

ADDRESS

OF

THE HONORABLE JANET RENO

UNITED STATES ATTORNEY GENERAL

BEFORE

THE

AMERICAN SOCIETY OF NEWSPAPER EDITORS

APRIL 17, 1996

(In presenting this address, the Attorney General may depart from the text, but she stands behind the text as printed.)

I have appreciated the opportunity to work with the American Society of Newspaper Editors, which has led the way to help make our government more open and to make information more accessible and timely.

Let me tell you one reason why our joint efforts are so important and update you on the Department's progress.

Recently, at the Justice Department, one of our young people who is a lot more talented at using a computer than I am, did some research on the Information Superhighway. She looked for the number of news stories which contained the words "cynicism" or "mistrust" within a word or two of the word "government." There were 1,542 "hits" in the last two years -- in newspapers from Houston and Columbus, Des Moines and Austin, Greensboro and San Diego, St. Louis and Seattle, Indianapolis and Palm Beach.

Clearly, something is wrong.

Too many Americans mistrust their government. And, unnecessary government secrecy feeds this mistrust.

What makes our country unique is its commitment to being open, to making its leaders accountable. In a week when our thoughts turn to the threat of terrorism -- in our own country and around the world -- it is so important that we not retreat from that principle, that we not give in to assaults on our democratic values. It is a time when we need to renew and invigorate our commitment to open government.

Thirty years ago, the Freedom of Information Act was created to give life to the fundamental premise of America's founding that we "meant to be our own governors."

How would we do that? "By arming (our)selves with the power knowledge gives," said James Madison.

On July 4, 1966, President Lyndon Johnson signed the Freedom of Information Act with the observation that "a democracy works best when the people have all the information that the security of the Nation permits." He said, "No one should be able to pull the curtains of secrecy around decisions which can be revealed without injury."

It was a little bit easier then. The number of FOIA requests wasn't even recorded the first few years. In 1975, the Department of Justice received 30-thousand requests. Compare that, if you will, with 1995 when the Justice Department received about 125,000 FOIA and Privacy Act requests and had the equivalent of 617 people working full-time on the requests at an annual cost of over 35-million-dollars.

A working reporter doesn't care how many requests we get or how much it costs to process them. I understand that. What you care about is when you are going to get your questions answered. That's the challenge, one that demands real solutions.

We have started trying to find them:

All but eight of the Justice Department's 29 sub-parts have significantly reduced their backlogs.

The others are on a reporting system that has significantly cut backlogs at places like the Immigration and Naturalization Service, the Bureau of Prisons and the U.S. Attorneys' offices.

Using our expedited FOIA procedure for records that have been requested by a widespread and exceptional number of news agencies, we are putting some extraordinary requests to the head of the line.

Recent examples include:

- The complete transcripts of the FBI's negotiations with the Branch Davidians at Waco;
- Records dealing with alleged human rights violations in Guatemala;
- And the Justice Department's command center logs during the Ruby Ridge incident.

Furthermore, we have made it a daily practice in our press office to try to accommodate requests from the news media for a single, easily retrievable document. We get it and send it to you as fast as we can. While judging its releasability under FOIA and Privacy Act standards, we don't even put it into the FOIA system.

We now release information on serious professional misconduct by Justice Department attorneys, even without a FOIA request. We have done that nine times in two years.

We strongly encouraged all Federal agencies to make discretionary releases whenever possible, and reexamined FOIA forms and formats, improving nearly all of them. In fact, we were so successful, the Department of the Interior, the Labor Department, the Air Force and the Environmental Protection Agency asked us to review their forms, too.

On top of that, we are now making FOIA performance part of the job description of every relevant Department of Justice employee and rating them on how well they do.

Is there more we can do, more that can be done with today's tight budgets? We are and must continue to think about ways to accomplish that goal.

The core purpose of FOIA is to let people know how their government works. Yet, today, relatively few FOIA requests have to do with what the government is doing.

The bulk of the requests come from individuals seeking information that the government is merely storing -- information about a business competitor, or a celebrity or historic figure, or simply to satisfy curiosity. Since the purpose of FOIA is to show how government works, surely we might give some consideration to creating different tiers, or tracks, to give priority to requests that have a broad, public purpose rather than a purely private one. That is a concept we already apply when considering fee waivers.

Should we give some thought to the burden we are placing on the system with complex litigation demands? At a time when the FBI is 5.6 million pages behind in processing FOIA requests, do we really want 29% of the

FBI's FOIA time devoted to responding to what we call "Vaughn Index" demands, which are the detailed explanations we have to give the courts when you sue us for withholding something.

Should the size and complexity of requests be a factor? What do we do with a request, like the one we got from a reporter in Pennsylvania last Friday, demanding files responsive to 206 questions, some of them with dozens of subparts? The list of questions ran 11 pages!

Is increased use of electronic file-keeping one way to reduce the frustrating over-load in the future? Will direct access from your city rooms to our clearly non-exempt files be the wave of the future?

I am happy to announce that, within the next few days, U.S. Attorneys' press releases anywhere in the country will be available to your reporters through the Internet or by dialing up a Justice Department bulletin board. We have discussed with the FBI putting new reading-room items onto its Internet retrieval shelves.

Someday soon, we will be sending our press releases directly to your electronic mailboxes, rather than by fax machines. A delegation from ASNE visited our technical support staff last fall and told us the sorts of things you need. Without question, we are going to interact with one another in the future by computer.

That's a future that is worrisome in some respects. The Information Age and the end of the Cold War have created new precincts in Cyberspace and across once-closed borders. Organized crime is using computers to illegally transfer electronic cash. Pornographers can ply their trade across invisible borders. Computer hackers can gain unauthorized access to sensitive private and government information. The computer age poses special challenges to those of us in law enforcement. Will the price of direct access and easier communication be less privacy and increased police intrusion?

I want to take this chance to tell you about an example three weeks ago that should reassure you that the government is proceeding in good faith to navigate the new world of Cyberspace while accommodating Constitutional concerns. Federal agents executed the first warrant obtained from a judge to search a computer network run by Harvard University that had been entered illegally by an Argentinean man intent on reaching military and NASA computer files.

Working with Naval investigators and Harvard scientists, federal prosecutors developed a computer program to recognize the intruder's distinctive electronic footprints without reading the communications of innocent users. In fact, out of approximately 10 million electronic messages sorted by the computer, only two innocent communications were apparently opened by investigators.

We didn't use computers to invade privacy. We used them to protect

privacy for the thousands of individuals and organizations that used that network.

That is the kind of story that helps instill confidence in government and counter distrust.

In a week when many are noting anniversaries, I hope you will take note of another first-year anniversary -- another anniversary of open government. One year ago today, on April 17, President Clinton signed the Executive Order that will overhaul our system for classifying national security information to lower the wall of government secrecy.

When he took office, the President ordered a comprehensive review of classification policy. He concluded that it frequently distorted history, warped intelligence estimates, hid government waste and inefficiency, retarded scientific and academic research, and maintained a gulf between government and governed.

Under the Executive Order the President signed, classified documents over 25 years old will automatically be declassified unless they fit within very narrow exempted categories such as weapons systems or intelligence activities. Classifiers now have to justify what they want to classify. The burden runs against needless or unnecessarily prolonged classification.

Is there a connection between what the President wants done and what ASNE believes should be done? Is there a shared vision between me and Debra Howell and Dick Schmidt? There is. You know there is. And that's why it is important for us to continue to work together.

On April 14th two years ago, I talked to you about the instructions President Clinton had issued to make the government as open as possible, and to make disclosure the norm. I told you what we were doing to meet the challenge. We try, every day, to keep our promises.

I said I would hold regular weekly news availabilities, as I had started to do. Tomorrow, we will hold our 121st weekly news availability, 16 of which were conducted by the Deputy or the Associate Attorney General if I was absent. 121 sessions, open to any reporter.

The challenges to law enforcement are different and more complex than they were thirty years ago when the Freedom of Information Act was passed. We are working hard with Congress on a bipartisan basis to outmatch the cunning and stealth of the terrorists.

But when we say a prayer this week for those who have lost their lives to terror, we will honor their memory most by recommitting ourselves to two wellsprings of our democracy -- our open government and our inquisitive press. Against those who seek to work their will by cowardice and violence, we will prevail.

I always enjoy meeting with you, and I am grateful that you invited me to give this progress report.

Thank you.