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Debate Grows Over Access To U.S. Files

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WASHINGTON—In 1979, author James Bamford received declassified documents from the Carter administration on the National Security Agency. Two years later, the Reagan administration demanded them back. The Justice Department said the papers shouldn't be disclosed and that they had been improperly released.

The incident provided a glimpse of the Reagan administration's attitude on what should be revealed to the public. It also illustrated how little success it has had in some areas. Mr. Bamford refused to return the documents, and he used them in his book on the NSA, "The Puzzle Palace."

Assistant Attorney General Jonathan Rose says the administration is trying "to redraw the balance" between government openness and secrecy. During the 1970s, he says, officials leaned too far toward the view that "disclosure of all information of any type was a major public good and benefit."

Reagan appointees have restricted access to government files under the Freedom of Information Act and pressed Congress to narrow it further. They have set out to tighten secrecy of classified and even unclassified military and intelligence data. But their progress has been slow, and in some respects blocked. Congress has so far refused to narrow the Freedom of Information Act, the courts have overruled several efforts to withhold documents, and some agencies have resisted change.

Still, critics complain that executive-branch efforts to control government information have never been so systematic, and they charge that the Reagan administration has reversed a 30-year trend toward less government secrecy.

A 'Contagious Disease'

New York lawyer Floyd Abrams accuses the administration of acting "as if information were in the nature of a potentially disabling, contagious disease, which must be feared, controlled and ultimately quarantined."

Mainly, President Reagan has tried to restrict access to classified data. He and his attorney general, William French Smith, have repealed some Carter policies that were intended to encourage release and declassification of information. And, saying he was up to his "kelster" in leaks last March, Mr. Reagan directed that the government use more lie-detector tests and secrecy pledges, and censor the writings of current and former officials.

Richard Willard, head of an inter-agency group that urged the March crackdown, says some past disclosures of classified data harmed national security and gave foreigners the impression that the U.S. couldn't keep secrets.

But Rep. Patricia Schroeder, a Colorado Democrat, believes the Reagan approach "will ensure that pro-administration policy leakers get to the press while critics and whistle-blowers are cut off."

Such concerns were intensified when top Pentagon officials were given lie-detector tests last year to find out who had disclosed that the Defense Department had understated its spending for coming years by \$750 billion.

Resenting Lie-Detector Tests

President Reagan's March order will enable agencies to penalize civil-service employees at the Pentagon and State Department if they refuse to take lie-detector tests in leak inquiries. Some resent it. Says an official who has worked in both departments: "I wouldn't want my career risked on the squiggles of an inherently unreliable machine."

The directive also requires more officials to sign lifelong pledges to submit their writings to government censors, and hundreds of thousands of government employees to sign court-enforceable agreements to keep secrets.

In an attempt to allay First Amendment concerns, Mr. Willard insists censorship will be applied only to writing "likely to contain classified information that would be harmful to have released."

Officials also plan to press the Federal Bureau of Investigation to probe more leaks, but the FBI appears to be reluctant, partly because such investigations are usually unsuccessful. An administration study group also has suggested enacting a new anti-leak statute that would impose criminal penalties.

Language of Pledges

But some parts of the secrecy drive have bogged down. Almost a half-year after the president's directive, officials haven't even been able to agree on language of the secrecy pledges. The Justice Department was expected to start more investigations into leaks, but hasn't. The administration hasn't proposed an anti-leak bill yet. And Congress has barred the Pentagon from changing its polygraph policy at least until next April 15.

The administration hasn't had any success, either, in efforts to persuade Congress to narrow the Freedom of Information Act, which requires release of government information except in certain circumstances. It asked Congress last year to exclude more law enforcement, intelligence, business and technical information from disclosure. But even watered-down versions of the measure have made little progress.

Administrative actions, though, have nibbled at public access to information.

The administration has urged agencies to demand larger search and copying fees

when requests for data under the Freedom of Information Act won't primarily benefit the general public. Last year the Department of Health and Human Services, for one, doubled to about \$400,000 its collection of freedom of information fees.

Critics say high charges limit access to information. San Francisco writer Angus McKenzie, for instance, says the Central Intelligence Agency asked him to pay more than \$61,000 to cover the cost of searching for its files on underground newspapers.

Waiving Fees

Press groups say the administration is violating Congress's intent to waive fees liberally. The guidelines are so rigid now, says the head of one agency's freedom of information staff, that "if you applied it strictly you wouldn't waive any fees."

The Justice Department's Mr. Rose says the government is just trying to cut the growing cost of responding to freedom of information requests, which is as much as \$250 million a year. He denies that any attempt is under way to generally restrict information access.

But an official in charge of answering information requests at one large department, who wouldn't be identified, sums up the aims of the Reagan administration directives as: "Don't disclose anything that you don't have to." Russell Roberts, head of freedom of information compliance at the Department of Health and Human Services, says it is "properly" denying more requests for information.

Yet top administration officials disavow some of the more zealous efforts to restrict information, such as that by James J. Conn, who said in a memo to Environmental Protection Agency colleagues that, "when a case is closed, we have to start thinking about what to get rid of before an FOIA request catches us with our pants down."

Ignoring Instructions

Other agencies are resisting the effort to limit access to information. The Food and Drug Administration has ignored instructions that, before giving up data, it notify a company that submitted information so the company can object or sue. The FDA says that would cost \$3.7 million it doesn't have.

Still, some agencies are going to new lengths to keep material from the public.

In researching "The Puzzle Palace," Mr.

Bamford used publicly available papers that the late William F. Friedman, a cryptologist for the National Security Agency, had donated to a private library. The NSA had checked them for secrets before they were put on file.

Last spring, two NSA officials directed the library to remove some unclassified papers, largely private correspondence, from public access. Lt. Gen. Lincoln Faurer, director of the NSA, asserted that the Freedom of Information Act and the National Security Act of 1959 authorize the agency to conceal unclassified information on its functions, activities and organization—even in private papers.

Rep. Glenn English, an Oklahoma Democrat who is chairman of the House subcommittee on government information, says, "We've never heard of such a thing before."