http://thomas.loc.gov/>
- <http://lcweb2.loc.gov/frd/cs/cshome.html>

The judicial branch is represented by a web site hosted by Northwestern University, instead of the federal government. It is a multimedia database of U.S. Supreme Court information:  
<http://oyez.at.nwu.edu/oyez.html>

(Valenza, Joyce Kasman. "Sites That Provide Government Information to the People: Laws, Speeches and Court Decisions Are Among a Wealth of Documents at Local, State and Federal Levels," *Philadelphia Inquirer*, November 13, 1997, F04.)

## Government Printing Office thrives in electronic age

The Government Printing Office, the federal government's publisher, has used new technology to make information available to the public so effectively that Congress has considered changing the agency's name to reflect the cyberspace age. Eric Peterson, staff director of the Joint Committee on Printing, said GPO has "been on the forefront of helping the government emerge from the classic printing environment to electronic information access." For example, before GPO made the *Federal Register* available on the Internet in 1994, government presses printed 33,000 copies a night at an average of 225 pages per issue. Currently, GPO prints 23,000 paper copies, while 1 million copies are downloaded every month from the Internet. Federal laws, the *United States Code*, fill 35 bound



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volumes that cost about \$2,000. The same information fits on one compact disc that sells for \$37. At the same time, sales of the disc have fallen since GPO made the *United States Code* available on the Internet for free.

Senator John Warner (R-VA), who chairs the Joint Committee on Printing, wants GPO to ensure that all government documents are made accessible to the public, especially through electronic formats at libraries. Warner wants to channel all federal government publications printed by a private business or other another agency through GPO's Superintendent of Documents. "Free and open access to information created at taxpayer expense is the principle which has enabled the United States to endure and prosper for over 200 years," Warner said. (Johnson, Mark. "Venerable GPO thrives in cyberspace," *Richmond Times Dispatch*, November 30, 1997, A2.)

[Ed. Note: The GPO Access system is found at:  
<http://www.access.gpo.gov>]

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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## *The COGI Madison Awards*

### *honor champions of the public's right to know*

Since 1988, the Coalition on Government Information has celebrated Freedom of Information Day, March 16, the birth date of fourth President James Madison. Established in 1989 by the Coalition and the National Security Archive, the award is presented annually to honor those who have championed, protected and promoted public access to government information and the public's right to know. The Coalition, initiated in 1986 by the American Library Association, is composed of public interest and library organizations united in their concern about the public's right to be well informed about the activities of the federal government.

#### **Recipients of the James Madison Award:**

- 1997 Philanthropist and financier George Soros
- 1996 The National Information Infrastructure Advisory Council
- 1995 The Government Printing Office, the State of Maryland's Sailor Project, the Seattle (WA) Public Library, and the Internet Multicasting Service's Town Hall Project
- 1994 Secretary of Energy Hazel O'Leary and former ALA Washington Office Director Eileen D. Cooke
- 1993 The legislators who led the passage of P.L. 103-40, the GPO Access Act: Vice President Al Gore, original sponsor of the GPO Gateway to Government Act when he was in the Senate; Senators Wendell Ford (D-KY) and Ted Stevens (R-AK); Representatives Charlie Rose (D-NC) and Bill Thomas (R-CA)
- 1992 Journalist Nina Totenberg, author Scott Armstrong, and C-SPAN founder Brian Lamb
- 1991 Representative Don Edwards (D-CA)
- 1990 Senator Frank Lautenberg (D-NJ), Representative Henry Waxman (D-CA), journalist Philip Shabecoff, and the Office of Toxic Substances of the U.S. Environmental Protection Agency
- 1989 Senator Patrick Leahy (D-VT)

Honorary citations also were presented to several individuals and organizations in 1996 and 1997.

The Coalition seeks nominations for the annual Madison Award and for honorary citations in December of each year. Send nominations to:

**Coalition on Government Information**  
**c/o of American Library Association Washington Office**  
**1301 Pennsylvania Avenue, NW**  
**Suite 403**  
**Washington, D.C. 20004**  
**tel: 800-941-8478**  
**fax: 202-628-8419**  
**e-mail: [alawash@alawash.org](mailto:alawash@alawash.org)**

