



**ALA Washington Office Chronology
INFORMATION ACCESS**

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**LESS ACCESS TO LESS
INFORMATION BY AND ABOUT
THE U.S. GOVERNMENT: XXX**
A 1998 Chronology: January - June

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INTRODUCTION

For the past 17 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. New reports indicate that U.S. intelligence agencies are studying ways to use computers and the Internet to create misinformation directed at foreign countries. Since the Internet has no national borders, this raises troubling questions about possible breaches of regulations that spell out what can and cannot be done within U.S. borders.

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 increasing public access to government information, this update also 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. ♦

CHRONOLOGY

JANUARY

Director's resignation complicates plans for 2000 Census

The resignation of the director of the Census Martha Farnsworth Riche complicates the government plan to conduct an accurate Census in 2000, and intensifies questions of the ability of the Census Bureau to avoid the problems of the expensive 1990 Census—which missed 10 million Americans and counted 6 million twice or in the wrong place.

The Census is used to determine which states will gain or lose seats in the House of Representatives, how districts for state and federal legislative districts are drawn, and how billions of dollars in federal aid are disbursed. A plan under Riche's direction to use statistical sampling to estimate the portion of the population missed by traditional counting methods ran into trouble in Congress.

Republicans have attacked sampling as illegal because the Constitution calls for an "actual enumeration" of all residents of the United States. Additionally, many Republicans are concerned that sampling would result in a population estimate that included larger numbers of minorities, potentially redrawing electoral districts in a way that would favor Democrats and threaten Republican control of the House.

Riche said that she was tired of the legal and political fights that have enmeshed the Bureau of the Census and "putting out fires." Some fear that Riche's resignation will make it difficult, if not impossible, to prevail over Republican opposition to sampling. (Holmes, Steven. "Weary of Political Sniping, the Census Bureau Chief Resigns," *The New York Times*, 13 January 1998, A11.)

Open meeting law violated by health care advisory committee

According to the General Accounting Office, a government technology advisory committee which helps determine which new medical procedures should be covered by Medicare has been meeting behind closed doors in apparent violation of the federal open-meeting law.

The advisory committee, which reports to the Health Care Financing Administration, includes members from the private sector in addition to government employees and should have been open to anyone in the public who wanted to attend. The health care agency, in a letter to GAO, acknowledged the panel was in apparent violation of open-meeting laws and pledged that it would be revamped to include only government employees, who are allowed to meet privately.

"This is very troubling," said Ari Fleischer, press secretary to the House Ways and Means Committee. "It again raises questions about the administration engaging in secret deliberations involving health care decisions." (Harris, John E. "White House Advisory Panel Meeting in Secrecy," *The Washington Post*, 17 January 1998, A8.)

Defense Department destroys evidence of soldier's identity

Evidence suggests that the bones buried in 1984 at Arlington National Cemetery may be those of Air Force 1st Lt. Michael J. Blassie, whose airplane was shot down in 1972.

From the time a South Vietnamese recovery team found an identity card, a wallet and other items near a crash site in the jungles of Vietnam in 1972, a U.S. government forensic laboratory in Hawaii believed, but could not prove, that the remains belonged to Blassie. It was an assessment they did not reveal to Blassie's family.

In 1980, a Defense Department board reviewing the status of soldiers missing in action reclassified the remains, marked X-26, as "unidentifiable." To

preclude the possibility that the identity of the soldier could one day be questioned, the X-26 file was destroyed. By then the ID and the wallet also had been lost.

In 1984 under pressure from Vietnam veterans groups, the Defense Department picked the remains of X-26 to place at the cemetery. Only recently did Blassie's family receive documentation explaining the evidence the government originally had in its possession. (Priest, Dana. "Unknown Soldier May Be Identifiable, Pentagon Says," *The Washington Post*, 21 January 1968, A12.) (Ed. Note: In May officials decided to exhume the remains of the Vietnam-era soldier buried in the Tomb of the Unknowns for DNA testing to see if his identity could be determined.)

Judge rules Air Force can invoke state secrets privilege

The 9th Circuit Court of Appeals in San Francisco rejected efforts by a group of former government employees to prove they were poisoned while working at a mysterious Air Force base in Nevada. About two dozen people who worked at Groom Dry Lake base, led by two widows of civilian workers, sued the Air Force and the Environmental Protection Agency three years ago under the Resource Conservation and Recovery Act of 1976.

The January 8 opinion, written by Judge Pamela Ann Rymer, said that the state secrets privilege invoked by the secretary of the Air Force made discovery and trial on the claims of environmental crimes "impossible." Notwithstanding a plaintiff's ability to produce unclassified or even nonprivileged evidence, if the "very subject matter of the action" is a state secret, "then the court should dismiss the plaintiff's action based solely on the invocation of the state secrets privilege." *Kasza v. Browner*, 96-15535.

Lead defense attorney Jonathan Turley, a law professor at George Washington University National Law Center, said the suit sought information about chemicals workers may have been exposed to so they can seek appropriate medical treatment. The lawsuit alleged that the government is covering up that

workers were subjected to rare and deadly industrial toxins when the Air Force burned hazardous wastes in open trenches in the late 1970s and early 1980s. The government's response was neither to confirm nor to deny the allegations, but to declare them off-limits. When the EPA conducted an investigation of the site, 100 miles north of Las Vegas, President Clinton signed a special exemption from the EPA's duty to disclose publicly what it found—an exemption that has been renewed annually, according to *The Washington Post*. (Cox, Gail Diane. "Secrets Privilege Scuttles USAF Suit: Claims by Ex-Employees Gutted by 9th Circuit," *National Law Journal*, 26 January 1998, A06.)

FEBRUARY

White House changes strategy to guard internal documents

In 1997 the White House strategically released entry logs, telephone records, notes and other internal documents in part to preempt information from congressional critics. For the president's alleged relationship with Monica Lewinsky, the White House has assembled many of the same types of records and turned them over to independent counsel Kenneth Starr.

But information about White House visits and presidential phone calls made public last year is now being guarded with fierce protectiveness. According to White House officials, the change in strategy reflects the different nature of the perceived threat. "They've been much more circumspect," said White House press secretary Michael McCurry speaking of the lawyers who control the flow of information. Key questions that presumably could be answered by White House documents have been left unaddressed in the public arena. (Baker, Peter. "White House, Changing Tactics, Guards Records," *The Washington Post*, 3 February 1998, A7.)

National Archives must reevaluate decision to give away films

U.S. District Judge T.S. Ellis III ruled the National Archives' decision to give away 56 boxes of film about the American occupation of Okinawa was "arbitrary and capricious." The "disposal decision was based on an erroneous factual premise," he wrote. The "conclusion that the films lack sufficient 'value to warrant continued preservation' [is], to say the least unreliable."

The decision was a victory for Seiko Green, an Arlington, VA researcher, who argued that the films were historically unique and should be preserved. The judge stopped short of ordering the Archives to keep the 2,815 films, but he told the government to reevaluate the collection's significance. Thus, Green and other historians will get a chance to prove the films are valuable before the Archives can proceed with a plan to give the collection to a local government in Japan.

"Only some of the millions of records generated by federal officials...meet the tests of permanent value," said John W. Carlin, archivist of the United States. "We concluded that these films do not...But we will respect the court's opinion by giving them a fresh evaluation." (Masters, Brooke. "Researcher Wins Lawsuit Against National Archives," *The Washington Post*, 5 February 1998, D4.)

Librarians and archivists warn of the fragility of electronic government records

According to an article in *U.S. News & World Report*, the ability of current and future generations to hold the government accountable is at great risk because of the fragility of the records of Congress and the Executive Branch in electronic formats. As the records of government are increasingly in the form of computer disks, CD-ROMs, and magnetic tapes, there is a growing recognition of the fragility of these storage mediums and concerns about the continued availability of the hardware and software needed to read them.

Modern record keepers such as archivists and librarians warn that electronic storage mediums are

turning out to be far less durable than parchment and old-fashioned top-quality paper. The danger extends to records related to health and human survival, for example, studies of disease transmission or the location of toxic-waste sites.

But the nation's cultural legacy is at risk since new music, animated art, and early drafts of literature and academic works are created and stored in computers. Deanna Marcum, president of the Council on Library and Information Resources, says that librarians and archivists must think about preservation as soon as new knowledge is generated--deciding what to save, putting information into a common, standard format, and recording what machinery and software were used to encode the data. (Tangley, Laura. "Whoops, there goes another CD-ROM," *U.S. News & World Report*, 16 February 1998, 67-8.)

More data needed to ensure equity in access to organs for transplants

In developments related to an item in a previous *Less Access* chronology, Health and Human Services Secretary Donna Shalala sent a letter to Congress informing them that the Administration plans to revamp the nation's system for allocating livers to people awaiting transplants.

The question of who gets available organs has become one of the most contentious medical and economic dilemmas in organ transplants. Currently, livers for transplant are made available first to patients within a local region, even if they are not as ill as patients elsewhere.

Shalala wrote that she is preparing regulations that will establish goals so that those most seriously ill would receive priority for available livers. The goals would include improved equity of access through more sharing and greater availability of data from transplant centers so patients can make better informed decisions. (Weiss, Rick. "HHS to Revise Liver Allocation for Most-Needed Transplants," *The Washington Post*, 27 February 1998, A2.)

MARCH

White House spokesman avoids gathering facts

A seven-page article in *The Washington Post Magazine* described how White House press secretary Mike McCurry avoided helping reporters to report on the charges of sexual encounters in the White House. The author maintains that McCurry stayed away from fact gathering, leaving that to the lawyers, while he struggled to maintain credibility with both the press and the president. (Kurtz, Howard. "Spin Master," *The Washington Post Magazine*, 8 March 1998, 11+).

Discrepancies found in records of campaign contributions

According to a study by the Project on Government Oversight, hundreds of thousands of dollars in PAC contributions are unaccounted for, improperly listed, or other missing from Federal Election Commission data. The watchdog group reviewed the FEC files of nearly 500 candidates in the 1996 election and found that only four of those candidates reported exactly the same amount of PAC funds that the PACs reported contributing to them.

The report stressed that the discrepancies appeared to be due to flaws in the FEC's current disclosure system, not an attempt by candidates to conceal contributions. FEC officials said they could eliminate some of the problems by making some record-making changes and implementing other reforms. (Keeler, Amy. "Report Slams Misleading PAC Records," *Roll Call*, 9 March 1998, 3.)

APRIL

Editorial says "government keeps too many secrets"

An editorial in *The Washington Post* asserted that the "Government keeps too many secrets. It keeps material classified far too long. Excessive secrecy is expensive, breeds popular distrust of government

withholds from historians, researchers and the voting public information that is important." The editorial supported pending legislation sponsored by Senator Daniel Patrick Moynihan (D-NY) that would establish a minimum standard of openness that would bind presidential administrations.

The editorial staff observed that classifying information "has been governed primarily by executive orders that individual presidents could change whenever they chose. This has allowed some presidents to impose draconian secrecy rules, while others have more relaxed rules without input from Congress or the courts." ("The Secrecy Legislation," *The Washington Post*, 10 April 1998, A22.)

State data disarray hampers evaluation of revised welfare law

Eighteen months after Congress revised the nation's welfare law, it is becoming clear that the data the government requires states to collect is in such disarray that it is impossible to determine whether the law is working. Serious computer computer problems and other complications have hampered the federal government in determining the extent to which states are complying with the law by getting welfare recipients into jobs.

The data is the only means by which Congress can measure which states have effective programs. Tens of millions of dollars are at stake since Congress could dock states if they fail to move a certain proportion of their caseload into jobs. Also in question are large federal bonuses to be shared by those states that are most successful at getting welfare recipients into jobs where they stay and advance. But states can define their caseloads differently, use varying definitions, and choose which information to submit to compete for the bonus. Thus, when the federal government starts comparing one state's data with another's, it is comparing the statistical equivalent of apples with oranges.

Elaine Ryan, director of legislative affairs at the association of welfare agencies, said that the Department of Health and Human Services did not

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tell states what information to collect until September 1997, but then required them to collect it dating to July. "I do wonder what the heck they are doing," she said. "It's really frustrating."

State officials say they are overwhelmed with the task of gathering all the numbers required by the federal government. On the other hand, Senator Paul Wellstone (D-MN) is among the legislators who argue that the federal government knows too little about what is happening to the millions of families who have left the welfare rolls recently. "As responsible policy makers, I would think we would want to know how many of these families are reaching economic self-sufficiency," Wellstone said. "The fact of the matter is, very few states can tell me. No one knows." (Vobejda, Barbara and Judith Havemann. "States' Welfare Data in Disarray," *The Washington Post*, 13 April 1998, A1.)

Unions charge Army imposing gag order on job information

Union officials representing employees of the U.S. Army Training and Doctrine Command at Fort Rucker, AL and Fort Bliss, TX, allege that gag orders are being used to deny access to information about possible reductions in force (RIF) to meet downsizing goals.

The Metal Trades Council claims it has been denied information and access to meetings about whether a RIF will be necessary. They complain that employees needed to know whether their positions were targeted in a RIF before they could decide whether to take a buy out or early retirement.

The unions contend that this is a violation of the law as well as a violation of the unions' bargaining agreement. As proof of a gag order, the unions point to a March 2 video teleconference held by Command officials where documents referenced "what's not allowed:" The Army permits: 1) No announcement of RIFs or position cuts to work force or union; 2) No discussion with the union or work force of total reductions; and 3) No announcement of RIF date. Army officials would say only that a RIF notice had not been announced. (Daniel, Lisa. "Army 'Gag

Order' Alleged," *Federal Times*, 20 April 1998, 10.)

National Archives destroys Naval records; procedures to change following misunderstanding

The National Archives and Records Administration released a 28-page report detailing its destruction in the fall of 1997 of a vast collection of the records of the Naval Research Laboratory. According to the report, NARA destroyed 4,200 bound scientific notebooks and approximately 1.5 million pages of correspondence and technical memos.

The records covered the development of radar and sonar and the early days of the U.S. space program. The NARA investigation blamed a breakdown in communication between the Archives and the Navy. The report said the Archives thought the records could be destroyed unless they met all the specified criteria for their retention, while the Naval Research Laboratory thought the records would be kept if any of the criteria were met.

Henceforth, NARA will send the originating agency a notice by certified mail when records are scheduled for destruction. The report is on the National Archives Web page at:

<http://www.nara.gov/records/nrlrept.html>

(Associated Press. "Archives error destroys naval records," *Washington Times*, 25 April 1998, A3.)

Controversial tobacco document pulled from congressional Web site

After mounting thousands of secret tobacco industry papers on their public Web site, the House Commerce Committee removed a controversial 104-page memo after R.J. Reynolds Tobacco Company officials objected it being made public.

The memo described how RJ R's lawyers suppressed research on the health hazards of smoking over a 30-year period. The Committee held back 400 documents from the public in response to tobacco industry pleas that the papers contained trade secrets or were entitled to confidentiality because they had been prepared by outside lawyers now working for

the companies.

Over 39,000 secret tobacco industry papers were released on the committee's public Web site after a Supreme Court decision upholding a Minnesota judge's ruling the papers should be made public. Subsequently, the committee posted the documents online at <http://www.house.gov/commerce> (Weinstein, Henry. "Tobacco Memo Pulled from House Web Site," *The Washington Post*, 27 April 1998, A4.)

MAY

"Good and bad news" locating congressional hearings online

Finding Congressional committee hearings online is confusing because the House and Senate have gone their separate ways in providing electronic access to them. There is little consistency between committee Web sites, House and Senate information systems, and between GPO Access and THOMAS—the two main electronic gateways to Congressional information.

One bright spot is the Government Printing Office, which, in conjunction with the Senate, is putting up complete hearing records with transcripts, prepared statements, answers submitted to questions and other materials for three Senate committees—Appropriations, Environment and Public Works, and Governmental Affairs. Plans are underway to provide online hearing records for all Senate committee by the end of the year.

The author includes a table of the various activities of the committees and Congress outlines the "good news/bad news" about accessing these materials online. (McDonough, James. "Committee Hearings Online Present a Confusing Face," *Electronic Public Information Newsletter*, May 1998, 33-35.)

OMB oversight faulted on implementation of electronic freedom of information law

OMB Watch, a nonprofit research and advocacy group, released a report about federal agency implementation of the requirements of the Electronic Freedom of Information Act (EFOIA) amendments of 1996. The study indicates that, overall, agency compliance with the EFOIA amendments has been overwhelmingly inadequate. The three overriding reasons for this conclusion are the following:

1. Congress has not provided the necessary funding to implement the amendments.
2. The Office of Management and Budget has not provided adequate guidance or assistance to agencies during the implementation process.
3. By failing to comply fully with the EFOIA amendments, agencies have yet to make public access to government information a priority.

The report observes that, with agencies delaying implementation, the public is denied important access to electronic files. Unlike paper files, electronic data can be delivered instantaneously to the public through the Internet, making research easier and less time-consuming.

While critical of the majority of federal agencies, the report applauds several agencies or departments that have been exemplary at implementation of EFOIA. For example, the Department of Defense and the Federal Communications Commission maintain excellent home pages to make research easy and information accessible. The Small Business Administration and the National Science Foundation provide forms to submit FOIA requests online, accelerating the public's access to federal government information. Others such as the Veteran's Administration accommodate a variety of low-tech and high-tech users by using audio-visual and text-only sites. To receive a copy of the study, "Arming the People," contact OMB Watch at 202-234-8494. (McDonough, James. "OMB Watch Takes Feds to Task," *Electronic Public Information Newsletter*, May 1998, 38.)

Citizen tries to make patent database freely available

Carl Malamud, president of the nonprofit Internet Multicasting Service, has challenged the federal government to make the nation's patent and trademark data base freely available. In a letter to Vice President Al Gore and Commerce Secretary William Daley he said that he would make the data base available himself if the government fails to do so by July 1, 1998.

"I'm going to buy the trademark data and will build the user base as big as I can in a year," Malamud said. "At the end of the year, I'll pull the rug out from the users and give them Al Gore's e-mail address."

Malamud's organization has successfully mounted various other databases, including Securities and Exchange Commission documents and various databases, including information from the General Services Administration, the Federal Election Commission, the Federal Reserve Board, and the Government Printing Office. His organization ran the S.E.C. and patent databases for 18 months. Subsequently the S.E.C. took over the Web site which now receives more than 500,000 hits a day.

Regarding Malamud's latest initiative, Bruce Lehman, the commissioner of the Patent and Trademark Office, said, "We'd do this tomorrow if we had the funding. What Mr. Malamud wants to do is permit people to download the entire database. If he can do that we'd be out all \$20 million we now receive in fees. Why would anyone want paper?"

Dan Duncan of the Information Industry Association was also critical of the idea. "The government should be very cautious of going into the provision of new information services of this magnitude when there are already private providers in the marketplace." Malamud's "crusade" highlights the continuing dispute between those who advocate widely distributing government databases that are created at taxpayer expense and the thriving private information industry that remarkets and resells the information to business customers and libraries. (Markoff, John. "U.S. Is Urged to Offer More Data

on Line," *The New York Times*, 4 May 1998, D6.)

CIA urges Congress to reject release of secret American files on human rights violators

In testimony before a subcommittee of the House Committee on Government Reform and Oversight, CIA official Lee Strickland urged Congress to reject proposed legislation that would speed the release of secret American files. Such a release could help identify human rights violators throughout Latin America Strickland argued. He also said that under the proposed Human Rights Information Act, "sources will be imperiled and the mission of the CIA—to support the Congress and the president—will be disadvantaged." He asserted that the ability of the agency to recruit foreigners, gather secrets and do business was on the line. The legislation would require the CIA, State Department, Justice Department, Pentagon and other federal agencies to lean toward openness. (Reuters. "CIA Opposes Release of Secret Files," *The Washington Post*, 12 May 1998, A07.)

Census 2000 tests disappointing

The results of the "dress rehearsal" for the 2000 census were disappointing because only 53 percent of those receiving mailed questionnaires responded. Despite a major advertising campaign by the Census Bureau in the areas of California, South Carolina and Wisconsin, where the test was conducted, the returns fell far short of the hoped for 66 percent. Census officials said that many American resist attempts to be counted because of widespread distrust of government, especially among minority and immigrant groups. (Gribbin, August. "Compilers of 2000 Census Face Diminishing Returns," *The Washington Times*, 18 May 1998, A12.)

House urges President to make documents public

The House of Representatives passed a nonbinding resolution demanding that President Clinton make public all legal documents involved in his effort to

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invoke executive privilege in the Monica Lewinsky investigation, an assertion he has not even publicly acknowledged making before. The White House "brushed off" the House vote. White House spokesman James Kennedy said, "The President has and will continue to abide by his constitutional obligations."

The House voted 259 to 157 to approve the resolution which did not go as far as some wanted because it did not seek to limit the use of executive privilege in such circumstances. (Baker, Peter and Juliet Eilperin. "House Demands Clinton Release Executive Privilege Documents," *The Washington Post*, 22 May 1998, A16.)

Democrats join in urging President to cooperate with congressional investigations

A majority of House Democrats joined Republicans in urging President Clinton and Administration officials to cooperate more with a growing number of congressional investigations. At issue is the Administration's China policy a month before the president is to visit China on a state visit.

Presidential aides said that Clinton hopes to quell the rapidly escalating controversy over his approval last February of a waiver to U.S. policy concerning sending an American satellite into space on a Chinese rocket. White House aides said the president would divulge information, something his congressional critics said he has failed to do. The White House planned to send documents to the House that will show there was nothing wrong with the President Clinton's approval of the technology transfer. (Eilperin, Juliet and John Harris. "Democrats Ask Clinton's Cooperation In Probes," *The Washington Post*, 22 May 1998, A1.)

Intelligence agencies use "perception management program" to spread misinformation

Federal intelligence agencies are studying ways to use computers and the Internet to shape and disseminate information designed to form public opinion around the world. They are turning to

computers to develop more sophisticated ways of manipulating and delivering digital photos, video clips and recorded sound to portray fictitious events which can in turn be broadcast to foreign countries via the Internet.

For decades as part of its "perception management" program, intelligence agencies have created misinformation to try to cause political or military change without direct political or military involvement in countries where the United States has vested interests, such as Iraq and North Korea. The Office of Information Warfare, created in August 1996 with a staff of seven analysts, today has a staff of 100 and a dedicated collection team established within the Defense Intelligence Agency focused solely on information operations and information warfare.

An unidentified congressional staff member said use of the Internet and video editing tools as a way to shape public opinion in places such as Iraq "should be just another part of the intelligence toolkit." For example, intelligence agencies may wish to convince a world leader that a massive invasion is imminent by broadcasting manipulated video news clips showing the presence of a much larger military force than actually exists. The hope, said the congressional source, is that by "having such a capability, we would avoid having to actually deploy troops."

However, since the Internet knows no borders, there may be risks involved, including possible breaches of intelligence regulations which spell out what the intelligence community can and cannot do within U.S. borders. "Because it involves national security, the risks are worth it," the congressional source said.

Randall Whitaker, an analyst at the Air Force Research Laboratory, said delivering propaganda via the Internet is risky. By distributing those images globally via the Internet, Randall wondered, "Who's more at risk: the deceivers or the receivers?" (Verton, Daniel. "Spies turn to high-tech info ops: PCs, Internet used for manipulating images, public opinion," *Federal Computer Week*, 25 May 1998, 1.)

Classified report is central to congressional resolution

According to an Air Force intelligence assessment, a classified report is central to the accusations that concluded that U.S. security was harmed when engineers from Loral Space and Communications gave the Chinese a technical study on the cause of the crash in 1996 of a Chinese rocket carrying an American satellite.

Officials of the Department of Defense have refused to make the report available to Congress, or elaborate publicly on what kind or how much damage was done to U.S. security, citing an ongoing Justice Department investigation into the case. The absence of details has left an opening for many heated assertions. The House of Representatives voted 364 to 54 to bar further U.S. satellite exports to China, but those arguing that a damaging transfer of space launch technology has occurred have only fragments of evidence. (Graham, Bradley. "Chinese Missile Gain Questioned," *The Washington Post*, 31 May 1998, A1.)

JUNE

Federal government slow in fixing possibility of Year 2000 computer breakdowns

The federal government is facing a significant risk of critical computer breakdowns because several Cabinet agencies have slowed in their progress on computer repairs for the Year 2000.

For example, the Department of Health and Human Services faces a shortage of skilled programmers to work on Medicare computers. The Defense Department has found problems that are thwarting quick repairs to the software that plans certain missile missions. The Treasury Department is facing uncertainty with the system that processes government-wide financial data because of scheduling delays involving a private-sector contractor.

The government's pace of repair work has alarmed many computer industry analysts and has come under

attack by Republicans on Capitol Hill.

Representative Steve Horn (R-CA), chair of a House subcommittee that has been examining the Clinton Administration's Year 2000 efforts, asserted that the current rate of repairs means that more than 40 percent of the critical systems will not be fixed by a March 1999 deadline set by the White House. Technology specialists warn that government computer crashes could ripple through society. (Chandrasekaran, Rajiv and Stephen Barr, "Agencies Note Difficulties in Speeding Fix of 2000 Computer Bug," *The Washington Post*, 3 June 1998, A2.)

Intelligence agencies fail to forecast India's nuclear explosions

According to CIA Director George Tenet, U.S. intelligence agencies and policy makers failed to forecast India's nuclear explosions in May in large part because of a "mind-set" that led officials to conclude that the Indian government would not risk the consequences of fulfilling a campaign promise to conduct tests. Clinton Administration officials learned of the tests when they were announced by the Indian government.

Tenet appointed Retired Admiral David Jeremiah to head a review panel to investigate why American's multibillion-dollar spy agencies failed to predict India's first nuclear tests in 24 years. Jeremiah told a news conference that the country's spy agencies should have ordered "increased coverage" of India after a hard-line party came to power in March. Calling the lapse "a serious problem," Jeremiah said his report offered a series of recommendations for more efficient management of the 13 agencies that make up the U.S. intelligence community. He said no officials should be fired for the failure. While he summarized some of his findings for reporters, the report was classified. (Pincus, Walter. "Spy Agencies Faulted for Missing Indian Tests," *The Washington Post*, 3 June 1998, A18.)

Former Secretary of Energy cites reprisals against whistleblowers

During a May 19 deposition in connection with a lawsuit by an Energy Department whistleblower, former Energy Secretary Hazel O'Leary acknowledged long-standing practices of reprisal against whistleblowers. "Once they have raised a concern or an allegation with respect to safety or integrity, they find themselves facing a very strong and impenetrable stone wall," O'Leary said. Typically, whistleblowers were called "the crazies" and had their security clearance withdrawn, thus inhibiting the individuals from working in other federal entities or for contractors. O'Leary said she tried to eliminate retaliation against whistleblowers during her tenure.

The lawsuit involves Joseph Carson, a safety manager and critic of the agency, who sued to prevent his transfer from the Department of Energy's nuclear facility in Oak Ridge, TN to Germantown, MD. According to his attorneys and the Government Accountability Project, Carson investigated and criticized the closing and erasing of files on documented safety deficiencies at Oak Ridge, as well as suppressing of findings of a "chilled atmosphere" about reporting safety concerns at the facility. The hearing will continue at the end of June in District of Columbia District Court. (Shuey, P.J. "Former Energy Chief Defends Whistleblower," *Federal Times*, 8 June 1998, 9.)

Obey decries difficulty in finding accurate pending bill

According to a *Roll Call* editorial, when the transportation bill came to the House floor in April, it was impossible for anyone to tell from published documents what was and was not in the bill. According to Representative David Obey (D-WI), only one accurate copy of the bill existed. It was in the House Rules Committee where Members would go to page through it to find out whether their pet projects were included or not. Citizens and the press were purposely left in the dark except when Members of Congress made the information public.

Obey observed, "Knowledge is power and the lack of knowledge is powerlessness. If only the inside fixers know what is going on, you might as well not have a Congress." According to *Roll Call*, "If knowledge is power and power corrupts, then what we have in Congress is info-corruption, especially when Congress's information practices are measured against the promises of openness solemnly enunciated when the GPO first took power." ("Info-Corruption," *Roll Call*, 8 June 1998, 4.)

Government Performance and Results Act information questioned

According to House Republican leaders, the Government Performance and Results Act has not produced reliable information for Congress to use in budget or policy decisions. The 1993 statute was intended to show taxpayers what they get for their money as federal agencies develop "strategic plans," set goals, develop measures of progress and write annual reports on how well they performed.

In a letter to the White House, Republican leaders expressed fear that the reform effort could end up as just another bureaucratic paperwork drill. They also said that too many agencies lack data about their programs, such as payment error rates or timeliness of service, making it difficult to plan reasonable steps to improvement.

House Democrats contend that Republicans played politics with the Results Act this year by handing out failing grades to most agencies in an attempt to embarrass the Administration and Vice President Gore as he prepares for the 2000 presidential campaign. (Barr, Stephen. "GPO Sees No Results in Results Act," *The Washington Post*, 9 June 1998, A4.)

MORE ACCESS DURING THE SAME PERIOD

Department of Energy will adopt "culture of openness"

U.S. Secretary of Energy Federico Pena announced that the culture of keeping secrets in the Department of Energy will end and a "culture of openness" will

be adopted. Hundreds of thousands of declassified documents were released and two new rule changes were announced that will expand and streamline whistleblower protection for contract employees.

Energy officials said the classification reform will reverse a Cold War-era rule that automatically classified all information relating to the department's nuclear program. As a result of this rule, the number of classified documents would make a pile 23 miles high if placed in one stack. Shoddy record keeping makes it expensive and difficult to find many documents. (Trimble, Steven. "Pena Declares End to Secrecy at Energy," *Federal Times*, 12 January 1998, 9.)

FCC requires long-distance carriers to provides information about rates

The Federal Communications Commission acted to require long-distance carriers, beginning July 1, to notify pay telephone users of their rate before the call is connected. High prices for pay phone long-distance calls are among the FCC's biggest source of complaints, having received 5,000 angry letters on the topic in the past two years. The agency cited complaints of rates upwards of \$5 per minute and higher.

However, the new regulations will not necessarily result in lower pay phone rates. Because pay phone providers compete to offer service in airports, hotels, restaurants and other locations, they must promise ever higher commissions, which leads to higher rates. "Unfortunately, operator services from pay phones are a rare example of competition leading to higher prices for consumers," said FCC Commissioner Gloria Tristani. (Mills, Mike. "Long-Distance Pay Phone Rates Must Be Disclosed," *The Washington Post*, 30 January 1998, G1.)

Department of Justice agrees to release FBI crime lab reports

The Department of Justice agreed to release some 200,000 pages of FBI crime lab reports and pay \$300,000 to settle a lawsuit with veteran FBI agent and lab chemist Frederic Whitehurst. The settlement

was in response to Whitehurst's claim that the Department spread false and derogatory information about him for being a whistleblower. He promises to use the documents to search out errors in the FBI laboratory's past work.

Whitehurst, 50, gained notoriety when he publicly criticized the lab's handling of evidence in several major cases, including the World Trade Center and Oklahoma City bombings. In April he reached a \$1.16 million settlement with the FBI for legal fees and the annual payments he would have earned had he reached the normal FBI retirement age of 57. As part of the settlement, Whitehurst voluntarily resigned from the agency. He is now leading a project at the National Whistleblower Center, an advocacy and research group in Washington, D.C.

The government did not acknowledge and wrongdoing in either settlement. While the Justice Department's inspector general found that many of Whitehurst's allegations could not be substantiated, enough of his criticisms proved accurate to require substantial changes in laboratory policies and practices. (Suro, Roberto. "Whistle-Blower to Get Documents," *The Washington Post*, 12 March 1998, A13.)

CIA releases Bay of Pigs report after 37 years of secrecy

After 37 years of secrecy, the Central Intelligence Agency's internal report has been released on the fiasco at the Bay of Pigs in April 1961.

The CIA's top-secret report on what went wrong with the U.S.-sponsored invasion of Cuba is a case study of the costs of secrecy. Written by Lyman Kirkpatrick, the 150-page report represented the agency's only investigation of the swift defeat of the CIA-organized brigade of 1,500 Cuban exiles. For years, not a word of the report, "The Inspector General's Survey of the Cuban Operation," was declassified.

According to the article, CIA Director George Tenet deserves credit for declassifying the controversial document. The CIA has moved to exempt some 100 million pages of documents from

its massive secret archives as a result of President Clinton's 1995 executive order that all national security documents more than 25 years old be declassified. Says the author, "By holding history hostage to the dictates of secrecy, the CIA effectively refused to address its mistakes and denied the American people the ability to learn those lessons as well." (Kornbluh, Peter. "The CIA Secret Kept for 37 Years," *The Washington Post*, 15 March 1998, C1.)

Vice President announces expansion of community right to know about toxic chemicals

On April 21 Vice President Gore announced a major expansion of every community's right to know about potentially harmful chemicals released into the air, land and water. Three new initiatives will accelerate the collection and dissemination of basic public health data on the most commonly used industrial chemicals and require closer scrutiny for those posing the greatest risk to children.

"The public needs to know more," Vice President Gore said. "People have a right to basic health effects data about chemicals they may be exposed to at home, at work or in the environment...Yet for the majority of industrial chemicals, these data are simply not available." The administration will implement measures to fill the data gaps. (The White House, Office of the Vice President. "Toxics: Expanding The Public's Right to Know," 21 April 1998.)

Archivist announces measures to make it easier for public contributions to archival decisions

Archivist of the United States John W. Carlin has announced measures to make it easier for the public to contribute to decisions about which government agency records are worth keeping and for how long. The measures include the following:

- ◆ *Federal Register* notices from the National Archives and Records Administration requesting public comments on records proposed for destruction will be more informative and

descriptive,

- ◆ The public will have more information on which to evaluate proposals and make comments, and
- ◆ The public may now request not only copies of the disposal schedules themselves but also copies of appraisal memorandums prepared by NARA staff members, and evaluations that contain additional information concerning the nature and value of the records covered by a proposed schedule.

While no federal records are authorized for destruction without the approval of the Archivist of the United States, Carlin says, "Now we are making it easier for records users in the public to making sound contributions about what to 'sort out.'" (Carlin, John W. "Which Records Should We Keep? How the Public Can Help Decide," *The Record: News from the National Archives and Records Administration*, May 1998, 3.)

GAO report shows lobbyists disclosure law working

A General Accounting Office report shows an increase of nearly two and a half times the number of organizations and individuals that have registered as lobbyists since the enactment of the Lobbying Disclosure Act of 1995. GAO found that the law—passed to close loopholes and improve disclosure—forced 10,612 new lobbyists to disclose their activities during the first year the law was in effect.

Senator Carl Levin (D-MI), who authored the reform, said, "The new law provides a much more complete picture of who is lobbying whom on what issues and for how much money. The dramatic increase in registration brings much needed sunshine to the lobbying business." (Contiguglia, Francesca. "GAO Finds That Lobbyist Registration Has Soared," *Roll Call*, 14 May 1998, 14.)

Wartime Japanese ambassador acts as unwitting source of information to Allied forces

Documents recently released by the National Archives and Records Administration show how

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Japan's wartime ambassador to Germany was an unwitting source of critical information to the United States.

From 1941 until the fall of Berlin, the reports Ambassador Hiroshi Oshima telegraphed to the Foreign Office in Japan were intercepted by the United States. These reports provided a methodical accounting of German defenses along the Atlantic coast in the critical months leading to the Allied invasion along the coast of Normandy. The reports were intercepted, decoded, translated and delivered to U.S. military leaders within hours.

The transcripts of the intercepts, marked "Top Secret Ultra," are part of a bonanza of World War II secret files declassified by presidential directive over the past several years. The information that Oshima provided supplemented other data the Allies received from German cable traffic which has not been declassified. (Fenyvesi, Charles. "Japan's Unwitting D-Day Spy," *The Washington Post*, 26 May 1998, A10.)

White House urges agencies to use plain language in government writing

The White House issued a memorandum to the heads of executive departments and agencies directing them to make the use of plain language in government writing a top priority. The statement said that using plain language sends a clear message about what the government is doing, what it requires, and what services it offers. "Plain language saves the government and the private sector time, effort, and money." The National Partnership for Reinventing Government will issue guidance to help government employees comply with the directives and to explain more fully the elements of plain language. (The White House. Memorandum for the Heads of Executive Departments and Agencies, "Plain Language in Government Writing," 1 June 1998.)

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.

The COGI James Madison Awards *honor champions of the public's right to know*

The James Madison Award, presented annually by the Coalition on Government Information, honors those who have championed, protected and promoted public access to government information and the public's right to know. It is presented on Freedom of Information Day, March 16, the anniversary of the birth date of President James Madison. The Coalition on Government Information was established by the American Library Association in 1986. The Coalition's 50 member organizations share a concern for loss of public access to federal government information.

Recipients of the James Madison Award:

- 1998 Ben Bagdikian, journalist, Wayne P. Kelley, former Superintendent of Documents of the Government Printing Office, Eliot Christian and the U.S. Geological Survey, National Library of Medicine
- 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 James Madison Award and for honorary citations in December of each year. Send nominations to:

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