

**Hearing on
The State of FOIA: Assessing Agency Efforts to Meet FOIA Requirements**

**Subcommittee on Information Policy, Census, and National Archives
Committee on Oversight and Government Reform
United States House of Representatives**

Statement of Meredith Fuchs, General Counsel, National Security Archive

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Chairman Clay, Ranking Member Turner and Members of the Subcommittee on Information Policy, Census and National Archives, I'm honored to appear before you today to speak in favor of efforts to strengthen the Federal Freedom of Information Act.

I am testifying on behalf of the National Security Archive (the "Archive"), a non-profit research institute and leading user of the FOIA. We publish a wide range of document sets, books, articles, and electronic briefing books, all of which are based on records obtained under the FOIA. In 1999, we won the prestigious George Polk journalism award for "piercing self-serving veils of government secrecy" and, in 2005, an Emmy award for outstanding news research.

In my five years at the Archive, I have overseen five audits of federal agency FOIA processing, including two that identified the ten-oldest pending FOIA requests in the federal government and one that examined the proliferation of sensitive but unclassified information labeling policies. Through those audits, through my colleagues' FOIA requests, through litigation, and through training federal agency FOIA officers, I have learned about both the good and the bad of the Freedom of Information Act.

Let me briefly touch on some of the good news. FOIA makes a difference. It empowers citizens to learn about their government and engage in informed advocacy and voting. Attached to my written testimony is a list of almost 100 selected news stories from the last several years that are based on records released under FOIA. These stories demonstrate the power of FOIA to shake loose vital information about government operations and public health and safety. For instance, journalists and concerned citizens have used FOIA to show that more than 80 military recruiters were disciplined in 2005 for sexual misconduct with potential enlistees; that DOJ is owed \$35 billion in litigation fees and billions more in unpaid penalties against corporations for safety and environmental violations; that federal inspections showed levels of salmonella bacteria in ground turkey produced at one company's plants more than twice the national average; that Interior Department officials disregarded recommendations from government biologists about protecting eight endangered species; and, that a DOD prime vendor program allowed some contractors to set their own prices for products sold to the Pentagon, including \$20 each for ice cube trays and \$1000 for toasters and popcorn makers. I ask you to look at the list and get a sense of the range of issues that get attention as a result of citizens using FOIA to find out about how their government agencies are addressing matters of public concern.

Now, let me tell you the bad news. The FOIA system remains plagued by inefficiency, delay and sometimes outright obstruction. Despite many outstanding people administering FOIA programs throughout the government – and they deserve praise for their work – there are far too many FOIA offices that fail to live up to the expectations of

the law and the needs of the taxpaying public. Unfortunately, the FOIA statute does not provide the needed incentives to improve those poorly functioning FOIA programs.

As you know, the FOIA requires agencies to process requests within 20 business days. In 2003 the Archive conducted an audit that identified unprocessed FOIA requests as old as 16 years.

(<http://www.gwu.edu/%7Ensarchiv/NSAEBB/NSAEBB102/press.htm>) When we repeated the audit in 2005, we found requests as old as 17 years.

(<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB182/press.htm>) One of the oldest requests identified in both audits was submitted in 1989 by a graduate student at the University of Southern California asking the Defense Department for records on the U.S. "freedom of navigation" program. So much time had elapsed that the requester, William Aceves, is now a full professor at California Western School of Law. Other oldest requests identified by those two audits were languishing at the Federal Bureau of Investigation, the Central Intelligence Agency, the Air Force, the Department of Energy and the National Archives and Records Administration. In January we began another 10 oldest audit and already we have found requests more than 10 years old.

Addressing delays will require a combination of (1) **better reporting**, so problems are identified before a decade elapses; (2) **better tracking** of requests by agencies, so that problems in the system can be fixed; (3) **better leadership**, including from the Chief FOIA officers appointed as a result of Executive Order 13,392; (4) **more resources**, including perhaps requiring agencies to fix FOIA budgets as a percentage of

their growing public affairs' budgets; and (5) **penalties for delay**, including perhaps disallowing agencies from collecting any processing or duplication fees if they cannot meet the 20-day deadline.

Better reporting is an essential part of the package. FOIA annual reports do not permit Congress to conduct quality oversight, do not permit agency managers to identify problems and improve processing, and do not permit the public to press for responses. For example, remember Professor Aceves' 17-year-old FOIA request? You would never have imagined that the "Freedom of Navigation" request, the oldest pending at Department of Defense in Fiscal Year 2005, could have existed if you looked at DOD's FY 2005 annual report and read that DOD's "median processing time" in that year was 15.5 business days for simple requests and 85 business days for complex requests. (<http://www.dod.mil/pubs/foi/FY2005report.pdf>) That is a lot shorter than the over 4000 business days that Professor Aceves "Freedom from Navigation" request had been pending. The data is simply misleading.

Similarly, the Veterans Administration reports some of the shortest processing times of any federal agency. Even though it claimed in FY 2002 that its median processing time was between 4 and 24 days, the agency was not able to respond within ten months to the Archive's simple request for VA's ten oldest pending FOIA requests. (<http://www.va.gov/foia/report/FY2002/Compliance.html>) The disconnect between VA's annual report data and our experience with VA's processing of FOIA requests is partly due to the fact that the VA aggregates its FOIA request data with its Privacy Act request

data. The Privacy Act requests include the easy to find and easy to release records sought by individual veterans about themselves. The problem is that the annual reports make it look like VA has the highest FOIA caseload and the quickest processing times. That is not the reality.

The data are also misleading because each agency uses different standards in terms of when they will begin counting the days between receipt of a FOIA request and response to a FOIA request. Agencies have many ways to delay the running of the clock on their 20 day response time. Fee status disputes are one of the most prevalent tactics. Take the example of Dr. Jeffrey Richelson, a noted author of 10 books and numerous articles regarding the organization and operations of the U.S. intelligence community, U.S. military space activities, and presidential national security directives. Starting in 2001, agencies began challenging his news media status. In every case he was successful in obtaining news media status, but the dispute created prolonged delay in his work. In the case of the Central Intelligence Agency, the matter took 7 ½ months to resolve. In the case of the National Security Agency, the dispute held up his request for 6 months, and he later was again denied news media status by the NSA. In the case of the Department of Energy Albuquerque Operations Office, the process took 8 months between Dr. Richelson's assertion of news media status and resolution of the issue. Chances are that none of these agencies started running their response time until after these disputes were resolved.

I urge the subcommittee to require better, more reliable reporting, including requiring data on: average processing times, range of processing times, oldest pending requests, the number of requests abandoned by requesters due to delay, the number of requests rejected because the records are operational files, the number of expedited requests received, the number denied, and the processing times for expedited requests. In addition, the subcommittee should require more standardized reporting, including measuring response time from receipt of the FOIA request and disaggregating FOIA requests from Privacy Act requests.

I assure you, such transparency and exposure will have an impact. Just to lighten the mood a bit I wanted to let you know that this month we learned Professor Aceves' highly-publicized FOIA request is finally complete 17 years after it was filed. DOD's FOIA staff even wrote an "Ode to Freedom from Freedom of Navigation" in honor of the completion of the processing of the request!

What about tracking? Can it make a difference? Our audits exposed serious backlog problems with the Air Force. When we sued, we learned that the Air Force had no system-wide tracking system – so there were no tools in place to manage FOIA requests, even if they had wanted to. We also learned that many FOIA requests were simply thrown out or lost. We were able to persuade a federal judge to find that the Air Force has a "pattern or practice" of not processing FOIAs. Just last week when we tried to file a FOIA request with the Air Force Materiel Command, we discovered that the fax number listed on the Air Force FOIA Web site for submitting a request to Materiel

Command is actually the phone number for a patient room in a hospital maternity and delivery ward. We could not locate a proper fax number anywhere despite extensive research. After we finally managed to get the request forwarded to the Air Materiel Command FOIA office, we were told that it would be forwarded to all Materiel Command components because the main FOIA office does not keep track of all requests to Materiel Command components. Obviously, with a system like that, tracking won't solve the problem. It will, however, enable FOIA requesters and agency managers to identify where the problems lie and take steps to fix the problems.

As if it were not hard enough for your ordinary FOIA requester to get attention in this system, when a requester seeks to pursue the matter and litigate a denial, the agencies play games that waste requester and taxpayer resources. For example, in 1990 the Archive won a lawsuit against the CIA in which a federal court found that the Archive is to be treated as a representative of the news media for the purpose of charging processing fees. For 15 years the CIA abided by that ruling. Suddenly and without explanation, starting in October 2005, the CIA took the position that it – and not the media – was entitled to decide what was “newsworthy.” The CIA then began to deny the Archive's requests for news media status. We tried to administratively appeal the denials, but the Agency refused to accept the appeals. Finally, we sued in federal court. Only after a complaint and motion for summary judgment had been filed by the Archive in the United States District Court for the District of Columbia did the CIA purport to reverse its determinations for the 42 FOIA requests at issue, but even then the CIA fell short of committing to abide by controlling judicial precedents.

Now the CIA is arguing that the case is moot and the court should not issue a ruling. Next they will argue we are not entitled to attorneys' fees under FOIA's private attorney general provision that allows successful FOIA litigants to receive the attorneys' fees incurred in bringing the litigation. In essence, the CIA wasted money and time for the Archive, the Department of Justice lawyers who had to defend the Agency, and the judicial system, because there is nothing in the FOIA statute to require the Agency to take a responsible legal position until they get worried that a court might rule against them. Instead, they were able to simply delay for nine months and then change their position at the last minute. This is only one of many similar stories I have heard from people who have tried to enforce their rights through the judicial system. I urge this subcommittee to pursue FOIA attorneys' fees reform and support, with some minor changes, the language introduced in the Restore Open Government Act of 2005, H.R. 2331 109th Cong., 1st Sess. (2005).

There are many other changes to the FOIA system that could improve processing and end delay. Innovations such as requiring agencies to receive FOIA requests and send FOIA responses electronically, to provide an index of denied records to requesters, to set up a more independent administrative appeal system within each agency, to establish interagency processing arrangements, to proactively post electronically records that are likely to be requested under FOIA, and to make focused technology investments, all could contribute to improving FOIA administration.

Some of these ideas are identified in the Agency FOIA Improvement Plans issued pursuant to Executive Order 13,392, entitled “Improving Agency Disclosure of Information,” issued by President Bush. At the Archive, we have read each one of the 91 FOIA Improvement Plans published by agencies. Upon reading the Attorney General’s Report to the White House summarizing those plans, we responded with grave concern that the Report failed to acknowledge that many of the admirable goals set by the agencies can only be met with an increased commitment of resources – a commitment that the Executive Order makes clear is not being considered by the Administration. Further, many of the most intractable interagency problems, such as the sending of FOIA requests to other agencies on referral or for consultation, are not addressed at all, thus highlighting the absence of any cross-agency authority over FOIA policy matters. (<http://www.gwu.edu/~nsarchiv/news/20061019/index.htm>) The Executive Order is useful because it forced agencies to examine their programs – and some agencies used the opportunity to conduct serious evaluations. For example, despite the issues I raised about delay at the Department of Defense, it is clear from their improvement plan that they are on the right track, including examining tracking, training, professionalizing their personnel, and technology. But it is also clear that they can only do what they envision with high level support and some funding. In some cases, problems will not be solved unless Congress mandates solutions. Thus, I urge you to pursue FOIA reform and continue to conduct focused oversight activities to help create a truly transparent and accountable government.

**FOIA IN THE NEWS:
HEADLINES MADE POSSIBLE BY FOIA, 2003-PRESENT
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THE NATIONAL SECURITY ARCHIVE
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“Despite security defects, FRA hands out few violations,” *Pittsburgh Tribune Review*, January 14, 2007.

Documents provided by the Federal Railroad Administration in response to a Freedom of Information Act show that from October 3, 2003, to October 6, 2005, FRA inspectors conducting inspections in 42 states wrote 793 reports detailing 4,997 security defects at rail yards, chemical plants and warehouses owned by 525 corporations. According to the documents, only one out of every 173 companies with defects ever receives a “violation” or enters into a long “enforcement action” process. Not all of the defects are serious. However, in almost 9 out every 10 reports, FRA inspectors found no security plans at all or large sections missing, despite federal regulations three years ago mandating the creation of such plans. Additionally, in 61 percent of the facilities receiving planning defects, the FRA found no evidence that employees received mandatory training on how to secure hazmat, report suspicious behavior, or survive a terrorist attack.

“HAFB has bit role in \$\$ scandal,” *Deseret Morning News* (Salt Lake City, UT), January 14, 2007, by Lee Davidson.

A report obtained by the Deseret Morning News through a Freedom of Information Act shows that Hill Air Force Base was an unwitting player in a Pentagon spending scandal that cost taxpayers millions of dollars. The report shows that former top Air Force acquisitions officer Darlene Druyun hurried Hill into approving contract changes that gave Boeing \$4.5 million too much. The changes came as Boeing had given jobs to Druyun’s daughter and son-in-law. Boeing later gave a \$250,000-a-year job to Druyun herself. The scandal led to Druyun’s imprisonment, the removal of two top Boeing corporate leaders, jail time for one, and a \$516 million fine for Boeing. As a result of the findings in the new report, the Defense Department Inspector General recommends that no future contract revisions be finalized until the Defense Contract Audit Agency issues its final report and evaluation on proposed price increases.

“Leak Probes Stymied, FBI Memos Show,” *The New York Sun*, January 10, 2007, by Josh Gerstein.

More than 300 pages of FBI leak investigation files released to *The Sun* under the Freedom of Information Act show that lack of cooperation from one or more intelligence agencies led the FBI to abandon several recent criminal investigations into leaks of classified information to the media. The documents provide insight into the Bush administrations efforts to combat leaks of classified information. They also illustrate how the “much-vaunted” full cooperation between the FBI and other intelligence agencies has failed to materialize, at least in the case of leak investigations.

“Report: Officers could have prevented crash,” *The Evening Sun* (Hanover, PA), November 28, 2006, by Melissa Nann Burke.

A report obtained through a Freedom of Information Act request showed that pilot error and commanders’ inadequate supervision led to a February 17, 2006, helicopter accident that killed 10 U.S. service people. The Marines announced in November that they have made changes to prevent similar incidents.

“Activists say rulings imperil species,” *The Salt Lake Tribune*, November 1, 2006, by Joe Baird.

An Interior Department Official has come under fire from environmental groups for disregarding recommendations from the U.S. Fish and Wildlife Service to protect as many as eight threatened animal, fish and plant species under the Endangered Species Act. According to documents obtained by conservation groups under the Freedom of Information Act, Interior Deputy Assistant Secretary Julie MacDonald has rejected, reversed, or

altered findings of Fish and Wildlife biologists. Environmental groups have called for the Department to reject MacDonald's decisions so the agency can do the reviews it has already determined are necessary.

“Science slighted in CDC awards; Cash bonuses at troubled health agency frequently go to bureaucrats instead of researchers,” *The Atlanta Journal Constitution*, September 17, 2006, by Alison Young.

Documents obtained by the Atlanta Journal-Constitution under the Freedom of Information Act show that the most frequent large cash awards and performance bonuses awarded at the Center for Disease Control went to non-scientists working at the agency. Critics claim that the distribution of the awards is evidence that the CDC is becoming more focused on management and bureaucracy instead of its public health mission. Low morale in the agency and the loss of key scientific leaders has caused concern among several of the agency's former directors and has drawn the attention of a congressional committee. The fear is that turmoil in the agency will hamper its ability to handle public health emergencies.

“Sexual Abuse by Military Recruiters,” *CBS News/Associated Press*, August 20, 2006.

A six-month Associated Press investigation found that more than 80 military recruiters were disciplined in 2005 for sexual misconduct with potential enlistees. Records obtained by the AP under several Freedom of Information Act requests showed that at least 35 Army recruiters, 18 Marine Corps recruiters, 18 Navy recruiters, and 12 Air Force recruiters were disciplined in 2005 for sexual misconduct or other inappropriate behavior. This is significantly more than the cases reported in the past decade. Congressman Ike Skelton of Missouri called such behavior unacceptable and proposed the adoption of a military-wide “No One Alone” policy, which would prohibit recruiters from being alone anywhere with female enlistees. He also said he would seek an Armed Services Committee hearing to explore new penalties for military recruiters who violate the military code.

“Missouri base leads military in “don't ask, don't tell,” discharges,” *Associated Press*, August 14, 2006, by Nancy Zuckerbrod.

Documents obtained through the Freedom of Information Act by the Service Members Legal Defense Network, a legal advocacy group that advises military personnel on its policies towards homosexuals, show that Fort Leonard Wood (Missouri) used the “don't ask, don't tell” policy to discharge more soldiers than any other military installation in 2005. According to the documents, sixty people were dismissed in 2005. This number was up from 40 discharges in 2004. According to the Pentagon, there were a total of 726 military members discharged under the policy in 2005, up 11 percent from the previous year.

"Amid Strife, Abramoff Had Pal at White House," *Los Angeles Times*, May 11, 2006, by Peter Wallsten, James Gerstenzang, and Tom Hamburger.

Lobbyist Jack Abramoff, who has recently pled guilty to fraud and tax evasion in connection with secret kickbacks from Indian tribe activities, had regular contact with a high-ranking official at the White House, according to documents released under the Freedom of Information Act. The Office of Management and Budget released a series of friendly e-mails between Abramoff and David H. Safavian, the former White House chief of federal procurement policy who was charged with perjury in conjunction with the federal investigation into Abramoff's lobbying activities last year. Safavian offered sympathy to Abramoff after the scandal over his improper lobbying tactics broke, and at one point offered to help Abramoff with "damage control" and told him that "you're in our thoughts." It appears, however, that Safavian was not Abramoff's only connection in the White House. Documents released by the Secret Service recently show that Abramoff made at least two official visits to the White House, and it is believed that he was there on a number of other occasions, including when he is shown in a photo with President Bush.

"Did Daley make him the fall guy? Water department's boss OK'd probe of scam, then lost job," *Chicago Tribune*, May 5, 2006, by Gary Washburn.

Chicago Water Management Commissioner Richard Rice was fired after a probe uncovered a timesheet scam by nine employees in Rice's department. According to a confidential document obtained under the Freedom of Information Act, however, it was Rice himself who approved the probe, tracking payroll irregularities involving nine workers. Some have suggested that Rice may have served as a scapegoat, who was fired to demonstrate that the mayor is living up to his promises of being tough on corruption.

"Yellowstone considers wireless tower expansion," *Centre Daily Times* (State College, PA), May 4, 2006, by Rita Beamish, The Associated Press.

Officials of Yellowstone National Park are preparing to expand the availability of cellular phone service inside the park, according to records of a meeting last year with telecommunications companies who would like to operate in the park, which were released under the Freedom of Information Act. The AP, which obtained the documents pursuant to a Freedom of Information Act request, said that park officials asked them to identify sites where wireless towers or other equipment would have the least visible impact on visitors after vigilant watchdog groups alleged that cell phone service in the park would mar the quiet of the landscape there. Because the park attracts more than 2.8 million visitors annually, the companies have pressured park officials to allow them to provide service there in order to get an edge in the competitive market.

"Few Punished in Abuse Cases," *The New York Times*, April 27, 2006, by Eric Schmitt.

A report compiled by several human rights groups, based on tens of thousands of documents released under the Freedom of Information Act, finds significant failures in government efforts to investigate and punish military and civilian personnel engaged in abuse of detainees in Iraq, Afghanistan, and Guantanamo Bay. According to the documents reviewed for the report, 410 individuals have been investigated, but only about one-third have faced any disciplinary action. The report recommends, among other actions, that the Senate should deny promotion to any officer who has been implicated in an abuse case.

"Washington owed billions of dollars: Fraction of fines actually get paid; Penalties get axed, ignored, forgotten," *Kansas City Star*, March 19, 2006, by Martha Mendoza and Christopher Sullivan, the Associated Press.

An investigation by the Associated Press using records obtained under the Freedom of Information Act uncovered a huge increase in the amount of unpaid federal fines owed by individuals and corporations. In some cases, large penalty fines have been avoided or reduced through negotiations, because companies go bankrupt before the fines are paid, or because federal officials often fail to keep track of who owes what in the highly-decentralized collection system. According to the AP analysis of financial penalty enforcement figures across the federal government, the government is owed billions of dollars including, for instance, more than \$35 billion in fines owed to the Justice Department from criminal and civil cases as well as billions of dollars in penalties charged against energy and mining companies for safety and environmental violations. In addition to unpaid fines, AP found countless fines that were paid, but in a significantly reduced amount. For example, the government sought to assess a fine in the amount of \$60 million for "commercial fraud" against one large corporation, but the case ended with only a \$15,000 collection by Customs after the company challenged the government's claim.

"IRS audited group after criticism," *Fort Worth Star-Telegram*, February 27, 2006, by R. Jeffrey Smith, *The Washington Post*.

The Internal Revenue Service conducted an audit of the nonprofit group Texans for Public Justice, which had openly criticized the campaign spending of former House Majority Leader Tom DeLay. The audit was requested by Rep. Sam Johnson, a member of the Ways and Means Committee and an ally of DeLay. The group's founder, Craig McDonald, used the Freedom of Information Act to determine the circumstances that prompted the audit;

the released materials included a letter from Johnson to IRS Commissioner Mark Everson, asking him to report the results of the audit directly to the congressman. The IRS auditors, however, found no tax violations by the group.

"Report Slams UCI's Kidney Transplant Care," *Los Angeles Times*, February 16, 2006, by Charles Ornstein.

An investigation into the kidney transplant program at UCI Medical Center in Orange County in December 2005 aided by documents released under the Freedom of Information Act found that the hospital failed to ensure that all staff completed required training, and did not institute federally-mandated patient care reviews and oversight, including monitoring the diets of organ donor recipients. UCI hospital shut down its liver transplant program last year, after an investigation by The Times revealed that more than 30 patients had died waiting for organs, although the hospital turned down numerous donors.

"Pentagon accused of ignoring waste allegations; At issue is a program that lets vendors set their own prices; Defense said the program worked," *Philadelphia Inquirer*, January 24, 2006, by Seth Borenstein.

Documents acquired by Knight Ridder under the Freedom of Information Act show that a retired Army Reserve officer, Paul Fellencer Sr., tried to expose as much as \$200 million in wasteful spending, but Pentagon officials casually dismissed his claim and claims of several others. The whistleblower alleged that a multibillion-dollar Pentagon prime vendor program used middlemen who set their own prices to purchase certain equipment for use by the Defense Department. DOD apparently bought kitchen equipment through the program, spending as much as \$20 each for ice cube trays that retail for less than a dollar, \$1000 for toasters and popcorn-makers, and \$5,500 for a deep-fryer (which other government agencies bought for only \$1,919). Fellencer documented the prime vendor program spending in detailed spreadsheets, and provided the data to officials at a Pentagon fraud hotline. After an eight-hour investigation, officials declared the tip "unsubstantiated," and dismissed it, according to the recently released documents.

"Mentally Unfit, Forced to Fight," Series published in *The Hartford Courant*, May 14-17, 2006, by Lisa Chedekel and Matthew Kauffman.

Based on pre-deployment screenings, military investigative records and interviews with families, The Hartford Courant revealed that the military is increasingly sending, keeping and redeploying mentally troubled troops into combat. This practice is in violation of the Pentagon's own regulations and illustrates significant gaps in the military's mental health system. The documents were obtained by the reporters through the Freedom of Information Act. The series of stories propelled Congress to add legislation to the 2007 Defense Authorization Bill to address the flaws in the military's mental health system.

"Salmonella rates high at state plants; Tests at turkey processors in Minnesota have found levels close to failing federal standards," *Star Tribune* (Minneapolis, MN), April 14, 2006, by David Shaffer.

Using the Freedom of Information Act, the Minneapolis *Star Tribune* reviewed safety testing results for 22 plants where the Jennie-O Turkey Store produces ground turkey. At the largest Jennie-O plant, in Willmar, MN, federal inspectors found that half of the ground turkey contained salmonella bacteria-more than twice the national average for all samples. This level, dangerously close to the permissible federal maximum of 55 percent, has led food safety advocates to challenge federal oversight of ground turkey processing. Although no illnesses have been reported from the Jennie-O plants, more than 40,000 Americans are infected each year and as many as 500 die from salmonella infection.

"Illegal crops growing at Prime Hook, lawsuit says; Genetically modified strains at refuge are harmful, three nature groups contend," *The News Journal* (Wilmington, Delaware), April 6, 2006, by Molly Murray.

The non-profit organization Public Employees for Environmental Responsibility obtained documents under the Freedom of Information act which revealed that as many as 100,000 acres of federal refuge lands have been cultivated with genetically-modified crops. Using this information, the non-profit, along with the Center for Food Safety and the Delaware Chapter of the Audubon Society, filed a lawsuit alleging that farming practices at the Prime Hook National Wildlife Refuge in Sussex County, DE violate federal law and threaten the well-being of wildlife in the refuge.

"FBI Keeps Watch on Activists; Antiwar, other groups are monitored to curb violence, not because of ideology, agency says," *Los Angeles Times*, March 27, 2006, by Nicholas Riccardi.

The American Civil Liberties Union obtained hundreds of pages of documents under the Freedom of Information Act, exposing FBI efforts to gather information about antiwar and environmental protestors and other activists in Colorado and elsewhere. The ACLU pursued the documents after FBI agents visited several activists who protested at political conventions; however, the internal FBI memos show a broad net encompassing a wide range of different types of activist groups. In one case, the FBI had opened an inquiry into a lumber industry protest held by an environmental group in 2002 because the group was planning a training camp on "nonviolent methods of forest defense . . . security culture, street theater and banner making." Since the documents were released, members of the activist community in Denver have reported a chill in protest participation, as some fear the consequences of FBI surveillance of their activities.

"Report: N.H. in top 10 of water pollution offenders," *Associated Press*, March 24, 2006.

The New Hampshire Public Interest Research Group reported New Hampshire ranks seventh nationally in a survey of facilities releasing more than their allowed limit of pollutants into local waterways. The group based its findings on documents obtained through a Freedom of Information Act request to the Environmental Protection Agency. According to the report, three-quarters of New Hampshire facilities examined exceeded their pollution limit at least once during an 18-month period in 2003-2004. Facilities cited for violating their permits included paper mills, power plants, wastewater treatment facilities and an environmental testing facility.

"Peace group claims FBI spied on activities; Feds say their interest was in an individual, not the Merton Center," *Pittsburgh Post-Gazette*, March 15, 2006, by Paula Reed Ward.

The Thomas Merton Center for Peace & Justice and the ACLU released documents that members say prove the FBI was spying on their activities. The FBI claims its agents were simply conducting an investigation into one person and not the group's political activities. The Center does not plan to seek any legal actions against the FBI, but its members want the public to know what the government is doing.

"Fake findings used to secure \$16M grant," *Pittsburgh Tribune Review*, February 22, 2006, by Jennifer Bails.

Documents obtained under the Freedom of Information Act by the Pittsburgh Tribune Review show that a University of Pittsburgh reproductive biologist relied on the now-discredited stem-cell findings of disgraced Korean scientist Hwang Woo-Suk to secure a \$16.1 million federal grant. Gerald Schatten will use the funds for an ambitious stem-cell research program. The five-year grant awarded by the National Institutes of Health is based in part on cloning experiments deliberately falsified by Hwang Woo-Suk. It is unclear whether the NIH will consider withdrawing Schatten's grant because of the connections to fraudulent research.

"Planted Articles May Be Violation; A 2003 Pentagon directive appears to bar a military program that pays Iraqi media to print favorable stories," *Los Angeles Times*, January 27, 2006, by Mark Mazzetti.

According to a newly declassified document, obtained by the National Security Archive under the Freedom of Information Act, a secret U.S. military campaign to fund publication of favorable articles in Iraqi media may violate Pentagon policy. A preliminary investigation into the program in December 2005 concluded that it did not violate U.S. law or Department of Defense regulations. However, the newly-released document, a secret directive on information operations policy dated October 30, 2003 and signed by Secretary Rumsfeld, states that "Psy-op is restricted by both DoD [Department of Defense] policy and executive order from targeting American audiences, our military personnel and news agencies or outlets."

"Study: Many Incorrectly Identified As Immigration Law Violators," *The New York Sun*, December 9, 2005, by Daniela Gerson.

The Migration Policy Institute at New York University Law School conducted a study of federal immigration law enforcement based on data disclosed under the Freedom of Information Act, following a lawsuit filed by the Institute against the Department of Homeland Security. The study found that thousands of people have been wrongly identified as immigration violators, and concluded that 42% of the people identified as violators were later determined to be "false-positives," meaning that DHS was subsequently unable to confirm that they had broken immigration laws. The study suggests that the problem of improper immigration arrests may stem from a recent policy change at the Department of Justice that shifts substantial responsibility for immigration enforcement to local law enforcement authorities.

"Vietnam War Intelligence 'Deliberately Skewed,' Secret Study Says," *The New York Times*, December 2, 2005, by Scott Shane.

In 2001, a historian at the National Security Agency concluded that NSA intelligence officers "deliberately skewed" the evidence given to policy makers and the public, falsely suggesting that North Vietnamese ships had attacked American destroyers in the Gulf of Tonkin in 1964. On the basis of these erroneous intelligence reports, President Johnson ordered air strikes on North Vietnam and Congress broadly authorized military action supporting the South Vietnamese. The key documents were released by the NSA after press coverage publicizing the agency's reluctance to declassify the information and several Freedom of Information Act requests filed by the National Security Archive and others put significant pressure on the Agency to give the public access to the information. The documents were released along with hundreds of others from secret files about the Gulf of Tonkin incident and the beginning of formal involvement by the United States in Vietnam.

"Many who got Sept. 11 loans didn't need them; some loan recipients had no idea their funds came from terror-relief program," *Richmond Times Dispatch* (Virginia), September 9, 2005.

Analyzing loan records obtained under the Freedom of Information Act, the Associated Press found that a significant portion of the \$5 billion designated for a post-September 11 recovery program to help small businesses was used to give low-interest loans to companies that did not need terrorism relief; in fact, only 11 percent of the 19,000 loans were to companies in New York City and Washington. Some of the companies that received the funds—including a South Dakota country radio station, a dog boutique in Utah, an Oregon winery, and a variety of Dunkin' Donuts and Subway franchises—did not even know that they were receiving funds supposedly dedicated to terrorism recovery when they were awarded loans by the Small Business Administration.

"On Range, deadly illness went unreported; Mesothelioma strikes years after victims' exposure to asbestos," *Star Tribune* (Minneapolis, MN), August 21, 2005, by Greg Gordon.

Because of a loophole in report requirements, the LTV Steel Mining Company did not report a trend of mesothelioma and other debilitating asbestos-related illnesses among workers in its Minnesota taconite mines dating from 1980, according to records obtained from the Mine Safety and Health Administration under the

Freedom of Information Act. A 1977 agency rule requires companies to report work-related illnesses among active workers, but because mesothelioma usually does not appear for more than 20 years after exposure to asbestos, LTV did not report illnesses and deaths among its retirees, and so no action was taken to improve safety of other workers at the mine. The gross failure of companies to report lung disease cases among mine workers was evident from the documents, after reporters spoke with families of dozens of affected workers in the Iron Range region alone. According to MSHA, the maximum penalty for companies that fail to report an illness is \$60.

"Prewar Memo Warned of Gaps in Iraq Plans; State Dept. Officials Voiced Concerns About Post-Invasion Security, Humanitarian Aid," *The Washington Post*, August 18, 2005, by Bradley Graham.

In a formerly secret memo released to the National Security Archive in response to a Freedom of Information Act request, three senior State Department officials warned of "serious planning gaps for post-conflict public security and humanitarian assistance" in Iraq before the U.S. invasion. The memo, written February 7, 2003 to Paula J. Dobriansky, undersecretary for democracy and global affairs, challenged increasing Pentagon control over planning for the post-invasion occupation and argued that lack of attention to security and humanitarian concerns in Iraq could undermine the military campaign and harm the U.S. reputation in the world.

"Fighter jet's brake failures elicit urgent safety alerts," *The Virginian-Pilot* (Norfolk, VA), August 5, 2005, by Ted Bridis.

Brake problems with a front-line fighter jet used by the Navy and the Marines poses "a severe hazard to Naval aviation" and has prompted urgent warnings from military commanders, according to documents obtained by the Associated Press under the Freedom of Information Act. The brake problem in the F/A-18 Hornet jet, apparently related to a \$535 electrical cable, has caused a significant number of accidents since 1990 but went unnoticed until a series of failures last year drew attention to the trend. In 20 years of flight of this model of jet, military documents show, there have been 17 malfunctions of the anti-skid braking system.

"Inefficient Spending Plagues Medicare; Quality Often Loses Out as 40-Year-Old Program Struggles to Monitor Hospitals, Oversee Payments," *The Washington Post*, July 24, 2005, by Gilbert M. Gaul.

As part of a large-scale investigation into the quality and monitoring of Medicare services, the Washington Post obtained records of hospital visits by Medicare patients under the Freedom of Information Act. The records, along with further investigatory work, revealed that Medicare officials knew of a number of health care facilities that were out of compliance and that conditions at some facilities put patients in jeopardy. At one Florida hospital that handles many Medicare patients, a high rate of recurring infections in heart patients actually served to benefit the hospital, which is reimbursed equally for new cases and for patients readmitted with complications from medical errors or poor care. Critics of Medicare cite as problems the incentive for health care providers to charge for additional services and to focus on receiving greater payments rather than on patient needs and prevention.

"Investigation raises questions about birth-control patch," *Ventura County Star* (California), July 17, 2005, by Martha Mendoza.

At least a dozen women died during 2004 from blood clots apparently caused by use of a new birth control patch, Ortho Evra, according to federal drug safety reports released to the Associated Press under the Freedom of Information Act. Dozens more women, most in their late teens and early 20s, suffered strokes and other clot-related problems after using the patch. Several of the victims' families have filed lawsuits since the documents were released, alleging that both the Food and Drug Administration and the company that makes the patch, Ortho McNeil, knew of possible problems with the patch before it came on the market. Despite claims by the FDA and Ortho McNeil that the patch was as safe as using birth control pills, the reports appear to indicate that the risk of dying or suffering a blood clot was about three times higher than with birth control pills.

"Jail's Broken Locks are Widespread; Reports Detail Incidents of City Inmates Regularly Breaking Out of Their Cells," *Richmond Times Dispatch* (Virginia), June 7, 2005, by Jim Nolan, David Ress and Jeremy Redmon.

According to reports released under the Freedom of Information Act, up to 75 percent of the cells in the Richmond City Jail may have faulty locks. The *Times-Dispatch* obtained disciplinary reports for at least 15 incidents of inmates breaking out of their cells in 2004 and more than two dozen other reports of inmates found wandering in unauthorized areas of the jail. Jail officials acknowledge that inmates may be able to jam paper and other debris into the locks on their cell doors, and then later simply shake the jammed locks to release them. The ongoing problem came to light last year, when one young inmate got out of his cell in the felony lockdown area of the jail and attacked and beat to death another inmate, who had been arrested on charges of sexually assaulting the young man's mother. After the reports were published, the Richmond Sheriff's office announced that it would hire a locksmith to repair inoperable locks in the jail, at an estimated cost of \$120,000. City officials claim that the sorely needed full renovations to the jail will cost upwards of \$25 million.

"Broader definition of terror; The U.S. Justice Department's silence regarding specific cases has sparked a controversy," *Des Moines Register* (Iowa), May 16, 2005, by Dalmer Bert.

Department of Justice documents obtained under the Freedom of Information Act show that the Justice Department has greatly broadened the definition of terrorism since 2001 for purposes of counting terrorism-related cases and seeking congressional funding and authorization for greater police power, as under the Patriot Act. Justice Department memoranda show that officials broadened record-keeping practices so that they could increase the reported number of "terrorism-related cases." Under the new practices, the Department of Justice could count an investigation into drug charges against several American contractors working at airport runway jobs as well as cases in which terrorism-related tips were received and immediately disregarded before investigations were opened. In the year prior to September 11, 2001, only 29 terrorism-related convictions were reported; in the two years after the new policy changes took effect, the Justice Department claims that it has won convictions in 1,065 terrorism-related cases, in addition to hundreds of arrests and investigations. Few of the defendants in the reported cases have been identified, however, even at the request of Congress.

"City rarely prosecutes civil rights complaints; A report shows officers seldom are taken to court over alleged offenses, here or elsewhere," *The Houston Chronicle*, December 1, 2004, by John Frank.

The Transactional Records Access Clearinghouse (TRAC) analyzed hundreds of Department of Justice records it obtained under the Freedom of Information Act and concluded that federal prosecutors around the country decline to prosecute about 98 percent of all civil rights violations alleged against police officers, prison guards, and other government officials. According to the report, the prosecution rates are among the lowest in Houston, with less than 1 percent of all cases actually being pursued by the U.S. Attorney's Office there, although the Southern District of Texas has the highest number of FBI investigations of police abuse and civil rights violations. One co-author of the report suggests that one contributing factor may be the FBI's failure to follow through fully with civil rights investigations.

"Data: Navy tried to tilt Vieques vote," *Orlando Sentinel*, July 23, 2005, by John J. Lumpkin, the Associated Press.

According to records obtained by Judicial Watch under the Freedom of Information Act, the Navy paid \$1.6 million to a communications firm in 2001 for a public relations campaign seeking to influence the results of a referendum on whether the military could continue to use the Puerto Rican island of Vieques as a bombing range for training. The Rendon Group was under contract to "conduct public outreach to build grass-roots support" in favor of continued Navy training at Vieques. The vote never took place, however, because in January 2002

President Bush announced that the Navy would stop conducting bombing practice on the island, and the range closed in 2003.

"A breach of the truth," *Chattanooga Times Free Press* (Tennessee), March 4, 2006.

Despite President Bush's statement after Hurricane Katrina hit New Orleans last August, claiming, "I don't think anyone anticipated the breach of the levees," new video released to the Associated Press under the Freedom of Information Act shows Bush being briefed about potential weaknesses in the levees. The tape shows FEMA director Michael Brown giving a briefing, including that the storm was "a big one" and that experts, including Max Mayfield, director of the National Hurricane Center, feared that it could submerge New Orleans and result in a high death toll. On the tape, however, President Bush appears unconcerned; he asked no questions and replied only that "We are fully prepared."

"That Wild Taxi Ride Is Safer Than You Think, a Study Says," *New York Times*, April 28, 2006, by Thomas J. Lueck and Janon Fisher.

A study, based on state accident records obtained under the Freedom of Information Act, finds that contrary to popular belief New York taxis are relatively safe—in fact, taxi and livery-cab drivers have accident rates overall that are one-third lower than other private vehicle drivers. The study also found, however, that passengers in taxicabs are twice as likely to suffer serious injuries than passengers in private cars, largely because taxi riders rarely wear seatbelts and can be injured by cab partitions. Bruce Schaller, an independent transportation consultant for cities and transit agencies, was not paid by New York City Transit officials or the Taxi and Limousine Commission, but rather conducted the study to satisfy his own curiosity.

"PETA urges AF to stop Taser testing on animals," *San Antonio Express-News*, April 6, 2006.

Video footage obtained by People for the Ethical Treatment of Animals shows Air Force testing of Taser guns on animals at Brooks City-Base. The video showed animals writhing in apparent pain as they were hit with electric shocks from the guns. PETA called on air force to stop such testing, but an Air Force spokesman said that the research on nonlethal methods of incapacitating individuals is vital to national defense and the military will not comply with the request. PETA says that stun guns have already been tested extensively, and these additional tests, which "cause excruciating pain and suffering to the animals involved," are unnecessary.

"System Error: The NSA has spent six years and hundreds of millions of dollars trying to kick-start a program, intended to help protect the United States against terrorism, that many experts say was doomed from the start," *Baltimore Sun*, January 29, 2006, by Siobhan Gorman.

A classified program, launched in 1999 to help the National Security Agency sift through electronic communications data and enable analysts to pick out the tidbits of information that are most important for national security, is still not fully functional. After more than six years and \$1.2 billion in development costs, the project has resulted in only a few technical and analytical tools and suffers from a lack of clearly defined goals and direction. An NSA inspector general report, obtained through a Freedom of Information Act request by the *Baltimore Sun*, found "inadequate management and oversight" of private contractors and overpayment for the work on the project.

"Librarians would shelve Patriot Act," *San Antonio Express-News*, January 25, 2006, by Amy Dorsett.

A series of Freedom of Information Act requests filed with the FBI by the Electronic Privacy Information Center uncovered a series of e-mails between agents complaining about public backlash over the Patriot Act, including by "radical, militant librarians." Members of the American Library Association last year debuted a button, one of

the biggest sellers at the organization's annual convention, declaring "Radical Militant Librarians." This group's anger over the Patriot Act largely stems from provisions in the law that allow government agents to inspect reading lists and reference materials used at libraries and bookstores by individuals under investigation; librarians are prohibited from telling patrons that material about them has been requested.

"U.S. Saw Spread of Nuclear Arms as 'Inevitable'; 1975 CIA Outlook Bleak; Progress has Been Made," *Boston Globe*, August 6, 2005, by Bryan Bender.

A CIA estimate, sent to Secretary of Defense Donald H. Rumsfeld in 1975, offered a bleak outlook of the spread of nuclear weapons: "The future is likely to be characterized not only by an increased number but also an increased diversity of nuclear actors." The estimate was declassified and released under the Freedom of Information Act to the National Security Archive, along with a series of other Cold War nuclear intelligence documents, all of which demonstrate a belief by the U.S. government that significant increases in the number of nuclear actors was "inevitable." In the 30 years since the estimate, however, only one country-Pakistan-is known to have developed nuclear weapons and joined the existing seven nuclear states (U.S.A, Russia, U.K., France, China, India, Israel).

"A haven for handouts; Records: Funds for a drug program run by council candidate Thomas White went to him and employees," *Newsday*, July 18, 2005, by William Murphy.

Documents obtained through the Freedom of Information Act (FOIA) by *Newsday* reveal rampant misappropriation of funds by the J-CAP Foundation that were intended to provide money for drug treatment programs, including the Queens Village Committee for Mental Health for Jamaica Community Adolescent Program. Investigative reports show that benefits from the Foundation, run by current City Council candidate Thomas White during the 1990s, went primarily to J-CAP executives and employees. White and other employees used SUVs leased by the foundation and used funds to make personal loans to employees and to pay \$4,196 in New York City parking tickets.

"Social Security Opened Its Files For 9/11 Inquiry," *New York Times*, June 22, 2005, by Eric Lichtblau.

The Social Security Administration has relaxed its privacy restrictions since the September 11 attacks and searched thousands of its files at the request of the FBI, according to memos obtained under the Freedom of Information Act by the Electronic Privacy Information Center. Despite strict privacy policies that prohibit access by other agencies to personal information about individuals, senior officials at the Social Security Administration agreed to an "ad hoc" policy which permitted FBI searches pursuant to claims of a "life-threatening" emergency. The Internal Revenue Service also assisted the FBI, providing income information about individual taxpayers for terrorism inquiries.

"State pols jump ahead in line for Illini tickets; For ordinary fans, it's scalpers or TV," *Chicago Sun Times*, February 27, 2005, by Dave McKinney.

Tickets for the top-ranked Fighting Illini basketball games are difficult to come by, but not for state politicians and others with high-level connections, according to lists of ticket recipients obtained through a Freedom of Information Act request to the University of Illinois. The records show that the university has given more than 2,000 tickets to its trustees as well as state lawmakers, congressmen, and lobbyists, among others. And while the face value of the tickets can be as much as \$30, with ticket brokers and scalpers sometimes selling them for up to 13 times face value, the VIPs have all received their tickets for free.

"White House paid commentator to promote law; Pundit got \$240,000 to pitch education reform," *USA Today*, January 7, 2005, by Greg Toppo.

The Bush administration paid a well-known political pundit to promote its reform of the No Child Left Behind Act on his television show geared to black audiences, according to documents released to *USA Today* under the Freedom of Information Act. The documents include a contract between the Education Department and commentator Armstrong Williams, which required Williams "to regularly comment on NCLB during the course of his broadcasts" and to interview Education Secretary Rod Paige. The government also asked Williams to use his contacts with other black broadcast journalists to encourage wide supportive coverage of President Bush's NCLB reform plan.

"Many FDA Scientists had Drug Concerns, 2002 Survey Shows," *Washington Post*, December 16, 2004, by Marc Kaufman.

A survey conducted by the inspector general of the Department of Health and Human Services support some critics argument that the FDA is ineffective at keeping unsafe drugs off the market, according to records obtained by the Union of Concerned Scientists and Public Employees for Environmental Responsibility under the Freedom of Information Act. Almost one-fifth of the FDA scientists surveyed in 2002 said they had been pressured or intimidated into recommending approval a drug, despite their own misgivings about the drug's safety or effectiveness. Moreover, more than one-third of the scientists were not confident in the FDA's ability to assess the safety of a drug.

"Anthrax slip-ups raise fears about planned biolabs," *USA Today*, October 14, 2004, by Dan Vergano and Steve Sternberg.

A 361-page report by Army investigators, obtained recently under the Freedom of Information Act, described a number of incidents of anthrax contamination at the nation's premiere biodefense laboratory, the U.S. Army Medical Research Institute of Infectious Diseases at Fort Detrick, MD. In 2001 and 2002, anthrax spores apparently leaked from secure labs into scientists' office, and 88 people were tested for anthrax exposure but no one was injured and no contamination was found in the residential area surrounding Fort Detrick. Nonetheless, the report alarmed critics who have challenged military plans to build additional biodefense research facilities at some major research institutions across the country, including Boston College, citing the danger of research on live bacteria in populated areas.

"Policy on Gays Seen Hurting Military; Others with Same Skills are Recalled," *Boston Globe*, July 9, 2004, by Bryan Bender.

The "Don't Ask, Don't Tell" policy, which prohibits gays from serving openly in the U.S. military, has contributed to serious skills shortfalls, including in intelligence, military police, and infantry operations, according to new military statistics released under the Freedom of Information Act. The statistics suggest that reserve forces are being called up to fulfill gaps in many functions that had previously been performed by soldiers dismissed on the basis of their sexual orientation-nearly 10,000 since 1994. Critics argue that the policy is outdated and undermines military readiness at a time when demands on forces are high.

"Feds fault Chiron for lax cleanup of flu shot plant," *San Francisco Chronicle*, June 21, 2006, by Sabin Russell.

The British pharmaceutical company Chiron Corp.'s Liverpool plant, which produces half of the United States' supply of the influenza vaccine, failed to meet FDA regulations as late as the end of last summer, according to FDA documents released under the Freedom of Information Act. The year before, in 2004, the plant's entire production run-over 48 million doses-was condemned and destroyed by the FDA, causing a severe shortage of the vaccine for the winter. However, despite the company's expectations of resuming production and shipments for the end of 2005, the FDA found that the plant was not doing an adequate job of testing for the presence of the

bacteria that had led to the previous year's shutdown. Chiron was only cleared to ship out the vaccine as late as the end of October, 2005, causing a great deal of concern for many awaiting the vaccine and several spot shortages over the fall.

"More Army recruits have records: Number allowed in with misdemeanors more than doubles," *Chicago Sun-Times*, June 19, 2006, by Frank Main.

Documents released by the Army to the *Chicago Sun-Times* under the Freedom of Information Act show that, even as the Army is screening applicants more carefully than ever, the percentage of recruits entering the Army with waivers for misdemeanors and medical issues have doubled since 2001. Although studies have shown the recruits with so-called "moral waivers," who have been convicted of a misdemeanor in the past, are more likely to be separated from the service, the Army has increased the number of waivers it has granted as recruitments levels continue to fall.

"Pentagon videos of 9/11 released; Defense Dept. makes security tapes public after Moussaoui trial, lawsuit," *USA Today*, May 17, 2006, by Tom Vanden Brook.

Videos of the September 11, 2001 attack on the Pentagon were released for the first time by the Department of Defense in response to a Freedom of Information Act request made by Judicial Watch, a public interest group. The lack of video confirmation of the attack led some to develop a variety of theories about the crash; Judicial Watch hoped that the release of the video would set things straight. The Pentagon withheld the videos until the completion of the trial of Zacarias Moussaoui, who plead guilty to conspiring with Al-Qaeda to plan the attacks, and was sentenced in early May.

"U.S. Scrutinized Assets Well Before War; Documents Tell of Cheney Group's Look at Iraq," *The Houston Chronicle*, July 19, 2003, by David Ivanovich.

According to documents obtained by public interest group Judicial Watch through a legal battle under FOIA, Vice President Dick Cheney's Energy Task Force examined maps of Iraqi oil fields, refineries, and pipelines in March 2001. Documents also show lists of companies that were interested in conducting business with Saddam Hussein's Iraq regime. Other documents show oil and gas projects in Saudi Arabia and the United Arab Emirates.

"Feds Don't Track Airline Watchlist Mishaps," *The Associated Press State & Local Wire*, July 24, 2003, at State and Regional, by David Kravets.

The Transportation and Security Administration (TSA) does not keep track of how many passengers are being subjected to delays because of confusion over security watchlists. The American Civil Liberties Union (ACLU) obtained documents through FOIA showing that, while names are added almost daily to the two airline watchlists, the TSA sees no need to monitor "false positive" situations. The ACLU has filed a lawsuit to force the government to release the names on the lists, explain how names are placed on them, and how individuals can remove their names from them.

"Critical Flaws in Shuttles Loom as Potential Disaster Systems Constantly Malfunction or Fail, but NASA Thinks the Problems Aren't Dangerous Enough to Doom a Flight," *The Orlando Sentinel*, Aug. 17, 2003, by Kevin Spear and Jim Leusner.

The Orlando Sentinel reviewed thousands of hazard-evaluation studies and malfunction reports obtained through FOIA from all 113 past shuttle missions revealing critical flaws and the responses to them. Critics argue that the responses have been inadequate and NASA has ignored flaws. The problems include the misfiring of explosive

bolts used to attach the shuttle to the launch pad, faulty wiring, fuel leaks, thruster failures, and foam damage from the external fuel tank.

"Extra IDs a Liability for Hill, 13 Other Bases," *Deseret Morning News* (Salt Lake City), Aug. 21, 2003, by Lee Davidson.

Extra identification badges have been issued and unaccounted for at a number of Air Force bases raising concerns about security and the possibility of improper access to the bases. Documents obtained by *The Deseret Morning News* through FOIA show that the Air Force's own investigation found that 13 bases did not properly control and monitor ID cards for contractors. Additionally, the documents show that nearly half of the contractors given access to sensitive computer systems at one base had not undergone criminal background checks.

"Watchdog Says Hanford Workers at Risk," *The Oregonian*, Sep. 16, 2003, by Joe Rojas-Bourke.

A nonprofit group's report based in part on documents it obtained through FOIA cites increased incidents of vapor exposure to and physician visits by workers at a nuclear clean up site. The workers are transferring radioactive and chemical waste to safer holding tanks to await a more permanent disposal.

"The Slaughterhouse Gamble: The Risk of Self-Policing; New Safety Rules Fail to Stop Tainted Meat," *The New York Times*, Oct. 10, 2003, by Melody Petersen and Christopher Drew, Bud Hazelkorn contributed to this report.

Meat inspectors' reports obtained through FOIA from the Food Safety and Inspection Service indicate the presence of contaminants on food as it is processed at meatpacking plants, even after it has gone through the plant's safety processes. Inspectors also reported several cases in which meat that had been condemned because of disease or contamination was not marked or clearly removed from production. In one example, an inspector ordered meat not to be shipped after finding out that cuts of meat condemned the previous day had been readied for shipment. Additionally, the article concludes that inspector's reports and recommendations to take action often go unheeded.

"Mission of Sacrifice Series: Casualties of Peace, Part One of Seven Parts," *Dayton Daily News* (Ohio), Oct. 26, 2003, by Russell Carollo and Mei-Ling Hopgood.

Documents obtained through FOIA by *The Dayton Daily News* show the dangers that Peace Corps volunteers face. The information from 1991-2002, including never-before-released statistics, shows that volunteers are frequently placed in dangerous situations, substandard housing, and with little training. Volunteers are increasingly victims of robbery, sexual assault, and murder.

"False Evidence Cited in Overturning Arms Dealer's Case," *The Washington Post*, Oct. 30, 2003, by Dana Priest.

Evidence gathered from documents obtained from the Department of Justice through FOIA helped overturn a conviction of a former CIA operative, Edwin Wilson. The operative had been convicted of arms dealing with Libya, but claimed that the activities were part of his cover. The documents show that officials with the CIA and the Justice Department knew that Wilson had extended high-level relationships with CIA officials during the period of the arms dealing, but denied this in court. "In the course of American justice,' the judge in the case wrote, 'one would have to work hard to conceive of a more fundamentally unfair process with a consequentially unreliable result than the fabrication of false data by the government, under oath by a government official, presented knowingly by the prosecutor in the courtroom with the express approval of his superiors in Washington.'"

"Program Blasted by HUD; City Told to Halt Housing Repairs," *The Houston Chronicle*, Nov. 13, 2003, by Dan Feldstein.

The Department of Housing and Urban Development (HUD) ordered the city of Houston to suspend a housing-assistance program for poor-quality work and overpayment to contractors. The Houston Chronicle obtained documents through FOIA that show HUD inspections turned up numerous problems with homes that had been worked on as part of the Houston program. Among the problems HUD cited were poor work quality, incomplete work, and discrepancies in the estimated amount of materials and those actually used. Homeowners, also complained of negative attitudes among workers and contractors and lack of information provided about equipment and warranties.

"Documents Say 60 Nuclear Chain Reactions Possible," *Las Vegas Review-Journal* (Nevada), Nov. 26, 2003, by Keith Rogers.

Nevada state officials have raised concerns regarding the possibility of an uncontrolled nuclear chain reaction inside the planned Yucca Mountain nuclear waste repository. The state obtained documents through FOIA that report on such possibilities and appear to contradict Department of Energy statistics in its final impact statement.

"A Flawed Terrorist Yardstick; The Justice Dept. Tally of More Than 280 Suspects Detained for Prosecution After Sept. 11 Is Inflated with Dismissed and Unrelated Cases," *The Los Angeles Times*, Dec. 1, 2003, by Richard B. Schmitt.

The Los Angeles Times conducted a review of documents obtained from the Department of Justice through FOIA concerning the Department's statistics of prosecutions related to terrorism since September 11, 2001. The review found instances of individuals who were arrested, found not to have any terrorist links, and not prosecuted. Yet, these individuals were still part of the statistics the Department of Justice cites as terrorism-related charges when commenting on the progress of its anti-terrorism efforts.

"Mining Leaders Drafting Steens Blueprint," *The Oregonian*, Dec. 3, 2003, by Michael Milstein.

The Oregonian obtained documents under FOIA that raise questions about possible conflicts of interest of a private management company hired by the Bureau of Land Management. The company was hired to develop management options for one of the largest public landscapes in Oregon, including handling public comments. Officials of the company, however, also hold positions in the mining industry, some having made comments opposed to public involvement in land management decisions.

"Stealth Merger: Drug Companies and Government Medical Research; Some of the National Institutes of Health's Top Scientists Are Also Collecting Paychecks and Stock Options from Biomedical Firms. Increasingly, Such Deals Are Kept Secret," *The Los Angeles Times*, Dec. 7, 2003, by David Willman.

The Los Angeles Times conducted an investigation of payments from drug companies to employees of the National Institutes of Health (NIH) and the agency's research collaborations with the industry. Documents obtained from the NIH under FOIA showed that researchers and scientists receive consulting fees and stock options from biomedical companies. The NIH allows the majority of its officials to keep such income confidential and does not require that it be reported in financial disclosures. The practices raise ethical concerns regarding whether those incomes will affect researchers' decisions regarding the safety of subject patients, public health, and the interpretation of study results.

"Papers Show How Pennsylvania Nuclear Plant Prepared for Terror Threat," *York Daily Record* (York, Pennsylvania), Dec. 16, 2003, by Sean Adkins.

The York Daily Record obtained reports and notes from the Nuclear Regulatory Commission through FOIA that detail the response of officials to a threat on a nuclear reactor. The materials describe the timeline and response of plant, state, and federal agencies and officials to a purported threat to one of the reactors at Three Mile Island in Pennsylvania. The threat did not turn out to be credible. The chronology has been used to improve and coordinate a response to future threats.

"Scramble for Energy Pits Drillers, Ranchers, Landowners in Wyoming Say Efforts to Extract Methane Undermine Their Rights," *The Denver Post*, Dec. 21, 2003, by Mike Soraghan.

The Powder River Basin has large natural gas deposits of great interest to energy companies. As a result of environmental concerns and pressure, a moratorium on development was imposed in 1999. The Bureau of Land Management conducted an environmental impact statement to determine what impact the increasing drilling would have on the river basin. A local Wyoming environmental group learned through a FOIA request that the study was conducted by an environmental consultant that also writes permit applications for companies seeking to drill in the basin. Critics challenge the impartiality of the report and the comprehensiveness of the environmental options it examined.

"Transcript: U.S. OK'd 'Dirty War' in Argentina," *The Miami Herald*, Dec. 4, 2003, by Daniel A. Grech.

Documents obtained by the National Security Archive through FOIA from the Department of State show that the U.S. approved of the Argentine military junta's use of harsh tactics against leftists in the 1970s. The document shows that Secretary of State Kissinger gave the green light to the Argentine foreign minister to hurry up and finish the military's "dirty war" - which resulted in the deaths and disappearances of 30,000 people from 1975 to 1983. Previously, Kissinger and other top aides denied condoning the human rights abuses in Argentina.

"Federal Coal-Mining Policy Comes Under Fire; Fish and Wildlife Service Says the Administration Ignored Its Protection Plan," *The Los Angeles Times*, Jan. 7, 2004, by Elizabeth Shogren.

Documents obtained through FOIA show that the Bush administration's move to let coal miners continue the practice of "mountaintop removal" ignored environmental concerns raised by government officials. The coal mining process levels mountain tops and discards the leftover rock into valleys and streams. The administration revised a previous draft environmental impact study that examined limiting the process, and substituted three alternative approaches. The U.S. Fish and Wildlife Service said these alternatives do not improve environmental protection. The documents include a memo from Deputy Interior Secretary J. Steven Griles recommending a new draft, directing officials to say that he was not involved in "finalizing the document," and information on how to respond to questions about his involvement in the change.

"Green Groups Sue EPA for Closed-Door Meetings with Chemical Companies," *The Register Guard* (Eugene, Oregon), Jan. 16, 2004, by Scott Maben.

A number of environmental interest groups have filed suit against the Environmental Protection Agency (EPA) for meeting with a group of chemical companies behind closed doors. Documents obtained under FOIA show that the pesticide industry group has met privately with EPA officials at the same time that it has urged the agency to dilute protections for Northwest salmon and other endangered species. The environmental groups claim that such closed-door meetings violate federal law requiring agency meetings with advisory groups to be open to the public.

"Northwest Gave U.S. Data on Passengers; Airline Had Denied Sharing Information for Security Effort," *The Washington Post*, Jan. 18, 2004, by Sara Kehaulani Goo.

Documents obtained under FOIA by the Electronic Privacy Information Center (EPIC) show that Northwest supplied information on millions of its passengers who flew from October to December 2001. Northwest supplied the information, without passenger knowledge, to NASA for a project on aviation security. Northwest had previously denied any information sharing after another airline, JetBlue, acknowledged that it had turned over passenger information to a defense contractor.

"Experts Say USDA Officials Underestimate Mad-Cow Risk," *The Denver Post*, Feb. 13, 2004, by Anne C. Mulkern.

Experts argue that the U.S. Department of Agriculture (USDA) underestimates the risk of mad cow disease outbreaks. The USDA argues that the risk is very low, citing a Harvard University study. The comments of scientists critical of the Harvard study were not released by the USDA until *The Denver Post* filed FOIA requests seeking them. The critics cite unrealistic assumptions and incorrect mathematical models in determining the risk of a mad cow disease outbreak in the U.S.

"Chemawa Warnings Date to '89," *The Oregonian*, Feb. 20, 2004, by Kim Christensen and Kara Briggs.

The Bureau of Indian Affairs (BIA) had been warned for 15 years about the dangers of holding intoxicated students at its Chemawa Indian School, a boarding school in Salem, Oregon. The *Oregonian* obtained documents through FOIA that show that BIA officials failed to act on repeated warnings by Indian Health Service officials regarding the school's "holding cells," citing the lack of supervision and availability of medical treatment. A sixteen year old girl recently died in one of the cells due to alcohol poisoning.

"NASA Can't Find Millions in Property," *The Houston Chronicle*, Feb. 27, 2004, by Patty Reinert.

NASA documents obtained through a FOIA request by a San Antonio television station show that the agency has lost about \$34 million in government property since 1997. The information details the missing items from each of the agency's ten centers. The Goddard Space Flight Center in Greenbelt, MD, had the highest losses at \$16.8 million, while NASA's Washington, D.C., headquarters had the least with \$174,000.

"Seeing Murder in a Face; A Family Refuses to Believe a Battered Prisoner Hanged Himself, as Officials Say. The U.S. Government Has Reopened the Case," *The Los Angeles Times*, Mar. 9, 2004, by Richard A. Serrano.

The Department of Justice reopened the investigation into the death of an inmate in an Oklahoma federal prison nine years after the incident. Originally, the death was ruled a suicide. However, the family of the inmate refused to believe that explanation in light of the various bruises and wounds found on his body. As a result of a FOIA request, the family learned of an erased videotape, that the inmate's cell was cleaned prior to the arrival of the FBI, inconsistent statements from prison guards, and forensic evidence apparently inconsistent with the official explanation.

"Review: Director of Aging Agency Earned Nearly \$460,000 in 2003," *The Associated Press State & Local Wire*, Mar. 24, 2004, by Michelle Saxton.

The director of a West Virginia County Council on Aging is being investigated for his nearly \$460,000 salary and sick leave payouts. The Associated Press obtained state investigation documents through a FOIA request. The documents show that the official was paid far more than counterparts in other counties and that he took steps to adjust the composition of the Council's board to remove outside agency representation and consolidate record-keeping and financial responsibilities.

"D.C. Knew of Lead Problems in 2002; Timing of E-Mails Contradicts Claims," *The Washington Post*, Mar. 29, 2004, by Carol D. Leonnig and David Nakamura.

Documents obtained by *The Washington Post* through a FOIA request show that District of Columbia officials knew of unsafe levels of lead in the city's water 15 months before the public learned of the problem. The D.C. Department of Health maintained that they did not know of the problem until early 2004. However, e-mails between the Department of Health and the D.C. Water and Sewer Authority indicate that the Department was aware of the contamination in October 2002.

"Tension in Venezuela; Activist Eyes Groups' Funding; Brooklyn Lawyer Says U.S. Government Funds Are Aiding Those Trying to Overthrow President," *Newsday* (New York), Apr. 4, 2004, by Bart Jones.

A New York immigration lawyer has raised questions about U.S. organizations' funding for groups in opposition to Venezuela's president, Hugo Chávez. Documents she requested through FOIA show that several Venezuelan groups associated with the government's opposition have received funding from the National Endowment for Democracy, a federally funded private organization. The endowment provides grants to nongovernmental organizations that strengthen democratic institutions. The leaders of two groups the endowment has funded served in the opposition's cabinet when Mr. Chávez was briefly ousted in 2002, a coup that the White House initially endorsed. A third group that has received funding has helped a recall petition of Mr. Chávez by collecting signatures.

"Group: Industry Exceeds Clean Water Act," *Waste News*, Apr. 12, 2004, by Bruce Geiselman.

The U.S. Public Information Research Group (PIRG) obtained documents through FOIA from the Environmental Protection Agency that show more than 60 percent of industrial and municipal facilities nationwide exceeded their Clean Water Act permit limits at least once. During the eighteen month period beginning January 2002, the average facility exceeded their permit limit by 600 percent.

"GI Sex Cases from Iraq Often Stall; Army Records Show Prosecution Rare, Reprimands from Officers Common," *The Denver Post*, Apr. 12, 2004, by Miles Moffeit.

Army documents obtained through FOIA by *The Denver Post* show that soldiers in Iraq and Afghanistan accused of sex crimes are given light administrative punishments. Military commanders have broad discretion in how to deal with accused soldiers and it is up to them to recommend criminal prosecution. The documents show that soldiers often receive demotions in rank, fines, or discharge - or no punishment at all - even when investigations have not been fully completed. Of thirty-seven accusation cases from February to December 2003, four were court-martialed - and only two of those resulted in convictions.

"Campbell Sought Way Around Bidding Process, Records Show," *The Associated Press Newswires*, Apr. 13, 2004, by Robert Gehrke.

The Associated Press obtained documents through the FOIA showing a two year effort of Senator Ben Nighthorse Campbell's (R-CO) office to speed up funding for a technology project in Colorado. The documents show that Campbell secured funding for a computer networking project by an Oregon company, Thinkstream, for use by agencies of the Rocky Mountain High Intensity Drug Trafficking Area and then urged the Office of National Drug Control Policy (ONDCP) to award the funding directly to a Colorado sheriff's department to circumvent the bidding process. When, after a visit to Thinkstream, the High Intensity Drug Trafficking Area's board suggested opening up the project to bidding, a letter with Campbell's signature scolded the board for not going ahead with the project. Campbell has claimed he did not sign the letter and his office has since asked for a Senate Ethics Committee investigation to look into whether a staffer improperly used his signature to lobby the board.

"Rat-Poison Makers Stall Safety Rules; EPA Had Drafted Regulations to Protect Children, Animals," *The Washington Post*, Apr. 15, 2004, by Juliet Eilperin.

According to internal documents obtained by the Natural Resources Defense Council through FOIA, the Environmental Protection Agency (EPA) gave the rodenticide industry broad access to its regulation decision making. Beginning in August 1998, the EPA concluded that rat poison posed a significant risk to children and animals. As a result, the agency called for two new safeguards in the formulation of rat poison. By 2001, however, the EPA had abandoned the new regulations, citing "mutual agreement" with the industry. The documents show that the industry was given broad access to revise EPA documents describing the environmental impact of rat poison on wildlife. The review, which was termed "error only," lasted 15 months during which time consumer and environmental groups were not consulted.

"Texas Official Seeks HHS Probe; Ex-Head Start Leader Denies She Misused Funds," *The Washington Times*, Apr. 22, 2004, by Cheryl Wetzstein.

The National Head Start Association (NHSA) accused a former Head Start chapter head, and now Department of Health and Human Services official, of misconduct during her tenure in Texas. NHSA claims that documents obtained under FOIA show that \$140,000 in overbilling occurred under the official's watch, as well as unauthorized bonuses and a vacation time payout.

"Pentagon Ban on Pictures of Dead Troops Is Broken," *The New York Times*, Apr., 23 2004, Bill Carter, by Jim Rutenberg and Mindy Sink contributed reporting for this article.

Russ Kick, who operates the website the Memory Hole, obtained photographs of flag-covered coffins of deceased soldiers returning from Iraq through the FOIA. Initially, Kick's request was denied by the Air Force but, upon appeal, 361 photographs were released to him. The release broke a ban that the Pentagon had issued prohibiting media coverage of arriving coffins. An employee of a defense contractor and her husband were fired when she released a photo of flag-draped coffins she had taken while on a military transport plane. News organizations were unaware that such photographs even existed - unaware the Pentagon was continuing to take pictures for historical purposes. These organizations have argued that the release of such photos should be allowed as part of the national dialogue on the Iraq war. Polls have also shown that public support favors release of such photos.

"Navy Confirms Weapons Facility Was Temporarily Decertified," *The Associated Press State & Local Wire*, Apr. 24, 2004, at State and Regional.

A local Washington state newspaper, *The Bremerton Sun*, confirmed an incident at a local Navy submarine facility where a nuclear missile was mishandled. The paper received an e-mail from its FOIA request that described the reassignment of officers in charge of the facility and the facility's decertification to handle nuclear weapons for more than two months.

"Salem Faces \$385,000 in Fines for Crime Reporting Violations," *The Associated Press Newswires*, May, 21 2004, by Pam Ramsey.

Security on Campus, a watchdog group, obtained a report from the Department of Education through the FOIA that shows that Salem International University faces up to \$385,000 in fines for failing to report campus crime as required by federal law. The report indicates that the university's campus security failed in many respects, including the reporting of sexual offenses and under-reporting incidents. Mount St. Clare College in Iowa is the only other school that has been fined under the twelve year old Jeanne Clery Act.

"FBI Invoked Controversial Search Power - ACLU," *Reuters News*, June 17, 2004, by Gail Appleson.

Documents obtained by the American Civil Liberties Union through FOIA show that the Federal Bureau of Investigation (FBI) attempted to use the controversial section 215 of the USA Patriot Act. The provision allows the FBI to seek court permission to secretly review confidential materials - such as business, doctor, university or library records - without the knowledge of the target of the investigation. Previously, Attorney General John Ashcroft has denied any usage of section 215.

"Alabama Tobacco Growers Stand to Benefit from Proposed Federal Buyout," *Montgomery Advertiser*, June 23, 2004, by Ana Radelat.

The Environmental Working Group obtained documents from the Department of Agriculture through FOIA that detail Alabamians who would receive tobacco buyouts under a current proposal in Congress. The Environmental Working Group opposes the planned buyout because the group sees it as a benefit to large tobacco growers and companies. The group's study says that two-thirds of the \$9.6 billion buyout would go to only ten percent of growers, with more than eighty percent of those eligible receiving less than \$1,000 a year over five years.

"Growing Tobacco, and Controversy; Students Cultivate a Crop They're Taught to Avoid," *The Washington Post*, June 26, 2004, by Manuel Roig-Franzia.

The Washington Post obtained documents from the Department of Agriculture through FOIA that shows that 41 school districts - in Indiana, Kentucky, Ohio, Tennessee and Virginia - grew almost 50,000 pounds of tobacco in 2003. The schools use tobacco quotas that came with purchased land to grow tobacco as a means of teaching agriculture and as a source of revenue. The practice raises questions about the propriety of schools collecting revenue from tobacco and whether it undermines efforts at anti-smoking health prevention.

"White House Help Sought on N-dump," *The Salt Lake Tribune*, June 28, 2004, by Robert Gehrke.

Documents obtained by the Natural Resources Defense Council's FOIA lawsuit against Vice President Dick Cheney show that a Utah company asked for help from Mr. Cheney's Energy Task Force. Private Fuel Storage, seeking to build a nuclear waste storage facility on the Skull Valley Goshute Indian Reservation in Utah, sent a letter asking the Task Force to urge the Defense Department to complete a study necessary for the company to gain final approval of the project. The letter appeared to prompt a meeting between Deputy Interior Secretary J. Steven Griles and the company's lobbyist. The Task Force also sent a letter to the Department of the Interior inquiring what was needed to move forward with approval of the project.