Bio Terror Bible

EXPOSING THE COMING BIO-TERROR PANDEMIC

BIOTERRORBIBLE.COM: The secrecy and violations in respect to bio-terror and future pandemics is shocking. Repeated warnings, citations and fines are often ignored and the climate surrounding the obviously offensive bio-weapons research programs is on par with Nazi Germany. To date, the U.S. is by far the most egregious offender and will likely be scapegoated in the aftermath of the pandemic by the Sunshine Project.

Title: Tell-Tale Silence Indicates US Block Of The Bioweapons Protocol: After Torpedoing Kyoto And The ABM Treaty, The US Sets Its Sights On Biological Weapons Control
Date: May 11, 2001
Source: Sunshine Project

Abstract: Efforts to strengthen the international ban on biological weapons are in grave danger of collapse. Today, three weeks of negotiations in Geneva to develop a Verification Protocol to the Biological and Toxin Weapons Convention (BTWC) closed without any contribution from the US, an indication that Washington has quietly withdrawn its support of the process. The US delegation did not actively participate in the negotiations and - with the exception of an insignificant statement during today«s final session - never contributed a single word.

The silence is a de facto confirmation of recent press reports indicating that the Bush Administration has decided to back away from international biological weapons control, including a story in Chemical & Engineering News stating that Washington prefers not to draw attention to its negative stance after the global protests against the US withdrawal from the Kyoto Protocol on climate change.

International protection against biological weapons - and six years of diplomatic work - are at stake. Signed in 1975, the BTWC bans biological weapons; but contains no means to verify that governments are in compliance. In the 1990s, revelations came that Parties to the BTWC (including Iraq and the former Soviet Union) violated the Convention by developing offensive biological weapons. Responding to this problem, in 1995 governments began to create a Verification Protocol to make the BTWC enforceable for the first time ever. This important process was scheduled to be completed this year.

Instead of triumph, 2001 may be the year the verification agreement falls apart. Failure would signal that major powers are no longer in agreement against biological weapons. "This could well be the beginning of the end of the global ban on bioweapons" says Jan van Aken of the Sunshine Project. "Failure might re-ignite some countries' interest in weapons of mass destruction."

Previous US positions were problematic and diluted the proposed Protocol's strengths; but according to the Sunshine Project's Edward Hammond, "at least the Americans were engaged and hope could be held out that they would ratify." The new US position is very different. Says Hammond "The US knows that countries will be hesitant to open their biotechnology facilities to mandatory inspections if the US doesn't agree to do the same. So the US hopes that silence is all that is necessary to kill the protocol."

In addition to the resounding hush in Geneva, there are other indications that Washington has lost interest in a global ban on biological weapons. In December, US military officers at a Edinburgh (UK) conference called for renegotiation of the BTWC to allow some so-called non-lethal biological weapons. Susana Pimiento of the Sunshine Project points out that "The increasing interest in certain biological weapons within the US military community is especially frightening considering the Bush

Administration's arrogant unilateralism. The US has tossed the Verification Protocol on the same funeral pyre as the Anti-Ballistic MissileTreaty and the Kyoto Protocol."

The remaining negotiating parties in Geneva should press ahead and build a strong Protocol without the many concessions made to the US during recent years. "The world must not allow selfish interests to poke a major hole in global peace and security. It must pressure the US back into the Protocol, and into a strong one", says Hammond (Sunshine Project, 2001).

Title: Trade Trumps Peace in Bioweapons Negotiations: US Scuttles Others' Security In The Interest Of Biotech Hegemony
Date: July 16, 2001
Source: Sunshine Project

Abstract: The Verification Protocol to the Biological and Toxin Weapons Convention was dealt yet another blow last week. Key US diplomats indicated that trade secrets take priority over weapons control, and that the US is unwilling to develop a fair and transparent export control system to prevent biological weapons technology from passing into the wrong hands.

Trading Peace
Negotiations have been ongoing to develop a Verification Protocol to the BTWC for more than six years. In US Congressional testimony last week, Ambassador Don Mahley, chief US negotiator on biological weapons, piously declared that "The United States does not view the negotiations about a Protocol to the Biological Weapons Convention to be a discussion of trade access."

But only seconds later, Mahley's halo of arms control purpose was dirtied when he added that the US sees the draft protocol as a threat to its biotech hegemony: "The United States is the world leader in biotechnology. The cost of early research and development … is enormous. Providing others with the means to avoid such sunk costs or to obtain process information for unfair competition would endanger not only the industry, but the benefits that industry provides to the entire world."

As Mahley testified, across the world in Bangkok the US and its OECD partners were trying to force open reluctant Asian markets to US bioengineered products. Farmers outside the OECD meeting in Bangkok clearly rejected the "benefits" of the US biotech industry.

But, in other words, what Mahley said is that the US cannot accept inspections because UN teams will be infiltrated by commercial spies. "That's a red herring," counters the Sunshine Project's Jan van Aken, "A UN inspection system that protects trade secrets can be done. Mock inspections in several European countries demonstrated that industry would have little to fear from commercial espionage. Even the hyper-secretive multinational pharmaceutical industry has tentatively signaled acceptance of visits by UN inspectors."

What's really at stake is the US desire to be completely unencumbered in imposing unilateral trade sanctions. Currently, a biotech elite of the US and developed country allies use a secretive club called the Australia Group to prohibit shipments of equipment and know-how to countries suspected of developing biological weapons. The basis of export denials is unpublished, so countries denied equipment never even find out why. Developing countries say that the system is arbitrary and unfair.

"While there is agreement that situations arise in which some countries should be prohibited access to certain biotechnology like advanced fermenters," says Susana Pimiento, a Colombian lawyer with Sunshine Project, "developing countries argue that the Australia Group's export controls are a selective, unfair trade and political tool, hindering technological development in their countries." The Non Aligned Movement says that if it submits to mandatory inspections of biotechnology facilities under the Verification Protocol, then export control systems should give all countries equal rights.

A fair and transparent system for imposing export controls isn't even under consideration. Says the Sunshine Project's Edward Hammond, "This US policy is a biotech trade wolf disguised as a peaceful sheep, and it has the unmistakable odor of the Department of Commerce. The same free trade evangelists that force biotech products on the world want to use arms control as a back door to

impose barriers to technology transfer and inhibit competition. Even though everybody agrees that export controls are necessary, the US has decided that its commercial interests dictate that it won't work with the UN to make export controls transparent and fair."

Work To Be Done
Since the outset of negotiations, all sides have acknowledged that monitoring compliance with the BTWC is difficult. Parties agree in principle that situations may arise in which access to particular technologies should be restricted. One multilateral solution is a broad export notification system for items that have both peaceful and hostile uses. Compilation of an international database on dual use exports could be instrumental in identifying secret bioweapons programs. Negotiators in Geneva should push to agree on a notification system that will build true multilateral and North-South cooperation on restricting some countries' access to potentially abused technology.

A strong multilateral monitoring agreement, even if imperfect, would have the credibility, expertise, and access that individual countries don't. "If the US insists on a trade-arms control link and unilaterally enforcing its interpretations rather than working on export control in a UN framework, it precludes cooperation and damages the BTWC." says Pimiento, "Who nominated the US to be the global cop of monitoring anyway? The erroneous US bombing of a pharmaceutical plant in Sudan shows the danger. The world would be better off with a UN system of export controls and not leaving it to the Department of Commerce and trigger happy US military and intelligence agencies" (Sunshine Project, 2001).

Title: US Quiet As The World Backs The Bioweapons Protocol: Delegates Await Possible Announcement On Wednesday
Date: July 23, 2001
Source: Sunshine Project

Abstract: Today's opening session of the negotiations to finalize the Verification Protocol to the Biological and Toxin Weapons Convention (BTWC) closed without a US announcement that it is withdrawing from the effort.

US media widely reported a planned withdrawal on Saturday.

But the reprieve may only be temporary. The US delegation has privately indicated it wishes to speak up on Wednesday, after the arrival of a high-level UN troubleshooter sent from New York by Secretary General Kofi Annan.

Negotiations Chairman Tibor Toth told delegates it is "time to deliver". And the world did, with country after country taking the floor and announcing willingness to compromise and finalize a Protocol text before the BTWC's critical Fifth Review Conference, beginning in November.

South Africa told the meeting "The time has come for all delegations to place their cards on the table." The US sat stoically silent as the world moved to work together in an impressive display of political will. A poignant moment came when Pakistan - in a display of international flair - drew from a Swedish proverb to make its point, asking: "Those who want to sing always find a song. But does everybody want to sing?"

Other countries threw icier jabs, suggesting that the US would like to kill the Protocol with silence. Said Iran, "If we are faced with mysterious silence or one or more countries… that would prove a lack of interest for a timely conclusion of the Protocol."

While the US isn't the only country to have reservations about the Protocol, everyone else is willing to try to work the kinks out. The Sunshine Project and other non-profits have outlined a series of areas where the Protocol can and should be strengthened. These are discussed in the briefing paper The Biological Weapons Convention and the Negotiations for a Verification Protocol , available on our website.

In Geneva, the Sunshine Project's Jan van Aken said, "The US has no chance of winning a blame game now. If there's a rogue state in Geneva, it's the USA." Added the Project's Susana Pimiento "We hope the Americans silence isn't a cynical attempt to stall the negotiations so they go out with a whimper. With the impressive display of political will displayed here today, countries should get right down to business hammering out better deals on outstanding issues than they could with the US actively obstructing" (Sunshine Project, 2001).

Title: Bioweapons Negotiators Urged To Press Ahead: Spies And High Explosives Are No Recipe for Security
Date: July 25, 2001
Source: Sunshine Project

Abstract: "Pressing ahead to forge a strong UN verification system is the world's best hope for biological weapons security." urged the Sunshine Project's Jan van Aken after today's US withdrawal from the negotiations on a Verification Protocol to the Biological and Toxin Weapons Convention (BTWC). Today, the US stunned delegates and observers with the forcefulness of its outright rejection of a Protocol as a mechanism for strengthening the BTWC. Experts were shocked that the US government has repeated what it did on the Kyoto Protocol and declared a general rejection of the Verification system effort.

US Ambassador Don Mahley told BTWC delegates today that the US is "unable to support the current text, even with changes." Instead of the Protocol in any form, Ambassador Mahley supported a range of measures for the US and few allies to police the rest of the world. Specifically Mahley suggesting the strengthening of the Australia Group, a small circle of mostly Northern countries that coordinate export controls of items that might be misused for offensive bioweapons programs.

Global Vigilante?
If the Protocol is not completed, it will be up to individual countries to verify compliance with the Bioweapons Convention, if at all. US policymakers have endorsed the unilateral route, with token cooperation of a few close allies – if they are willing - and intelligence instead the draft UN system. A senior State Department testified to the US Congress this month that "National intelligence is essential to detect B[T]WC cheating. U.S. efforts to strengthen the verifiability of the Biological Weapons Convention should always proceed from that fundamental reality."

Flawed Doctrine
The Sunshine Project calls the US position the Wing and a Prayer Doctrine. By focusing on spying, the US is failing to take into account other fundamental realities, including the need for cooperation and its own fallibility, the latter demonstrated by the tragedies in Khartoum and at the Chinese Embassy in Belgrade. Edward Hammond explains: "The Wing and a Prayer Doctrine is a dangerous substitute for UN verification. The wings are those of cruise missiles streaking toward a suspected bioweapons facility. The prayers are for US intelligence to be right. The consequences are fatal, potentially including the death of innocent people in the event of error, and a further destabilizing breakdown of international cooperation to avert biological warfare. It is a flawed doctrine that proposes eliminating single threats while creating many more."

Silver Lining
Six years of negotiations have gone into the draft Protocol. The new US policy presents challenges. US military and biotechnology power mean its will now be more difficult to develop an effective international system to prevent biological weapons. Negotiators, however, should redouble their efforts and start the process to draw the US back in.

The bad news has a potential silver lining if the world can muster political will. "While eventual US ratification is highly desirable, the USA's self-imposed exile opens possibilities of strengthening the Protocol in deficient areas where the US was obstructive, such as declarations, visits, and export controls," says van Aken. "As is often the case in UN negotiations, the US may be talked into joining later." says Sunshine Project lawyer Susana Pimiento, "Americans have a reputation for punctuality; but their government does not."

Dubious Defense
The US government and a small number of conservative US think tanks argue that because there is no guarantee of catching every illicit program, the draft Protocol should be thrown out. Experts disagree, pointing out that deterrence and not perfection has always been the goal. There is broad agreement that bioweapons verification is a difficult job that will have to be learned. "The US conveniently forgets that it was a major force creating problems in the draft text that it now calls unfixable." says van Aken. "For example, the US now argues that the inspections aren't strong enough. But it was the Americans themselves who reduced the number and thoroughness of 'transparency visit' inspections."

More Details
For a detailed but concise discussion of outstanding issues in the Protocol text, please consult the briefing paper The Biological Weapons Convention and the Negotiations for a Verification Protocol available on our website (Sunshine Project, 2001).

Title: CIA Denies Documents On Southeast Asia Bioweapons Plan
Date: October 10, 2001
Source: Sunshine Project

Abstract: The plan's demise is a victory for safety regulations; but the CIA's use of secrecy law raises questions about the US role in a dubious biological eradication project.

In a September 24th letter invoking US national security law, the Central Intelligence Agency (CIA) has refused to respond to a Sunshine Project Freedom of Information Act (FOIA) request for documents related the spy agency's involvement in a project to make biological weapons for use against cannabis (marijuana) fields in the Philippines. The grounds for the CIA's refusal and the curious circumstances surrounding the project suggest possible US involvement in the bioweapons plan. But its demise also points to the positive biological security potential of health, environment, and research regulations.

The cannabis eradication research came to the Sunshine Project's attention in December 2000. On the 22nd of that month, UN Drug Control Program (UNDCP) Director Pino Arlacchi cited the Philippines research in a report to the Commission on Narcotic Drugs.

Controversial projects to develop biological weapons to eradicate drug crops have been dubbed "Agent Green" by the Sunshine Project. US and UNDCP proposals to use fungal weapons against coca in Colombia were stopped in early 2001 following a wave of protests from non-profits and the Ecuadorean, Venezuelan, Peruvian, and Brazilian governments. But a parallel US-financed project in Tashkent, Uzbekistan continues to develop an ecologically-unsound fungal weapon to kill opium poppy. It is primarily intended for use against Afghanistan's Taliban.

The project in the Philippines was touted as something different - not just the US operating through the auspices of UNDCP. Arlacchi's report suggested the research was the Filipinos' idea, implying international backing for the controversial biological eradication approach condemned by non-profits as biological warfare. After Arlacchi's report, the Sunshine Project quickly made a FOIA request to the US Department of Agriculture (USDA), because USDA's Agricultural Research Service is the scientific vanguard of the biological eradication efforts in other regions. But USDA promptly and unequivocally responded that it had no knowledge of the Philippine program.

While USDA's answer apparently provided support for Arlacchi's suggestion that the activity was a domestic anti-narcotics effort, research in Manila by a Philippine NGO painted a very different and much more detailed picture.

The Philippine government had actually stopped the project over a year before Arlacchi's report. The proponent and lead scientist of the aborted bioweapons program was not Filipino; but Sri Lankan. The scientist did not work for a Philippines-directed institution; but was a microbiology professor at a university run by a US-based Protestant denomination. The microbiologist's project was endorsed in 1998 by a government anti-narcotics committee; but solely as a greenhouse experiment. Moreover,

the anti-narcotics committee's authority was limited to endorsing the work, and it was not empowered to grant requisite government permits. In fact, the project never began research because appropriate government agencies - the Departments of Health (DOH), Environment and Natural Resources (DENR), and Science and Technology (DOST) - did not give their approval.

In late 1999, as international concern over the use of biological weapons on narcotic crops heated up, the Sri Lankan microbiologist decided to leave the Philippines. The professor said he was being sent to another of the denomination's colleges, this one located in the United States. Philippine officials quickly shelved the non-project, over a year before UNDCP Director Arlacchi cited it in his report. A 2001 survey of life sciences departments at US (and Canadian) colleges belonging to the religious denomination yields no persons fitting the Sri Lankan project director's description.

Filipino rebels are alleged to participate in the narcotics trade by funding their operations through cannabis sales. The proposed use of biological eradication agents there parallels the situation in other parts of the world where biological weapons are being thrown into an explosive mix of anti-narcotics and counterinsurgency operations. In South America, impacting the Revolutionary Armed Forces of Colombia (FARC) is a goal of biological eradication of coca, while in Afghanistan fungal eradication of opium poppy is intended to work against the Taliban.

After USDA's negative FOIA response, the Sunshine Project immediately petitioned the CIA because of that agency's counterinsurgency and anti-narcotics roles and because it originated and nurtured the biological eradication strategy through research grants dating from the 1970s.

The CIA's use of FOIA national security exemptions as grounds for its refusal to answer indicates possible US intelligence involvement in the aborted Philippines project. Invoking the FOIA exemptions rather than denying involvement (with a "no documents exist" response) raises questions because there is no reason to take this legal step unless a paper trail exists.

Unearthing of the CIA's possible involvement in the Philippines project comes close on the heels of very embarrassing news about CIA biological defense research published by the New York Times on September 4th. According to the Times, CIA researchers working in "Project Clear Vision" constructed and tested mock biological bombs and planned to create genetically engineered anthrax as part of a "defensive" program. Many biological weapons experts consider the CIA work practically indistinguishable from offensive biological weapons research. Clear Vision also ran afoul of the UN's Biological and Toxin Weapons Convention, the primary international agreement against biological warfare.

The Philippine project's demise and aftermath underscore the important role that health, environment, science, and agriculture officials can play in stopping biological weapons research. Often these agencies have greater understanding of the dangers of misuse of pathogens than law enforcement or even military authorities. Had the project director been able to obtain the permits from the Philippine Departments (the equivalent of ministries), an embarrassing and dangerous project may have proceeded.
Backed by strong laws, such as the African Union's recent Model Law on Biosafety that criminalizes hostile use of genetic engineering, vigilant enforcement of public health, biosafety, and research rules can improve security from development and use of biological weapons (Sunshine Project, 2001).

Title: US Law On Bioweapons Secrecy Would Restrict Public Access And Promote Instability
Date: October 29, 2001
Source: Sunshine Project

Abstract: A law being considered by the US Congress would clamp down on secrecy surrounding US biological weapons research, restricting the public's right to know and threatening international confidence in US compliance with the Biological and Toxin Weapons Convention (BTWC). Under the law (US House Bill 3016), large quantities of biological weapons agents could be stockpiled and unwise research conducted without any public disclosure.

The proposed law eliminates civil rights by creating a very ill-advised biological weapons exemption in the US Freedom of Information Act (FOIA). The exemption would turn the kinds of bioweapons agents and their quantities used at research sites into a tight secret. The secrecy would apply to all military, commercial, and academic locations that handle bioweapons agents and are required to register with the US Department of Health and Human Services.

Danger to Citizens
Under the proposed legislation, citizens living near bioweapons research areas (and public interest groups) would be legally prohibited from learning what kinds of disease-causing agents are being stored and/or experimented with in their communities. Citizen's groups already encounter severe difficulties obtaining information about US stockpiles and work on chemical and nuclear weapons; but under the proposed law the situation for biological research could become even worse - a specific, legislated information blackout.

Something to Hide?
Passage of the secrecy law would raise questions about US compliance with its international arms control commitments. The US is not supposed to be conducting any secret biological weapons research. It renounced bioweapons in 1969 and ratified the BTWC in 1975. With no apparent need, it is unclear why this secrecy is necessary at all and may suggest that the US has something to hide.

Recent failures to disclose projects such as Bacchus and Clear Vision (see the New York Times, Sept. 4), have already set the world - and US allies - on edge. Only days ago, the Pentagon decided to proceed with the very controversial creation of genetically modified anthrax. Merely conducting this kind of research is provocative; but keeping the locations, agents, and quantities a secret does even more damage, not only to public accountability; but to treaties. The BTWC prohibits research and stockpiling of quantities of biological agents in excess of a small amount needed for peaceful purposes; but under the proposed law, the size of US stockpiles and what is being done with them would become officially secret, provoking questions about US intentions.

According to the Sunshine Project's Edward Hammond "*Withholding this information from the public is unconscionable. The law's destructive implications for international commitments make it doubly dangerous. Biodefense research must be open and the public must be able to fully evaluate what is being done. Without transparency, the government and its contractors are answerable only to themselves. That is completely unacceptable. Instead of increasing secrecy, the US should be pushing for transparency at home and abroad.*"

House Bill 3016 would amend the Antiterrorism and Effective Death Penalty Act of 1996. Locked in a legislative frenzy, it is possible that some members of the US Congress have not realized the implications of what they are considering. Others might have read the law; but not have been aware of the historical and legal context that makes transparency imperative. Having been alerted, however, the US Congress should prevent any reduction in the public accountability of US biological weapons agent research. Failure to do so will undermine trust and widen the gulf between the US and the rest of the world on biological weapons control.

As the US reels from one of the biggest biological weapons scares in history, all steps that could lead down a slippery slope of biological weapons development must be halted (Sunshine Project, 2001).

Title: Seven Good Reasons To Stand Up For Information Freedom On Bioweapons Research
Date: October 30, 2001
Source: Sunshine Project

Abstract: The United States Congress is on the verge of passing a new law (H.R. 3160) that contains a measure that would restrict citizen and research groups from accessing information about the US biological defense program under the Freedom of Information Act. This measure will not only fail to protect the US from acts of bioterrorism, it will severely undermine the transparency of US biodefense research (hurting credibility) and raise questions about US willingness to uphold its commitment under the Biological and Toxin Weapons Convention to not develop or stockpile biological weapons.

The measure will eliminate the public's right to know what the government and its contractors are doing and may have more to do with protecting corporate secrecy than Americans from biological warfare. The location, types and quantities of agents being studied or stockpiled, as well as what institutions are conducting biological weapons agent research will become secret. Instead of promoting secrecy on biological weapons research, to restore international confidence in biological weapons control, the US should be moving in the opposite direction to promote high transparency.

This news release summarizes some of the main reasons why this law will fail to protect from bioterrorism and what interests might really be at work to eliminate the public's right to know.

Why the law will not prevent bioterrorism, and what embarrassing or dangerous problems may result:

The cat is already out of the bag.
There are hundreds of relatively recent scientific publications about biological weapons agents. This research is conducted in all parts of the world, since many potential biological weapons also have peaceful uses or are diseases that public health officials seek to control. Most of these publications indicate the location of one or more biological weapons agents, spread in laboratories across the world. Extensive information on the location of biological weapons agents can also be found in the catalogs of culture collections, government documents, and even the general press. This information cannot be recalled.

Would-be bioterrorists do not need and would not use the Freedom of Information Act to locate stocks of dangerous pathogens. That information is already widely available. Any moderately knowledgeable person can locate stocks of practically any biological weapons agent in an hour (or less) of internet research. A large majority of the dangerous pathogens and toxins listed on the rich countries' Australia Group Export Control List can presently be found in the internet catalog of the American Type Culture Collection (ATCC) near Washington. Not to single out ATCC - the same is true for many other culture collections and laboratories around the world.

Using FOIA would only compromise a terrorist’s intent and provoke investigation. Instead, the FOIA restriction will work against legitimate citizen and research groups who are monitoring the US biodefense program for the constructive purposes of understanding what research and stockpiling is going on in their neighborhoods or to educate the public and policymakers in important issues in biological weapons control.

Bioweapons Agents are Mostly Naturally-Occurring.
The US Congress's newfound preoccupation suggests a basic misunderstanding of where biological weapons agents come from. Although most require technical knowledge and some facilities to use effectively (some don't, for example, foot and mouth disease), locating the agent is NOT the hard part. In fact, biological weapons agents are practically ubiquitous and can be found everywhere. Anthrax is endemic in the United States, and any person with scientific skill who wants to acquire it can simply ply the old cattle trails or livestock pens of Texas, where it is found, long enough to isolate a sample. This is merely an example, the same is true for many other diseases: hantaviruses in the US Southwest, hemorrhagic fevers in the Americas and Africa, avian influenza in Asia. Clamping down on FOIA will do nothing to change the reality that US laboratories are merely one moderately convenient biological weapons source, there are many other sources, some of which offer much easier access and are far less traceable, providing cover for biological weapons developers.

Would squelch public science.
Effective regulation of this law will be impossible without seriously encumbering scientific freedom, particularly that of public sector science. Many biological weapons agents are also public health threats. In order to publish scientific information and advances in treating these diseases, it is necessary to divulge information about them. To reproduce and validate scientific results it is necessary to describe the agents used, their provenance, how they were cultured, and many other details that would expose information that is supposed to be withheld by this law. Therefore, its regulation must choose between massive leaks in the legitimate interest of public science and health, or immoral censorship on the exchange of scientific information on public health concerns and disease treatment and prevention. Should the US Department of Health and Human Services, a major implementer for this law, take such a monstrous stab at public health research?

This situation would play into the hands of large corporate research concerns that have little interest in the dissemination of scientific knowledge so long as they are paid for their work. With billions of dollars presently being allocated for biodefense research, public health would suffer at the hands of interests of greed and secrecy (see below for more on biotech interests and this law).

Denying citizens information provided to everyone else, even Saddam.
Under international treaties, including the Biological and Toxin Weapons Convention, governments have agreed to exchange information about their military research programs in the interests of promoting transparency and mutual trust. With biological weapons, these exchanges are particularly important, as the intent of research can easily be misconstrued. If US citizens and groups are denied access under FOIA, the United States will be in the embarrassing position of providing more information to its enemies and alleged biological weapons producing states, such as Iraq and Libya, than it will to its own people. Alternatively, the US could simply not comply with its international commitments; but doing so would be very foolhardy. In reality, release of information that would be made secret under H.R. 3160 does not significantly help biological weapons makers, and should be publicly available. This is one important reason why the US has provided this information to all governments for many years, for example in the BTWC's Confidence Building Measures.

Diplomats hamstrung.
In addition to providing more information to Saddam Hussein than its own people, the secrecy that the law would impose around research may curtail US diplomatic options by limiting what international efforts the US could agree to. The most effective approaches to preventing the development and use of biological weapons involve exchange of information and international inspection. But if the US refuses to release basic information about the location, quantities, types, and institutions involved in biodefense research, how could it possibly justify granting access to such information to the United Nations and practically all governments around the world? It could not, and thus the law could hogtie diplomats, making them unable to support reasonable initiatives and debilitating progress in international arms control agreements in the name of protecting a US law that restricts its own citizens' access to information.

Accident vulnerability, public concern.
Citizens are justifiably concerned and have a right to know if biological weapons research is being conducted that affects them and their environment. If an accident occurs at a facility researching biological weapons agents, the public backlash could be severe. Citizens will demand to know why they were not advised of research with dangerous pathogens in their own backyards. FOIA transparency cannot prevent accidents; but it can raise questions about risky research and stimulate a critical dialog. Those discussions are incumbent on a responsible government that protects its citizens, who have a right to know how their lives may be affected by biological weapons research. For example, presently the United States is preparing to create a genetically modified anthrax strain. If this new law passes, where this research will take place and what biosecurity precautions exist will be completely unknown.

Poisons the Watchdog.
Does the US government and its citizens believe that only bureaucrats should oversee practically all aspects of research on biological weapons agents? Will the Department of Health and Human Services keep on top of the hundreds, probably thousands, of facilities across the US that have stocks of biological weapons agents? Unlikely. What if one of these facilities, for whatever reason, begins questionable research or stockpiles agents in unjustifiable quantities? Accountability under FOIA could be critical in preventing slip-ups or more nefarious activity in US institutions. This watchdog role is one that Congress should permit and encourage non-governmental organizations and citizens to play; but under the present proposal the possibility is all but eliminated.

In summary, this law attacks the public right to know, eliminates accountability and is impossible to implement without negatively impacting the advancement of scientific knowledge on important public health issues. Even worse, it would not measurably reduce the bioterrorist threat and it would undermine international confidence in US commitments to fulfill treaty requirements.

Another Agenda at Work?
The FOIA exemption measure clearly does not protect US citizens or prevent the possibility of a

bioterrorist attack. Whose interests, then, would it protect, and what other agendas may be at work? Likely candidates are the biotechnology industry and government laboratories, such as Sandia National Lab in New Mexico, Livermore in California, and the Naval Research Lab.

The National Laboratories vehement opposition to biological agent accountability already led to near-mutiny late in the Clinton Administration when their strenuous objections to minimal oversight measures helped drown out voices of reason and prevent US endorsement of the BTWC Verification Protocol. The labs selfishly and implausibly claimed that inspections by trained UN teams to promote transparency would be too bothersome and distracting for their work, and that their secrets would be compromised by spies.

But European countries conducted mock inspections of biotechnology facilities, not unlike those the chemical industry is accustomed to under the Chemical Weapons Convention, and concluded that they do not risk trade secrets. If trade secrets aren't at stake, what secrets then are the National Laboratories seeking to protect? Many think the labs might have something to hide, which is probably the case, as the National Laboratories conduct some of the most controversial and cutting-edge research on biological weapons and recent revelations about the US biodefense program suggest the US is violating the BTWC by making genetically-modified bioweapon agents and manufacturing bioweapons production facilities and weapons (biological bombs).

For its part, the biotechnology industry has never met a measure that increases proprietary rights and secrecy that it didn't like. The industry already enjoys and has been instrumental in creating a enormously strong system of life patents and is perpetually promoting expansion of this system abroad as well as more powerful measures to keep control of unpatented trade secrets. The US is now appropriating billions of new dollars for biodefense research, and the biotech industry wants a major piece of the action. Under the FOIA exemption measure, the biotech industry would be granted a huge additional secrecy clause and would not even have to admit what agents it is dealing with, how much of them it is growing, and detail of what types of research it is conducting. But even better than patents, by hiding this work behind national security law, the biotech industry would have added a major new weapon in its war against public science and rational, humane priority making in what diseases are targeted for cures, and what kinds of treatments and prevention is developed.

Further restraining public access to information would also help solve another problem for the biotechnology industry. This one is public relations. Obviously, companies which promote an image of solving the world's illnesses with massively expensive drugs do not want their laboratories identified as housing collections of very dangerous and repugnant biological weapons agents. So, in order to cash in on Federal dollars for biodefense research, the industry needs a structure that will isolate its image from that of the more ambiguous and dangerous work on biological weapons agents. The FOIA exemption provides just that distance and deniability, enabling the biotech industry to score major government contracts without "dirtying" its white coat image with detailed information about its defense activities, allowing industry to carefully pick and choose what information it wants public.

Strike the Provision

The only way to resolve the problems posed by this law are to strike the FOIA exemptions on identifying persons, locations, and entities stocking biological weapons agents, as well as those prohibiting release of information on the type, quantity, and identity of agents held. Imposing these exemptions will not prevent terrorism; but will undermine security and the rights of the public. The only legitimate FOIA exemption contained in the law is that which specifically and solely pertains to the physical security measures in place at bioweapons agent facilities (in other words, the passcode to the alarm system, and law enforcement plans to prevent theft or abuse). In the interest of the public, science, and arms control, the Senate should immediately move to eliminate all other FOIA exemptions and, working with members of the House in Conference, eliminate that provision from the conference bill that is ultimately passed. If it is impossible to strike this provision, H.R. 3160 should be allowed to die without becoming law because it sacrifices far to much and poses too may new dangers in its naive effort to promote biosecurity (Sunshine Project, 2001).

Title: U.S. Warns Russia Of Need to Verify Treaty Complianc
Date: April 8, 2002
Source: New York Times

Abstract: The Bush administration has informed Moscow that Washington is curtailing many new disarmament projects because of concern about Russia's compliance with treaties banning chemical and biological weapons, according to senior administration officials.

Some existing projects will also lose additional money, they said.

American law requires that the government decide each year whether Russia is ''committed'' to complying with its treaty undertakings. In a cable sent last week, the State Department said the United States had not been able to certify that commitment and, therefore, the administration would be unable to start new initiatives or provide new financing for programs to reduce the threat posed by each side's nuclear, biological and chemical arms.

The decision to send the cable is seen as a victory for skeptics of Russia within the White House. Critics had been pushing for months for a tougher stand toward Russia on weapons of destruction and its compliance with arms control treaties, even though the administration has concluded that the programs benefit American national security.

The cable, coming a month before President Bush is to meet the Russian president, Vladimir V. Putin, in Moscow, does not accuse Russia of violating the germ and chemical weapons treaties. Nor has the administration absolutely ruled out a certification in the future.

But the decision puts Moscow on notice that Washington insists on more cooperation and candor with respect to weapons of mass destruction. ''This is a signal of our seriousness about compliance on arms control and the need to meet all obligations under the chemical and biological weapons conventions,'' a senior administration official said.

But several arms control advocates called the action disturbing. ''It's in our country's interest to stop the spread of weapons of mass destruction from leaking out of Russia in any way we can,'' said Rose Gottemoeller, a former assistant secretary of energy for nonproliferation under President Bill Clinton and now a senior associate at the Carnegie Endowment for International Peace. ''So undercutting these programs is tantamount to shooting yourself in the foot.''

The decision to send the cable was prompted by American concern over a range of actions by Moscow, including its recent refusal to share a bio-engineered strain of anthrax developed by Russia's scientists, despite repeated promises to do so. Officials said Russia had also declined to provide a complete history of the decades of secret work on biological and chemical weapons.

The lack of certification affects a range of disarmament activities -- from military exchanges to American help in stopping the theft of Russian nuclear warheads. Such projects account for about $370 million in programs carried out under the Cooperative Threat Reduction Act, an effort started in 1991 on Capitol Hill that has enjoyed strong support from Congress and the Clinton administration, and record budget requests from Mr. Bush.

Officials said the bulk of the $1.3 billion in projects intended to reduce the threat of unconventional weapons would not be affected by the lack of certification. For example, the $500 million in disarmament projects supervised by the Department of Energy do not require the certification.

But the approximately $450 million in programs managed by the Defense Department and the $70 million run by the State Department will probably be affected, officials said.

Several scheduled visits to discuss new projects have been canceled, officials said. In addition, several State Department projects would soon run short of cash, they said.

The threat reduction program has helped countries in the former Soviet bloc destroy nuclear, chemical and biological weapons and associated infrastructure, and stop the theft or spread of such weapons.

In exchange for American aid and scientific cooperation, the law requires that the administration certify that Russia is "committed" to complying with the treaties it has signed banning and restricting such weapons. While several similar programs permit the president to waive the certification requirement if the program is deemed vital to national security, the law authorizing Cooperative Threat Reduction projects contains no such waiver.

The Clinton administration issued the certification each year and most recently in January 2001. But the Bush administration did not issue the certification when it was due this January. "There was an election," one official said, noting that this administration took a different approach toward treaty commitments.

In March, Mr. Bush's top aides and cabinet members decided to ask Congress to give the administration the authority to waive the certification requirement. The administration has included the request for such authority in the emergency supplemental spending bills for the State Department it sent to Capitol Hill.

Those officials also recommended that the administration inform Russia that it had not issued the certification and, therefore, that there would be no new Cooperation Threat Reduction projects. Nor would existing programs be extended beyond their current level of financing.

House and Senate aides said in interviews last week that while it was likely that Congress would grant the waiver authority, it was unlikely to do so before Mr. Bush travels to Russia to meet with Mr. Putin.

Hard-liners in the administration have grown increasingly disturbed by Russian actions with respect to its chemical and biological weapons treaty commitments. Though the United States has approved plans to help Russia destroy vast stocks of chemical weapons, officials noted, Moscow has yet to acknowledge that it made in Soviet times "fourth generation" chemical weapons agents, which are many times more lethal than the most advanced nerve agents the United States produced.

Concerns about the Soviet offensive biological weapons activities and Russia's ostensibly defensive program are also increasing, several officials agreed. In light of recent accounts from Soviet defectors from the germ weapons program, one official said, it was absurd that Russia continued denying that the Soviet Union had developed and turned pathogens, some of them genetically manipulated to resist antibiotics and vaccines, into terrifying weapons.

Moreover, while Western scientists have been able to visit several former Soviet facilities where such weapons were made, Russia has not given any foreigners access to the four biological laboratories that have been controlled by the military. Russia maintains that it is not violating the biological or chemical warfare conventions, and argues that American military labs are not open either.

Administration officials had hoped that the situation would improve after Mr. Bush and Mr. Putin announced at a summit in October that they would expand cooperation against bioterrorism.

But two days before Mr. Putin's arrival for the summit, officials said, Washington was notified that Russia's Export Control Commission had refused to let Russian scientists share with the United States a genetically modified strain of anthrax that its scientists said seemed to defeat Russia's anthrax vaccine -- at least in hamsters.

Under a scientific strain exchange agreement concluded during the Clinton administration, Russia was supposed to provide a sample of the strain. Since then, Russia's deputy prime minister has reaffirmed the commission's decision not to share the strain, American officials said.

"Russia's actions, like its declarations about what was done in Soviet times, the lack of transparency in its ostensibly defensive programs, and its refusal to share the strain, among other things, raise serious questions about Russia's willingness to abide by its treaty obligations," one official said.

"What we're trying to do," one senior official said, "is send a signal that we require full compliance with the chemical and biological weapons conventions."

"But we've also made clear in the review of our assistance programs to Russia and the record size of our budget requests that these programs are very much in our own national security interests," the official said. "We're trying to find a way to bring these two goals together" (New York Times, 2002).

Title: US Chemical Weapons Program: Human Experiments Planned
Date: September 27, 2002
Source: Sunshine Project

Abstract: A Pentagon document released to the Sunshine Project indicates that the US chemical weapons program operated by the Joint Non-Lethal Weapons Directorate (JNLWD) is planning or may have already performed experiments on humans. This indicates that the program is more advanced than previously believed. Another Pentagon document states that a test quantity of fully working "non-lethal" mortar rounds must be delivered by tomorrow. In a first reaction to Wednesday's revelations of its illegal chemical weapons research, the Pentagon claimed that it has taken a step back from funding work on sleep inducing or mind altering chemicals ("calmatives").

Human Test
The document indicating planned or already performed human experiments with non-lethal chemical weapons is a contract between JNLWD and the Marine Corps Research University (at Pennsylvania State University), dated 29 January 2002. The agreement (M67004-99-D-0037/M9545002RCR2BC6 [link is a PDF file]) stipulates that the University is to perform an assessment of anti-personnel capabilities and seek expert advice "on the human effects testing planned, and/or executed" for a new military mortar round. The planning and/or actual carrying out of human experiments indicates that the chemical weapons program is at an advanced stage. The extent and nature of the experiments, which may be testing of mind-altering, sleep-inducing or cramp-causing chemicals on human volunteers, and the institutional and legal framework for them are not identified in the contract.

and other non-lethal munitions. The SME is required to provide comment on the scientific basis for projected target effects and potential technical issues involved with such effects.

- SME(s) with developmental or operational experience familiar with the generalized human effects issues associated with tactical NL weapons, to include 81mm and below, and a familiarization with human/bioeffect testing methodology of non-lethal munitions/technologies. The SME is required to provide critical and expert comment on the human effects testing planned, and/or executed as part of the overall 81mm NL Mortar Munition program plan.
- SMEs with developmental or operational experience familiar with the operating characteristics of tactical NL weapons, to include 81mm and below. The SME is required to provide critical and expert comment on the likely tactics, techniques,

Mortar Delivery
The advanced stage of the chemical weapons program is also indicated by the fact that tomorrow (28 Sept 2002), is a Pentagon contractor's deadline to deliver a test quantity of "non-lethal" 81mm mortar projectiles. Under a US $700,000 contract (DAAE-30-01-C-1077 [link is a zip file]) signed on 28 June 2001, M2 Technologies of West Hyannisport, Massachusetts must deliver 3 working examples of its final 81mm mortar round design by this Saturday. The projectiles are designed for firing from the US military's standard 81mm field mortar, to have a 2.5 kilometer range, and are suitable for delivery of chemical weapons. The contract indicates that they will contain a "generic payload for visual effect". JNLWD-funded experiments on a gas generating payload canister (made by General Dynamics, photos and diagram on page 2 here) have used colored water as a testing substitute for a chemical payload.

JNLWD Reply
Meanwhile, the Joint Non-Lethal Weapons Directorate has not contested the Sunshine Project's specific and documented charges in any detail. On September 25th, JNLWD denied that it is operating an illegal chemical weapons program; but is not reported to have denied that it is seeking

"calmative" chemical weapons. According to a story run by the Associated Press, a JNLWD spokesman said that the Directorate has decided to "step back and make sure the use of calmatives would not violate the Chemical Weapons Convention." If this statement is true, this small retreat is likely the result of a very recent decision provoked by international criticism of the chemical weapons program. It is not supported, however, by the overwhelming weight of written evidence: Ongoing JNLWD contracts with private companies, academic institutions, a cooperative chemical research program between JNLWD and the US Army and other recent information all indicate that the program is not only active, it is moving forward quickly. Also, on 6 August, JNLWD Commander Colonel G. Fenton told Sunshine Project staff that JNLWD chemical research documents requested under the US Freedom of Information Act will not be released because they are part of a program of "classified weapons development". On September 13th, the Pentagon denied a Sunshine Project request for a legal review performed on JNLWD chemical weapons because the Directorate has classified it.

The case against JNLWD is discussed in detail in the Sunshine Project's news release of 24 September. (The release and documents cited therein are both available on the Sunshine Project website.)

On 26 September, the Sunshine Project wrote to JNLWD and stated that its claim to have taken a "step back" is not supported by the public record. JNLWD has not yet replied.

On Thursday, the Sunshine Project provided evidence for the US chemical weapons program to all States Parties to the Chemical Weapons Convention. The next Conference of the States Parties will convene on October 7 in The Hague (Sunshine Project, 2002).

Title: US National Academies Withholds Key Information On The Moscow Theater Tragedy
Date: October 30, 2002
Source: Sunshine Project

Abstract: The US National Academies of Science holds key unclassified US military research documents that shed light on the Moscow theater tragedy; but is refusing to release them despite repeated, urgent requests. (A selected bibliography of the documents is included at the end of this release.)

Said the Sunshine Project's Edward Hammond "*The world has an urgent need to better understand what happened in Moscow and what other countries, including the US, are doing with these kinds of weapons. The National Academies ongoing refusal to release the documents is very troubling.*" Hammond adds "*NAS has critical information for understanding the chemical agents used in Moscow; but is refusing to release it because it wants to avoid embarrassing the Pentagon, which denies that this type of research exists in the United States.*"

The documents are a series of papers written in 1994 by US Army chemical warfare experts on so-called "calmative" chemical weapons. The set of reports includes a paper on synthetic opiate weapons of the class reported to have killed more than 100 people in the Moscow theater. In 2001, these documents were deposited at the National Academies by the US Marine Corps, which asked NAS to evaluate this kind of weapon. The documents are deposited in a public archive which, according to US law, should be available for inspection by journalists and members of the public.

The US Army documents describe research and testing of chemical agents at Edgewood Research and Development Center at Aberdeen Proving Grounds north of Baltimore, Maryland. In addition, NAS is withholding documents from the US Joint Non-Lethal Weapons Directorate (JNLWD), a Pentagon agency exploring calmative chemical weapons. These include the report of a "non-lethal" weapons policy seminar held in 2001 between US and United Kingdom officials, in which they discussed military operations with chemical weapons like those used in the theater.

The Sunshine Project has been seeking the release of this information since well before the Moscow tragedy. It began its investigation a year and half ago, and first asked NAS for the documents in March.

NAS is trying to defuse the situation by forestalling release until November 5th, US election day, when it hopes that nobody will notice. NAS must place public interest and law before its desire to ingratiate itself with the Pentagon. "*Anything less,*" says Hammond "*would call into question the Academies role as an independent scientific advisor an chemical and biological weapons issues*" (Sunshine Project, 2002).

Title: Loose Monkey Teaches Biodefense Lab A Lesson On The Hazards Of Secrecy
Date: February 26, 2003
Source: Sunshine Project

Abstract: Biodefense accidents can spread of some of the world's most infectious and lethal diseases. As part of the $6 billion-plus expansion of the US biodefense program, more than three dozen new and upgraded "hot zones" have been proposed across the country. Arms control experts and health and safety watchdog groups are deeply concerned that secrecy at these labs will undermine US compliance with the Biological Weapons Convention, result in accident cover-ups, and obscure risks to surrounding communities. Because of these concerns, in early February, a group of non-profit watchdogs began sending a series of open letters to proposed biodefense labs asking them to commit, in writing, to policies that prohibit all classified research and which ensure transparency of their operations.

A contender to receive federal biodefense funding is the University of California at Davis (UCD), which wishes to build a biosafety level 4 laboratory (BSL4), the most secure type of facility, capable of handling dangerous agents such as Ebola virus. In recent weeks, UCD's proposal has come under intense fire from community activists. UCD only consulted its neighbors in the final days before submitting its BSL4 proposal, when it sought a letter of support from the Davis City Council. Some BSL4 labs, including that proposed by UCD, deliberately infect animals with disease.

Davis citizens were understandably angered when the story broke on Monday that a monkey had escaped from UCD's primate breeding facility, which rears animals for biodefense experiments. University officials had been hiding the story for ten days. It took a whistleblower's leak to the local newspaper before UCD decided to advise the community of the security breach. UCD says the rhesus monkey - which remains at large - is disease-free; but citizens are asking the obvious questions: Why did UCD keep the escape secret? According to Joshua English, a community activist in Davis, "*When we found out that UCD officials suppressed information regarding the escaped monkey, the first thing that I think came to everyone's mind was 'how open will they be when that escaped monkey is infected with ebola?*"

Not Monkey Business: The rogue two kilogram primate has done far more than thwart her captors. The lost monkey would have been an embarrassment under any circumstances; but UCD's suppression of the news provoked anger that may have delivered a deathblow to UCD's BSL4 ambition, tipping the balance on the Davis City Council against the University. Davis Mayor Susie Boyd says she personally supports UCD; but because of community opposition, has joined opponents on the City Council and disinvited UCD's project from the city. Boyd wrote UCD that she and the City Council "*have concluded the facility will remain an unwelcome project by our residents.*" Adding to UCD's woes was a vote, last Friday, in which UCD workers allied in the Professional and Technical Employees Union decided against the BSL4 proposal. The Union represents laboratory workers and animal handlers.

Secrets Elsewhere: UCD's lack of transparency has put its application for federal biodefense dollars in deep jeopardy. While other laboratories have avoided UCD's catastrophic meltdown, some are committing the same errors that have led to UCD's woes. The New York State Department of Health's Wadsworth Center and Rensselaer Polytechnic Institute, for example, believe that even the fact that they are seeking a new biodefense lab should remain a secret.

At the University of Texas Medical Branch (UTMB) in Galveston, officials are quietly retreating from a pledge made in 2001 that their BSL4 facility will not conduct classified work and will be "*wide open and above board*". That standard, which UTMB used in public meetings and on its website, has been downgraded to apply only to its "*current plans*". Future work, outside researchers granted access to its labs, and new laboratory spaces are under no such transparency commitment.

There is also biosafety accident history that has not been presented to the public. One of UTMB's lead researchers formerly directed a Yale University lab where faulty equipment and inadequate safety measures resulted in a researcher being infected with Brazilian Hemorrhagic Fever (sabia virus). The infected scientist did not report the accident, in which a liquid containing a high concentration of sabia was aerosolized. The severity of the accident and the infection were not detected by lab management for several days, during which the virus was released outside the containment zone. Sabia is usually spread by rodents and is not believed to be human-to-human transmissible, however, some closely-related arenaviruses (a UTMB specialty) can be spread from person to person. The infected scientist was successfully treated after showing symptoms. The lab director left Yale shortly after the incident.

"*UTMB is propping up a transparency façade through carefully crafted statements that don't mean what they sound like. A careful look at UTMB's words betrays a sad slide toward secrecy*," says Edward Hammond, Director of the Sunshine Project, a biological weapons watchdog in Austin, TX, "*Most of all, I am concerned about how the behavior of UCD and UTMB will impact biological weapons control. The international system to prevent these weapons relies on transparency, on the ability of an informed public to judge the nature and intent of biodefense experiments. This security seems to be an afterthought for these institutions. They are instead preoccupied with public image and scientific rivalries, threatening control of biological weapons with their petty arrogance.*"

The US Department of Energy's proposals to construct and operate biowarfare agent facilities inside its nuclear weapons labs poses an additional, very serious threat to US compliance with the Biological Weapons Convention (BWC). Inside the DOE bio-facilities classified research on bio-agents would be conducted inside classified nuclear weapons development centers - the antithesis of the openness on which the watchdogs insist.

The "No Secrets" Pledge Non-profit biodefense watchdogs are calling on biodefense labs to make a "no secrets" pledge that includes specific transparency elements. So far, they have contacted three proposed BSL4 biodefense laboratories - UCD, UTMB, and (today) Rocky Mountain Labs in Hamilton, MT. Elements of the pledge, to be made in writing, include a commitment to not conduct classified research (or permit it in their facilities) and to operate completely transparent biosafety committees, the groups that review proposed projects. So far, none have responded. In the coming weeks, the watchdogs will contact more of the three dozen institutions across the US who are seeking new or substantially upgraded hot zone facilities. These include Boston University and the University of Illinois at Chicago, which both are seeking BSL4 facilities. Copies of the letters sent to labs are available at: http://www.sunshine-project.org/biodefense/openletters.html (Sunshine Project, 2003).

Title: US Army Patents Biological Weapons Delivery System, Violates Bioweapons Convention
Date: May 8, 2003
Source: Sunshine Project

Abstract: The United States Army has developed and patented a new grenade that it says can be used to wage biowarfare. This is in violation of the Biological Weapons Convention, which explicitly prohibits development of bioweapons delivery devices.

US Patent #6,523,478, granted on February 25th 2003, covers a "*rifle launched non lethal cargo dispenser*" that is designed to deliver aerosols, including – according to the patent's claims - "*crowd control agents, biological agents,* [and] *chemical agents...*"

The development of biological weapons delivery devices is absolutely prohibited - "*in any circumstance*" - by Article I of the 1972 Biological and Toxin Weapons Convention, to which the US is a party. There is no exemption from this prohibition, neither for defensive purposes nor for so called non-lethal agents.

"*The development of weapons for biological payloads produces great uncertainty about the US commitment to the Biological Weapons Convention.*" says Edward Hammond of the Sunshine Project US, "*Thirty four years after the US renunciation of biological weapons, the Pentagon is back in the bioweapons business.*"

"*Hans Blix might have an easier time finding illegal weapons if he were inspecting near Baltimore instead of Baghdad,*" says biologist Jan van Aken from the Sunshine Project Germany, referring to the fact that two of the inventors work at the Army's Edgewood Arsenal north of Baltimore, Maryland. Other inventors work at an engineering firm in Orlando, Florida, where the US Special Forces operate from MacDill Air Force Base.

This grenade is yet another indication of prohibited biological and chemical weapons development projects in the US. It stands in a row with an illegal chemical weapons program focusing on so called non-lethal agents (see below), uncovered last September by the Sunshine Project, with research activities on material degrading microorganisms by the US armed forces (see below), and with a range of questionable biodefense activities that may well suit offensive purposes (see *New York Times*, 4 September 2001).

Eroding Prohibition: So-called non-lethal weapons are blurring the lines between permissable and illegal weapons research. The Army says the new grenade is for the dispersal of "non-lethal" agents. Claims are the legally crucial and most carefully crafted part of a patent. The Army is fully aware of its obligations under the BWC, yet a new bioweapons device was patented. This underscores why "non-lethal" weapons pose such a serious threat. The Pentagon now considers bioweapons work that has been off limits for three decades to be acceptable - if the word "non-lethal" is appended. But not only do many 'non lethal' agents violate treaties themselves, it is worse: US "non-lethal" research is creating and testing hardware that can deliver the full spectrum of biological and chemical weapons.

Pre-emptive Diplomacy: US diplomatic-military policy coordination on "non-lethal" weapons can be seen in its firm resistance to efforts to place the subject on the international arms control agenda. In September 2002, US diplomats vetoed the Sunshine Project's accreditation to a Chemical Weapons Convention meeting because the Project wanted to discuss "non-lethal" chemical (and biological) weapons. Last week, US diplomats again pre-empted discussion of "non-lethal" weapons, when they blocked the International Committee of the Red Cross from making a speech at the Chemical Weapons Convention Review Conference.

"*This grenade is another example of how the Pentagon's so called 'non lethal' weapons programs are consistently chipping away at restrictions on two of the most deadly kinds of arms, biological and chemical weapons. Programs that develop so called non-lethal chemical and biological weapons should simply be abolished*," says Hammond (Sunshine Project, 2003).

Title: Bioweapons Watchdogs Seek Suspension Of University Of Texas Eligibility For Federal Biodefense Research Funds
Date: August 6, 2003
Source: Sunshine Project

Abstract: Biological weapons watchdogs have asked the US National Institutes of Health (NIH) to suspend biodefense funding for the University of Texas Medical Branch at Galveston (UTMB). At issue is the Medical Branch's secrecy about its research on biological weapons agents and its refusal to comply with federal biosafety guidelines. The short-term cost to UTMB could be as high as $250 million and bruised ambitions. But the long-term benefits for all of establishing higher standards of public accountability at institutions conducting biodefense research, says the watchdog coalition, will be enhanced peace, security, and safety in the US and around the world.

The latest moves in an eleven month old dispute with UTMB came Monday, when a member of the coalition, the Sunshine Project, petitioned Anthony Fauci of the National Institute of Allergy and Infectious Disease (NIAID) to suspend NIAID's consideration of UTMB's applications for a federally-funded BSL-4 "hot zone" lab and a regional biodefense research consortium. Also Monday, the Freedom of Information Foundation of Texas filed a legal brief with the Texas Attorney General supporting the coalition's demand that UTMB stop resisting public disclosure of its biosafety committee records.

The watchdogs do not oppose biodefense research, nor do they accuse UTMB of developing biological weapons, rather, they insist that secrecy is the greatest enemy of biological weapons

security. They seek maximum research transparency at all biodefense labs because openness will better protect the communities that surround "hot zones" and will reinforce the United States' compliance with the Biological and Toxin Weapons Convention, the critical international treaty that prohibits development of biological weapons. This debate over transparency comes at a critical time because the US biodefense program is rapidly expanding, coming to touch communities across the country as the "War on Terrorism" erodes standards of governmental accountability and new studies continue to reveal new, disturbing potential applications of biotechnology to bioweapons.

(These and other reasons behind the non-profit coalition's efforts are discussed in more detail in the press release "*Non-Profit Coalition Calls for a National Reassessment of the Biodefense Building Boom*", October 14th, and in its Open Letters to biodefense laboratories, links provided below.)

The coalition is active across the country. UTMB has been singled out for this action because its transparency and biosafety policies are particularly egregious. Since September 2002, it has refused to substantively answer at least nine requests for information about its biosafety policies. In the course of seeking a 100% exemption from public disclosure of information about its biosafety committee, UTMB has even misled the Texas Attorney General with respect to federal laboratory safety regulations. The coalition hopes that by holding up UTMB's failures as an example, other biodefense laboratories will come to better understand their public responsibilities.

The coalition is following other biodefense projects across the country, including the US Army's Dugway Proving Ground (Dugway, UT), and proposed Biosafety Level 4 labs in Boston, MA, Davis, CA, and Hamilton, MT. It is also engaged with the Department of Energy over its plans to build Biosafety Level 3 labs at Lawrence Livermore National Lab (Livermore, CA) and Los Alamos National Lab (Los Alamos, NM).

Detailed information about the action against UTMB can be found at: http://www.sunshine-project.org/biodefense/utmb.html (Sunshine Project, 2003).

Title: Texas Attorney General Rules For Biodefense Transparency
Date: September 4, 2003
Source: Sunshine Project

Abstract: The Texas Attorney General has ruled in favor of the Sunshine Project in its Public Information Act request for information on the University of Texas Medical Branch's application to the National Institutes of Health for a Regional Center of Biodefense Excellence (RCE). Filed on June 2nd, the Project's request was for the University's RCE application. The University of Texas Medical Branch sought to deny release of the application, in its entirety.

In a brief to the Texas Attorney General, the University of Texas Medical Branch claimed five different legal exemptions prevented release of the requested information, including provisions of the Texas Homeland Security Act (HB 9). In its ruling (OR2003-6103, 29 August), the Attorney General's office rejected four of UTMB's arguments in their entirety, including the Homeland Security claim.

One exemption UTMB asserted, related to intellectual property, was accepted; but the Attorney General ruled that it is only applicable to a small portion of the Biodefense RCE application.

UTMB must either accept the Attorney General's ruling, or sue in a Travis County (Austin) court.

A brief in support of the Sunshine Project was filed by the American Civil Liberties Union of Texas (www.aclutx.org).

The Attorney General's decision sets the stage for another important ruling, due on or before September 22nd, related to the Sunshine Project's request for documents from the UTMB Institutional Biosafety Committee. That dispute is presently also the subject of an investigation by the NIH Office of Biotechnology Activities. For more infomation on that case, please see: http://www.sunshine-project.org/biodefense/utmb.html

Today, the National Institutes of Health awarded UTMB the Regional Center of Excellence Grant (Sunshine Project, 2003).

Title: Pentagon Initiates New Research Into Prohibited Chemical Weapons
Date: September 8, 2003
Source: Sunshine Project

Abstract: Recently unearthed US government documents reveal new information on illicit US chemical weapons research. The US Marine Corps program on so-called "non-lethal" chemicals has inked new deals for prohibited weapons. The contracts include development of a new kind of rocket propelled grenade that began at the end of 2002, only weeks after the Moscow Theater disaster. Also last year, a senior US Army toxicologist investigated tacrine, a close cousin of several nerve gases, as a candidate "non-lethal" chemical weapons payload.

The Marine Corps contracts were granted by the Joint Non-Lethal Weapons Directorate (JNLWD) in November and December 2002. Both are with AgentAI, a small company based in Victorville, California. One contract is for development of a new kind of rocket propelled grenade (RPG) to be fired from the US Army's standard M-203 grenade launcher. The chemical grenade is being designed for a 500 meter range. The RPG is designed to strike a person (or perhaps near a person) and then to disperse "c*hemical agents that can further incapacitate or maintain the incapacitation of the targeted individual*". The company plans testing on a "s*imulated human target*" under the current contract. The second JNLWD contract with AgentAI calls for development of "non-lethal" bullets that release a chemical payload upon striking a target. (Summaries of these contracts are available here.)

Another document (available here) reveals the interest of a senior US Army toxicologist in tacrine, a drug used to treat Alzheimer's Disease. The Army is not interested in the drug, however, for helping disease victims. Rather, it is assessing use of tacrine as a weapon. In February 2002, at Aberdeen Proving Ground in Maryland, the toxicologist ordered a literature review on its potential for weaponization. Chemically, tacrine is a acetylcholinesterase inhibitor, a first cousin of the nerve gases sarin, tabun, and VX (among others).

The discovery that the Army is investigating close relatives of extremely lethal nerve gases as "non-lethal" weapons heightens concerns previously raised that the Army's "non-lethal" chemical weapons program is practically indistinguishable from one with a fully lethal intent. The Army's interest in tacrine should draw particular scrutiny from the Organization for the Prohibition of Chemical Weapons and governments who are members of the Chemical Weapons Convention.

Title: Safety And Security In Secret: Public To Have No Access To UTMB Biosafety Committee
Date: October 7, 2003
Source: Sunshine Project

Abstract: A Bizarre Texas Law Trumps Federal Guidelines and the Texas Public Information Act.

In a ruling a late yesterday, the Texas Attorney General rejected the Sunshine Project's Public Information Act request to review documents from the University of Texas Medical Branch (UTMB) Institutional Biosafety Committee. UTMB is focusing on biodefense research and was recently awarded new federal grants to become a national center for work with the most dangerous disease agents. The Attorney General's ruling means that the public has zero ability to examine UTMB's measures to try to avoid human health and environmental damage resulting from its research on biological weapons agents.

The decision is disappointing; but not surprising, according to Edward Hammond, Director of the Sunshine Project, "*Because of a variety of circumstances, I think that this will prove to be a pyrrhic victory for the University of Texas. Arms control, health, and safety advocates from across the country are concerned about the expansion of the US biodefense program and are demanding transparency and explanations of its activities,"* says Hammond, *"The University of Texas has fought for and won its right to be secretive; but the cost will be stigmatizing. It will erode public confidence in the safety and security of biodefense research in Texas and across the country.*"

The ruling comes under a strange Texas law. UTMB's Institutional Biosafety Committee is established under federal Guidelines for research safety. The IBCs purpose includes review and approval of measures to protect the health of citizens and the environment from the possible release of dangerous diseases and genetically modified organisms from UTMB's "hot zone" biocontainment labs. The federal Guidelines require representation of community interests on the committee and mandate that some of its records must be public. At the same time, there are no specific exemptions in the Texas Public Information Act to prevent release of the material requested by the Sunshine Project. Instead, the University depended on a different law to advance its secrecy claim.

UTMB sought, and received, designation of its IBC as a "medical committee" under a strange provision of the Texas Health and Safety Code. As interpreted by the UTMB and the Attorney General, this law gives medical research institutions to right to keep secret documents from committees conformed for any purpose. The law even says that records of such "medical committees" that deal with any issue - medical or not - are immune to judicial subpoena. On top of that, neither UTMB nor the Attorney General is prepared to conclude that the federal guidelines overrule the state law. Paradoxically, while UTMB argued that the records are so sensitive that even a judge may not view them, it also argued that the records contained intellectual property that the University could sell.

What is happening, according the Sunshine Project, is a dangerous derailment of Texas law that is supposed to prevent patient medical records from being disclosed. The UTMB IBC does not deal with patient medical information; but the protection of the law has been applied to all of its records. Says Hammond "*Using UTMB and the Attorney General's logic, UTMB could create a committee for any purpose, for example, to produce offensive bioweapons or to waste biodefense dollars and, under Texas law, the records of that committee would not be available to the public, not even to a court. The situation is terribly dangerous and just plain wrong. The IBC exists to protect the public and the environment, and the public must have access to it and its records. The secrecy will not stand up to scrutiny.*"

The next step in the Sunshine Project's debate with UTMB will be a decision from the Office Biotechnology Activities of the National Institutes of Health, NIH is investigating UTMB following a Sunshine Project complaint. NIH has not put a date on its decision. NIH may or may not directly address the relationships between NIH Guidelines and Texas law, although contradictions are apparent. In contrast to UTMB's position and the Texas Attorney General's ruling, the NIH Guidelines require that minutes of the IBC meetings and some other documents be released upon public request. It is unclear how UTMB plans to handle the discrepancies, although it has suggested to NIH that Texas law should rule.

Hammond concludes, " *Although a setback for the Sunshine Project, this ruling does clarify some of the problems with public accountability of research on biological weapons agents. The Project will persist in requests for this type of information from institutions in Texas and across the country. Sunshine has several additional cases already moving toward the Attorney General's office in Texas. We will work, over the long-haul, to establish openness in research on bioweapons agents because it is required to ensure public safety and US treaty compliance*" (Sunshine Project, 2003).

Title: Lethal Virus From 1918 Genetically Reconstructed
Date: October 9, 2003
Source: Sunshine Project

Abstract: The 'Spanish Flu' influenza virus that killed 20-40 million people in 1918 is currently under reconstruction. Several genes of the extraordinarily lethal 1918 flu virus have been isolated and introduced into contemporary flu strains. These proved to be lethal for mice, while virus constructs with genes from a current flu virus types had hardly any effect. These experiments may easily be abused for military purposes, but provide little benefit from a medical or public health point of view.

The 1918 Spanish Flu was highly infectious and – in comparison to contemporary flu viruses – killed a very high percentage of those infected, including many younger people. The Spanish Flu alone caused the medium life expectancy in the US in 1918 to drop by 10 years. Hence, flu viruses are perceived today as a serious biological warfare threat. Just two weeks ago, a 15 million dollar

research grant was awarded in the US to develop protective measures especially against a bioterrorist attack with flu viruses.

Despite the very dangerous nature of the 1918 virus, efforts to reconstruct it started in the mid 1990s, when Dr Jeffrey Taubenberger from the US Armed Forces Institute of Pathology in Washington DC succeeded in recovering and sequencing fragments of the viral RNA from preserved tissues of 1918 victims. In the current issue of the scientific journal Emerging Infectious Diseases new genetic details of the 1918 flu virus will be published.

But after (partially) unravelling the genetic sequence of the virus, the scientists went a step further and began bringing the Spanish flu back to life. Unnoticed by the public, they succeeded in creating a live virus containing two 1918 genes that proved to be very lethal in animal experiments. This experiment is only one genetic step away from taking the 1918 demon entirely out of the bottle.

A resuscitation of the Spanish flu is neither necessary nor warranted from a public health point of view. Allegedly, the recent experiments sought to test the efficacy of existing antiviral drugs on the 1918 construct. But there is little need for antiviral drugs against the 1918 strain if the 1918 strain had not been recreated in the first place "It simply does not make any scientific sense to create a new threat just to develop new countermeasures against it." says Jan van Aken, biologist with the Sunshine Project, "Genetic characterization of influenza strains has important biomedical applications. But it is not justifiable to recreate this particularly dangerous eradicated strain that could wreak havoc if released, deliberately or accidentally."

Construction of new maximum security (BSL-4) laboratories for biodefense research has been justified in part by citing the potential of the Spanish Flu as a biological weapon. Influenza usually requires a low level of containment; but when scientists begin recombining virulence-related genes, the danger dramatically increases. The University of Texas Medical Branch's BSL-4 plans influenza 'gene reassortment' experiments in maximum containment. "This kind of research is creating a vicious circle, and could prompt a race by biodefense scientists to genetic engineer unthinkable diseases", says Edward Hammond of the Sunshine Project, "What disease comes after influenza? Biodefense laboratories must not become self-fulfilling prophesy centers. The world does not need biodefense programs to create a 'genetically engineered disease gap'."

From an arms control perspective it appears to be particularly sensitive if a military research institution embarks on a project that aims at constructing more dangerous pathogens. "If Jeffery Taubenberger worked in a Chinese, Russian or Iranian laboratory, his work might well be seen as the 'smoking gun' of an offensive biowarfare program," says van Aken.

A Sunshine Project briefing paper on the 'Reconstruction of the Spanish influenza virus' provides further details and a comprehensive literature list (Sunshine Project, 2003).

Title: Biosafety Irregularity In Spanish Flu Experiments: Highlights The Need to Strengthen Biodefense Transparency
Date: October 21, 2003
Source: Sunshine Project

Abstract: Genetic experiments to recreate one of the most devastating viruses of the past century were not reviewed or approved by a biosafety committee. The University of Georgia claims that it was too troublesome to convene its Institutional Biosafety Committee to review research to genetically reconstruct the Spanish flu. Instead, the University signed off on the experiments based on ad hoc talks between only four members of its biosafety committee. As a result, no minutes were taken to describe safety review of the experiments. In fact, by not convening its committee, Georgia's actions ensured that there was no timely opportunity to raise concerns at all.

The case demonstrates a severe weakness in the public disclosure provisions of federal research rules (the NIH Guidelines) and underscores the need for mandatory committee-level (or higher) review of research projects with disease agents. By approving the experiments with an ad hoc subcommittee, requirements for public disclosure were avoided. The existence of the experiments

only came to light through journal articles. According to Edward Hammond of the Sunshine Project, "Genetic engineering of bioweapons agents has national and international implications for health, biosafety, and security. But Georgia shied away from these and simply rubber-stamped the Pentagon-led project to recreate the Spanish flu."

More stringent, more public review is required, says Hammond, "Weighing the merits and hazards of these kinds of experiments requires open discussion. Georgia's claim that reconstituting Spanish flu doesn't merit a biosafety committee meeting is scandalous, and will diminish public trust in the biosafety committee system."

In 1918-19, the Spanish flu killed 20-40 million people worldwide. In the US, deaths from the flu strain resulted in a 10 year drop in life expectancy. Recreating the deadly flu may create international unease, in particular because of the leadership of the US military in the project. The experiments were described by the Sunshine Project on October 9th. (See News Release "Lethal Virus from 1918 Genetically Reconstructed" and the briefing paper "Recreating the Spanish flu?", both available online.)

The Spanish flu reconstruction began at a University of Georgia biosafety level three (BSL-3) facility in 1999. Researchers from US universities, the Armed Forces Institute of Pathology, and the US Department of Agriculture (USDA) are involved. The lab specializes in diseases of poultry, including avian influenza. The Sunshine Project has confirmed - and reconfirmed - under the Freedom of Information Act that USDA has no biosafety committee minutes related to the experiments. The Project also directly contacted the University of Georgia and requested Institutional Biosafety Committee meeting minutes that are required by the NIH Guidelines for Recombinant DNA Research. Georgia's Biosafety Officer stated that no minutes exist.

Scientists have recently begun to accept the need to reinforce the Institutional Biosafety Committee system established under the NIH Guidelines for Recombinant DNA Research. But the discussion, including that in a recent report on biosafety by the National Academies of Science, is out of balance because it is taking place almostly exclusively between scientists, government regulators, and the Pentagon.

"There is a need to make more room at the table. The public has a right to help determine if, and under what conditions, risky research proceeds." says Hammond, "Biosafety review must be a matter of law, and public access provisions of federal research rules must be strengthened. Otherwise, risky experiments such as this one will take place with little or no transparency, and that will decrease international security and create environmental and health risks."

A Sunshine Project briefing paper on the 'Reconstruction of the Spanish influenza virus' provides further details and a comprehensive literature list (Sunshine Project, 2003).

Title: The Bioweapons And Biodefense Freedom Of Information Fund
Date: November 6, 2003
Source: Sunshine Project

Abstract: The Bioweapons and Biodefense Freedom of Information Fund, a new initiative to increase the public accountability of biodefense research, was launched today. The Bioweapons and Biodefense Freedom of Information Fund (FOI Fund) will promote the involvement of civil society in biological weapons control issues by increasing the public availability of government information on biodefense programs and other research on biological weapons agents.

The FOI Fund will use federal and state open records laws to obtain primary documentation. The FOI Fund will support citizens groups and researchers by assisting them to obtain access to public records. It will distribute the results of its requests online, for use by grassroots groups and experts alike. The FOI Fund's website, www.cbwtransparency.org, will house an online library of released documents.

The FOI Fund ties together several needs. New security measures are threatening to erode access to biodefense information, prompting a need to assert and preserve public rights. And, as biodefense programs expand, local and national non-governmental organizations have greater research and information needs. The Fund will partner with both types of groups. On a case-by-case basis, the Fund will use outside experts in specific areas of information access law and, where possible, will pursue requests outside of the United States.

The FOI Fund is an initiative of the Sunshine Project that is advised by a Management Committee with grassroots leaders, arms control specialists, and experts in open records. The Management Committee's membership includes Steven Aftergood (Federation of American Scientists Project on Government Secrecy), Steve Erickson (Citizens Education Project, Salt Lake City), Oliver Meier (arms control researcher and staffer for the Chair of the Bundestag Subcommittee on Disarmament and Arms Control), and Mark Wheelis (University of California at Davis). (Affiliations are listed for identification purposes.)

The Fund's initial work includes a partnership with a grassroots organization to research certain biodefense activities at the US Army's Dugway Proving Ground and a collaboration with a national organization to obtain records related to research on poxviruses.

The FOI Fund's website, www.cbwtransparency.org, explains more about the Fund, its services, and contains examples of the kinds of documents that the Fund will be working to place in the public domain (Sunshine Project, 2003).

Title: University Of Texas Reverses Secrecy Stance; But Will Its New Biosafety Committee Be Accountable?
Date: March 15, 2004
Source: Sunshine Project

Abstract: For more than a year, the Sunshine Project and University of Texas Medical Branch at Galveston (UTMB) have been locked in a public dispute over UTMB's secrecy about its biodefense research. In a potentially significant policy reversal, UTMB has recently formed a new Institutional Biosafety Committee (IBC) to oversee research safety. UTMB says that the new committee will be more transparent than its previous safety committee, whose refusal to release records was criticized by nonprofit watchdogs. As a result of its secrecy, the National Institutes of Health is also examining UTMB's biosafety committee and policies.

The Sunshine Project views UTMB's new committee with guarded optimism: "*It's a shame that it took a year of pressure and a federal investigation before UTMB stopped blowing smoke and started addressing watchdog concerns*" says Edward Hammond, Director of the Sunshine Project US, "*By establishing the new committee, UTMB has finally admitted that its biodefense secrecy is unacceptable.*" Recalling UTMB's track record of resistance to public accountability on biodefense research, however, the Sunshine Project is taking a wait and see approach. Says Hammond "*I hope that UTMB has turned over a new leaf; but the Sunshine Project will reserve judgment until the quality and depth of this new committee's public accountability has been thoroughly tested.*"

The dispute has national relevance because the transparency requirements that are in dispute (those established by the National Institutes of Health Guidelines for Research Involving Recombinant DNA Molecules, called the "NIH Guidelines") are applied across the country. The Texas case is the first major biosafety committee records dispute to emerge since the federal biodefense spending boom began in late 2001.

The NIH Guidelines require Institutional Biosafety Committees (IBCs) at federally-funded biotechnology research labs in order to protect human health and the environment. IBCs must have members that represent community interests and must release many of their documents, such as meeting minutes, to the public. The Sunshine Project's dispute with UTMB began in early 2003 when it requested the UTMB IBC minutes. UTMB not only refused to provide them; but its lawyers convinced the Texas Attorney General to support its secrecy by endorsing the University's controversial interpretation of a state law designed to protect unrelated health care records.

In the course its campaign to shut down public access to its IBC records, UTMB did an embarrassingly effective job of painting itself into a corner with respect to federal research rules. UTMB's position was in flagrant violation of the NIH Guidelines. Says Hammond, "UTMB's efforts to obtain legal endoresement of its secrecy turned into a classic case of 'be careful what you wish for, because it might come true.' UTMB got what it wanted from the Texas Attorney General, and very promptly regretted the situation it brought upon itself."

(In late 2003, the Texas Attorney General's Office publicly admitted to having second thoughts about its decisions supporting UTMB's secrecy, publicly stating that it may reconsider its decision. Misleading the public, UTMB portrays itself as a victim of the Attorney General's ruling. In reality, UTMB desired the secrecy ruling and was the author and promoter of the legal arguments that led to the Attorney General's decision.)

In August 2003 the Sunshine Project sent a formal complaint to the NIH Office of Biotechnology Activities, which began an investigation of UTMB's biosafety committee. When NIH asked UTMB to explain itself, the University did not even attempt to argue that it was in compliance with the NIH Guidelines. NIH has yet to report on its investigation; but it is fair to assume that it has played a hand in UTMB's decision to establish a new IBC.

The Sunshine Project will discuss the UTMB case in greater detail in the upcoming report of its national survey of transparency of institutional biosafety committees. In that survey, which began in January, the Sunshine Project has requested IBC minutes from nearly 400 committees across the country. The report will analyze the survey response and make recommendations on how to maintain and expand the public accountability of biodefense and biotechnology research (Sunshine Project, 2004).

Title: US Transparency Survey: Serious Problems Evident
Date: April 14, 2004
Source: Sunshine Project

Abstract: The Sunshine Project has made additional information available on its website concerning its Institutional Biosafety Committee (IBC) Transparency Survey. The Project is making this early release of information because it is deeply concerned by the fact that the survey results demonstrate, *prima facie*, widespread noncompliance with federal biotechnology research rules. The rampant violations call into question the effectiveness of the United States' guidelines-based laboratory biosafety system. Survey results to date strongly suggest that increased biodefense spending is triggering a collapse in the public accountability of biological research across the US.

While dozens of nearly 400 surveyed institutions have replied adequately, revealing that many work diligently to comply with federal research rules, it is equally clear that many others do not. According to the Sunshine Project's Edward Hammond "*Internationally, the US promotes its rules as a model for the rest of the world to follow; but this research indicates the opposite. The replies to date suggest that the US system is actually a house of cards*."

The 389 federally-registered biotechnology research institutions queried by the Sunshine Project have an unequivocal obligation to release the meeting minutes it requested, yet:

1. Only two out of five (42.9%) IBCs have provided meeting minutes;

2. Almost half (44.5%) have failed to reply to the survey at all.

3. The remaining 12.6% have replied but have not provided minutes.

Institutions who have not replied include two of the nation's maximum containment biosafety level four laboratories (a Centers for Disease Control lab and a San Antonio, TX facility), an operator of Department of Energy biodefense labs, a major genome sequencing institution, and some of the largest recipients of federal biotechnology and biodefense research funds in the country.

Among those IBCs that have replied (with or without minutes), serious problems are evident. These include:

1. Major research centers, including institutions handling potential biological weapons agents and that conduct federally-funded biotechnology research, who do not maintain records of their IBC meetings and/or approve risky experiments without committee review;

2. Numerous IBCs punching holes in the national system by asserting the primacy of state law over the federal laboratory safety rules;

3. Widespread and arbitrary removal of information from public records;

4. Adoption of policies and procedures deliberately designed to evade public accountability.

In addition, analysis of US National Institutes of Health IBC data reveals that a significant number of biotechnology labs, particularly private sector labs and private non-profit labs, are not even registered under the federal laboratory safety system.

The survey, which began in late January, is assessing the quality of public disclosure by Institutional Biosafety Committees across the United States. IBCs are established under the US National Institutes of Health Guidelines on Research Involving Recombinant DNA Molecules ("the NIH Guidelines"), which exist to safeguard against the health and environmental dangers of biotechnology research.

The final report of the survey will make recommendations for how to raise the public accountability of biodefense research (Sunshine Project, 2004).

Title: Federal Complaint Seeks Termination Of Government Funding For Nine Biotechnology Research Institutions
Date: May 4, 2004
Source: Sunshine Project

Abstract: Today, the Sunshine Project filed a federal complaint against nine institutions, some of them major biotechnology research centers, for failure to comply with public access provisions of federal biotechnology research rules. The complaint, lodged with the National Institutes of Health Office of Biotechnology Activities (NIH OBA) seeks immediate suspension of federal funding to the institutions and a fifteen day deadline for compliance. If the institutions do not comply within that timeframe, the Sunshine Project has requested that NIH declare them ineligible for federal biotechnology research funding.

The institutions are: Iowa State University (Ames, IA), Cornell University (Ithaca, NY), Washington University (St. Louis, MO), University of Pittsburg (Pittsburgh, PA), Duquesne University (Pittsburgh, PA), University of Arkansas (Fayetteville, AR), Southern Illinois University Medical School (Springfield, IL), Serono Reproductive Biology Institute (Rockland, MA), and Vical, Inc. (San Diego, CA).

Transparency in biotechnological research is particularly important now because, in 2001, the United States rejected the strengthening of the Biological Weapons Convention (BWC) through a protocol including declarations and inspections. Since it rejected legally-binding international efforts for stronger biological weapons controls, the US has allocated $15 billion or more for biodefense research, including classified research programs and types of studies that generate knowledge and capabilities for offensive biological warfare. The huge upswing in research on biological weapons agents has triggered a deterioration in public disclosure.

The complaint demonstrates that each of the nine research institutions has refused to provide copies of the minutes of meetings of its Institutional Biosafety Committee (IBC). IBCs are established under federal research rules (called the NIH Guidelines) and are charged with protecting against the human health and environmental risks of biotechnology research. The federal rules unequivocally establish that the meeting minutes must be made public.

The Sunshine Project complaint is related to a national survey of the public accountability of biological research institutions. The survey began in January and involves nearly 400 institutions nationwide. The Project continues to gather information for the survey's final report. The complaint stems from specific information access issues - that is, impediments to public disclosure imposed by the nine institutions - that have become apparent in the course of preparing the report. The Sunshine Project survey will identify ways to increase research transparency and counteract the toward biotechnology and biodefense secrecy (Sunshine Project, 2004).

Title: Time For The Pentagon To Lift The Secrecy Surrounding Its "Non-Lethal" Chemical And Biological Weapons
Date: July 19, 2004
Source: Sunshine Project

Abstract: Sunshine Project Challenges the Defense Department to Release "Non-Lethal" Weapons Documents

Last week, when the Pentagon's lawyers insisted that the Sunshine Project remove documents about US Army chemical weapons research from its website, they called attention to the secrecy that surrounds US development of so-called non-lethal weapons. Belatedly realizing that censorship might backfire and draw more – not less - attention to "non-lethal" secrets, the Marine Corps tried to compensate with delay. It waited until 5:00 PM on Friday to respond to journalist's inquiries so as to try to ensure that the news cropped up outside of major US and international news cycles. Even then it said nothing of substance – it says it is investigating the matter.

The Pentagon has never been forthcoming about the extent of its "non-lethal" programs; but after the Sunshine Project and others began to take action against them at the Chemical Weapons Convention, secrecy has increased and the quality of disclosure under laws such as the Freedom of Information Act has plummeted.

For more than three and half years, the Sunshine Project has closely followed the Joint Non-Lethal Weapons Directorate (JNLWD), the coordinating body for US military "non-lethal" weapons research. In September 2002, the Sunshine Project went to the Chemical Weapons Convention (CWC) and called for the Organization for the Prohibition of Chemical Weapons to investigate programs to develop prohibited chemical weapons under the "non-lethal" moniker. In reply, the US State Department blocked the Sunshine Project's accreditation to the meeting.

One month later, more than 120 innocent hostages were killed in the Moscow theater by the same kind of "non-lethal" chemical weapon. In 2003, it wasn't the Sunshine Project that went to the CWC to request action, it was the International Committee for the Red Cross (ICRC). But the result was much the same: The Bush administration again used backroom maneuvers to prevent the ICRC from speaking and to keep "non-lethal" chemical weapons off the CWC's agenda.

"Non-lethal" weapons are a hodgepodge of technologies ranging from simple, well-understood items such as police batons and shields, to the weirdest frontiers of weapons science, like the Navy researcher whose proposal is to permanently "pacify" people by chemically burning out the neurological systems that make humans capable of violence. (His paper was accepted for discussion at a JNLWD-sponsored conference.) With new technologies, such as directed energy, JNLWD plays up the "gee-whiz" factor, resulting in headlines such as "Set Phasers to Stun", although to many observers the various directed-energy devices remind them more of the electric chair than reruns of Star Trek.

When it comes to chemical and biological "non-lethal" weapons, which are prohibited by treaty, JNLWD has the most explaining – and disclosing – to do. To begin with, if all of JNLWD's programs are treaty-compliant and truly "non-lethal", as it insists they are, why operate these programs under high classification? It is difficult to understand why a purportedly non-lethal weapon for missions such as peacekeeping would need to be shrouded in secrecy like that applied to nuclear weapons technology.

Beyond the three documents that the Marine Corps has insisted that the Sunshine Project remove from its website, a world of recent and undisclosed JNLWD and other Pentagon chemical and even biological "non-lethal" weapons research exists. The outlines of these programs can be ascertained through the Freedom of Information Act, related laws, and open sources. It is time for JNLWD and its military partners to come clean and prove that these programs are treaty-compliant and "non-lethal".

To begin the process of adequate public disclosure and discussion, Sunshine Project challenges the Pentagon to release the following materials:

1. The unredacted reports of the project *Chemical Immobilizing Agents for Non-Lethal Applications*, conducted by Optimetrics, Inc for the US Army Aberdeen Proving Ground in 2000 – 2001, as well as those of all follow-on projects;

2. The unredacted reports of the JNLWD technology investment project *Front End Analysis for Non-Lethal Chemicals*, conducted in fiscal years 2001 and 2002;

3. The unredacted reports of the project *Technical Assessment of Antimateriel Chemical and Biological Agents*, conducted at Dugway Proving Ground, Utah, in 2000;

4. The unredacted videotapes of late 1990s US Navy (Dahlgren, VA) testing of unmanned aerial vehicles (UAVs, or "drones") equipped with "non-lethal" payload systems, requested by the Sunshine Project under FOIA a year and half ago, as well as documentation related to this program;

5. The unredacted reports of JNLWD's Loitering Non-Lethal Submunition program, as well the reports of Pentagon projects to develop "non-lethal" chemical missile payload systems, such as those for the ERGM (extended range guided missile) and the loitering "Tomahawk Tactical" cruise missile.

6. The full record of the lectures on antipersonnel "non-lethal" chemical weapons, classified "secret" and periodically given by JNLWD staff at the Marine Corps Command and Staff College since at least 2002.

7. All records deposited at the National Academies of Science for its JNLWD-sponsored non-lethal weapons study. (NAS has been refusing to release these records, at the behest of the Marine Corps and in violation of the Federal Advisory Committees Act, for a year and a half.) (Sunshine Project, 2004).

Title: NIAID Biodefense Program Funds In Violation Of Federal Biosafety Rules
Date: August 2, 2004
Source: Sunshine Project

Abstract: The biodefense program of the National Institutes of Health (NIH) is not following the Institutes' own biosafety guidelines in grants made to research biological weapons agents.

According to Sunshine Project research, some three dozen laboratories that do not have a registered biosafety committee - as required by NIH guidelines - are currently receiving federal biodefense grants. The Bush administration recently decided to assign biosecurity oversight to the ailing biosafety committee system.

The Sunshine Project has lodged a complaint with the NIH Office of Biotechnology Activities demanding that it immediately suspend the noncompliant programs, some of which involve work with the world's most dangerous diseases. NIH's disregard for its own biosafety rules demonstrates the profound weakness of the United States' laboratory biosafety system and, according to the Sunshine Project, the need for international rules for high containment facilities and lab safety.

Under old federal rules called the NIH Guidelines on Research Involving Recombinant DNA Molecules (NIH Guidelines), all NIH-funded biotechnology research is supposed to be at labs that have a registered Institutional Biosafety Committee (IBC). The IBCs are in charge of protecting

human health and the environment from accidental exposures in biotechnology experiments. While the NIH Guidelines are weak and legally voluntary, NIH policy theoretically makes compliance with them compulsory for grant recipients.

But with billions of biodefense dollars to disburse, and despite the Bush administration's insistence that IBCs can handle biosecurity, the National Institute of Allergy and Infectious Disease (NIAID) has thrown NIH's biosafety rulebook out the window. Since 2002, NIAID has made biodefense grants to about three dozen facilities that do not have a registered Institutional Biosafety Committee (IBC). For example:

Diversa Corporation of San Diego, California has NIAID-funded projects to develop genetically engineered antibodies for use against plague, anthrax, and SARS (as well as other NIH-funded non-biodefense biotechnology projects). Diversa does not have an NIH-registered IBC.

A University of Pennsylvania researcher is studying Ebola virus, which requires maximum biosafety level four (BSL-4) containment. The University has a registered IBC, but it does not have a BSL-4 lab, so the work is being conducted at the US Army Medical Research Institute for Infectious Disease (USAMRIID) at Ft. Detrick, Maryland. This makes USAMRIID responsible for biosafety in the NIAID grant. USAMRIID does not have an NIH-registered IBC.

NIAID has made grants for work at the Canadian BSL-4 facility in Winnipeg, Manitoba, including studies with five different types of arenavirus that cause hemorrhagic fever. A separate NIAID-funded project in Winnipeg involves Crimean Congo hemorrhagic fever virus. The facility does not have a registered IBC.

In total, based on a review of NIAID grants, the Sunshine Project estimates that three dozen laboratories that do not have a registered IBC are currently receiving NIAID biodefense grants that involve work with recombinant DNA. These include many private sector biotechnology companies. In addition, NIAID has made biodefense grants to the Universities of Maryland and Wisconsin for projects that appear to require BSL-4 containment, which these universities do not have. Neither Maryland nor Wisconsin has responded to repeated queries asking where these projects will be reviewed by an NIH-registered IBC.

Other examples include Biodefense Technologies Inc (Blacksburg, VA), which is trying to produce plague vaccine in genetically modified tobacco. Planet Biotechnology (Hayward, CA) has another NIAID-funded "pharming" project which aims to grow botulinum toxin antibodies in transgenic tobacco. Neither have NIH registered IBCs. Other NIAID biodefense grant recipients without NIH-registered IBCs are working on anthrax antibiotics, immunoregulators, biosensors, and transgenic animals. Most of the unregistered grant recipients are biotechnology companies.

The Bush administration insists that no mandatory laboratory safety and disclosure laws are necessary, because an alleged "culture of responsibility" at IBCs will protect Americans and the world from accidents and abuse in US biodefense research. According to the Sunshine Project, the administration is dead wrong.

"The voluntary US biosafety committee system has been battered and broken by decades of neglect and destructive lobbying by the biotech industry," says Edward Hammond, US Director, "The system is not up to the task of ensuring biodefense safety and security. That NIH's own biodefense program doesn't bother to ensure that its grantees comply with the NIH Guidelines is a scalding indictment of the US laboratory biosafety system."

According to Jan van Aken, Director of the Sunshine Project Germany, "The current flow of money into uncontrolled, unregulated biodefense research creates more and more risks of abuse and accidents. What is needed is an internationally harmonized, all-inclusive and mandatory system to ensure safety and security of biological research."

The Sunshine Project began calling for enhanced international lab biosafety rules in October 2003 (see Sunshine Project Backgrounder #11, online). Recent Sunshine Project publications, also

available on our website, have drawn attention to lab biosafety problems in the United States, such as those related to projects involving reconstructed 1918 "Spanish" influenza (Sunshine Project, 2004).

Title: Research Transparency: Federal Complaint Against "Bottom Of The Barrel" Biosafety Committees
Date: August 23, 2004
Source: Sunshine Project

Abstract: Today, the Sunshine Project has filed a complaint with the National Institutes of Health against four US universities that have the worst biosafety transparency out of more than 225 institutions nationwide that have replied to a Sunshine Project survey of Institutional Biosafety Committees. The complaint names Princeton University (Princeton, NJ), the University of Texas Southwestern (Dallas, TX), the University of Vermont (Burlington, VT), and the University of Delaware (Newark, DE).

"*It was difficult selecting only four institutions to label as the worst*", says Sunshine Project Director Edward Hammond, "*hundreds of labs have lousy biosafety recordkeeping or haven't replied to the Sunshine Project's requests at all.*" However, Hammond says "*These four schools fall into a special category of rotten.*" Their biosafety committees function, but "*these universities' biosafety committees have nothing but contempt for public disclosure. They black out their meeting minutes or write down virtually nothing, so as to frustrate public access.*"

The Sunshine Project's complaint was filed with the National Institutes of Health Office of Biotechnology Activities, which oversees the NIH Guidelines on Research Involving Recombinant DNA Molecules. It is under these federal guidelines that the Sunshine Project is conducting its survey of biosafety committees. According to the Guidelines, minutes of biosafety committee meetings "*shall be made available to the public upon request*".

Briefly, on each institutional biosafety committee (IBC):

1. Princeton University provides useless documents to the public because it records nothing of substance about safety review of its biological research in its IBC minutes. Says Hammond, "*Princeton might have impressed the editors of US News*," who this week named it a top US university, "*but its biosafety committee's sense of public responsibility is bottom of the barrel.*"

2. Like Princeton, the University of Vermont records virtually nothing of substance when its IBC reviews project safety. Vermont took six months to reply to a request for its IBC minutes, and then provided no useful information.

3. The University of Delaware takes a different approach. It replied quickly to the Sunshine Project's request; but not before applying a fat magic marker to its IBC minutes, blacking out page upon page about biosafety at the university, and rendering its minutes completely useless.

4. In Dallas, UT-Southwestern takes a novel approach to evading public accountability: It puts all the substance of its IBC meeting in an "annex", which it does not release to the public. Then, in its sparse committee minutes, it records that the annexes are approved "*without additional comment*".

The Sunshine Project's complaint asks NIH to terminate biotechnology research funding to the four institutions until they comply with the federal research guidelines (Sunshine Project, 2004).

Title: French Biodefense Research Clouded In Secrecy; Concern Over French 'Non-Lethal' Chemical Weapons Activities
Date: November 16, 2004
Source: Sunshine Project

Abstract: Today, the Sunshine Project has released detailed studies of the national biodefense programs of France and Germany. The reports are the first in a series whose aim is to better document biodefense programs in many countries.

French secrecy: The country study on France concludes that the French government is not in compliance with its obligations under the Biological Weapons Convention (BWC), as it has failed to provide comprehensive annual declarations to the United Nations on its biodefense program. The French government is very secretive about its BW-related activities. France has omitted major information from its official declarations and publications, and French officials did not respond to written questions about biodefense activities.

French military biodefense research is mainly conducted at two facilities, the *Centre d'études du Bouchet* (CEB) near Paris and the *Centre de recherches du service de santé des armées* (CRSSA) near Grenoble. In addition to standard features of a biodefense program, France is also working on so-called 'threat assessment' studies, which may involve the practical imitation of offensive capabilities to assess the possible capacities of an enemy. As this kind of research blurs the distinctions between defensive and offensive research, 'threat assessment' type projects are a major concern for international arms control. It was not possible, through open sources, to establish the concrete nature of France's threat assessment projects.

Among the manifold projects pursued by the French biodefense program is the construction of mobile biological labs, the study of microencapsulation of microorganisms and the production of toxins by means of genetic engineering.

Non-lethal chemical weapons activities: A variety of evidence suggests that France is working in the area of so called 'non-lethal' chemical weapons and thus may be in violation of the Chemical Weapons Convention. French military scientists have investigated a broad range of incapacitating agents – from tear gas to neurotoxins and psychoactive drugs – and a variety of delivery devices for 'non-lethal' chemical weapons have been developed, patented, and marketed by French companies in the past years. Earlier this year, a salesperson from the weaponsmaker Etienne Lacroix offered to sell us chemical payloads – including malodorants – for one of its weapons system.

In summary, the secretive and intransparent behaviour of the French government with regard to its biodefense programs and its non-lethal weapons activities may give rise to a broad range of suspicions. A radical move by the French government towards transparency and improved confidence building measures may counter similar suspicions in the future.

Germany has a well developed biodefense program located at two military research centers: the microbiological laboratory of the *Sanitätsakademie der Bundeswehr* (SanAk) in Munich and the *Wehrwissenschaftliches Institut für Schutztechnologien* (WIS) in Munster. While Germany is comparatively open about its military biodefense activities and submitted rather comprehensive declarations to the United Nations, it is still keeping secret its civilian contractors that are involved in military biodefense programs. There is no indication that the Federal Armed Forces perform so called 'threat assessment' type of research. One particular experiment with genetically engineered bacteria that raised concerns in the past was apparently stopped some two years ago after critical public discussions in Germany. No indication of research or development projects related to new types of so-called 'non-lethal' chemical weapons in Germany were identified.

The Sunshine Project country studies were initiated in early 2004 to increase transparency and to contribute to building confidence in the critical area of biological arms control. They are based on open sources, such as scientific publications, general media, or government publications. More country studies will follow, including reports on Turkey and the United States.

The Sunshine Project calls on all governments to strengthen the international ban on biological weapons, to restrict themselves in biodefense programs and to guarantee full transparency in all aspects of biodefense research. They should contribute to building confidence in this critical area of biological arms control by submitting future declarations to the United Nations that are complete, consistent and unambigious.

The country studies on France and Germany are available on our website at www.sunshine-project.org (Sunshine Project, 2004).

Title: US Army Secrecy Challenged By Watchdogs
Date: January 13, 2005
Source: Sunshine Project

Abstract: Dispute over report on the effects of chemical weapons on ethnic groups call for greater transparency and oversight of Dugway Proving Ground.

Watchdogs are appealing the US Army's refusal to release a study that compared the effects of different chemical, and possibly biological, weapons on different ethnic, gender, and age groups. The US Army has refused to release a single page of the study, which was conducted in 1999 by the US Army Dugway Proving Ground in Utah. The experiments harken back to dark Cold War days, when Dugway used religious minorities in weapons tests.

The watchdogs, the Sunshine Project (Austin, TX) and Citizens Education Project (Salt Lake City, UT : website), are demanding two things:

First, they want the report *Chemical Warfare Agent Toxicity for Both Genders from Different Age and Ethnic Groups* to be immediately released. They requested it under the Freedom of Information Act in August 2004. The Army replied in December acknowledging that the report exists; but refusing to release it.

This week, the groups have filed an appeal with the US Army General Counsel's Office.

"*We want to know how and why the US Army is researching chemical weapons effects on different kinds of people*," says Sunshine Project Director Edward Hammond, "*We see no valid defensive purpose to build data on ethnic chemical warfare. On the other hand, there are plenty of reasons why this research might make others nervous. Did the Army segregate people based on ethnicity, gender, and age and then expose them to weapons agents?*"

The US Army reply to the watchdog's request for the report mentions biological agents in addition to the chemicals. According to the watchdogs, that these studies may extend into biological weapons is more cause for concern. Says Hammond "*The Army's reference to biological agents is all the more reason why it must disclose this report to explain what it has done and why it wants data on the effects of prohibited weapons on ethnic groups.*"

Secondly, the watchdogs want increased transparency and public oversight of Dugway Proving Ground (DPG). DPG is in the middle of a massive expansion of its biological and chemical activities, building new BSL-3 labs, expanding the perimeter of the base, and adding a new counter-terrorism training mission. Steve Erickson of the Citizens Education Project says the expansion is "*like nothing we've seen since the Cold War days when Dugway was in its heyday of chem-bio testing and human experimentation*." "*As it stands now, Dugway can claim that everything they do now or in the future is to protect the nation from bad guys with bad intentions. But studying ethnic specificity of chemical or biological weapons? How can that not be viewed by other nations as provocative? Given Dugway's track record and the money the feds are throwing at perceived threats at the expense of serious, identified public health problems, a healthy dose of skepticism and oversight is in order,"* Erickson said.

Utah State Senator Gene Davis has filed a bill (SB 85) which would re-establish a committee of Utah legislators, regulators and citizen representatives, disbanded in the 1990s, to assure a modicum of state oversight of federal facilities in Utah like the Dugway Proving Ground, and to keep the public informed on developments at those installations that could affect their health and safety (Sunshine Project, 2005).

Title: Sunshine Project Releases CRISPER: Open Government Tool Enhances Public Access to US Biodefense Program
Date: March 4, 2005
Source: Sunshine Project

Abstract: Public access to information about federally-sponsored research on biological weapons agents is unlikely to ever be the same again. Not because the US government has reversed its slide into secrecy; but because a non-governmental organization has taken access into its own hands.

Today, the Sunshine Project has released CRISPER (Extended Results), a new open government tool to search and organize research grant data from the National Institutes of Health (NIH). CRISPER has far more powerful capabilities than those offered by the government. While CRISPER is optimized to research projects involving biological weapons agents, it can be used by anyone with an interest in National Institutes of Health research, for example, to research spending on biotechnology, biodiversity, specific diseases, or in specific locations.

CRISPER (http://www.cbwtransparency.org/crisper) searches NIH's Computer Retrieval of Information on Scientific Projects (CRISP) database and joins the results with financial data from the NIH Office of Extramural Research, a task that was previously virtually impossible. In addition, CRISPER:

1. Adds new search methods (simple search, agent search)
2. Provides grant sums for specific years, diseases, institutions, etc.
3. Provides clear, easy to read output
4. Presents downloadable results for databases or spreadsheets

Drill-down to information about Institutional Biosafety Committees and to convert grant amounts to 2005 dollars are also under development.

CRISPER is a civil society response to the deteriorating state of public access to information about US biomedical research, particularly that involving potential biological weapons agents. Full biodefense transparency is essential for safety, security, and informed public discourse.

The system is intended to be a transparency inducement to NIH: "*Our goal is to show NIH how it can fulfill its pledges of openness*" (see CRISPER intro page) says Sunshine Project Director Edward Hammond, "*We're sorry if CRISP-ER is embarrassing for NIH; but good government demands that its functions be available to the public. It will be a happy day when we shut CRISP-ER down because NIH has seen the light*."

CRISPER has already proven its value. Referring to the ongoing controversy over NIAID's biodefense program prompted by a protest letter from more than 750 microbiologists, Hammond says "*CRISP-ER results demonstrate that NIH's own data supports the microbiologists' charge that spending on high priority public health diseases is on the decline. Double digit declines in NIAID grants, in fact, for many important non-biodefense diseases*" (Sunshine Project, 2005).

Title: Boston University Lab-Acquired Tularemia: FOIA Appeal To Overturn CDC Secrecy
Date: March 11, 2005
Source: Sunshine Project

Abstract: After being denied basic information about the laboratory-acquired tularemia infections at Boston University by the US Centers for Disease Control (CDC), the Sunshine Project today filed a Freedom of Information Act (FOIA) Appeal with CDC's parent agency, the US Department of Health and Human Services. Laboratory-acquired infections and other accidental or deliberate releases of biological weapons agents pose a major risk to public health and there is an urgent need to clarify activities of the federal government related to permissions to handle such agents.

The leaders of the Boston University (BU) tularemia project have been publicly identified by HHS, BU, and the media; but CDC is refusing to reveal when the scientists were first permitted to handle virulent

tularemia. CDC says the reason why is that revealing anything about the researchers' federal permits poses a bioterrorist threat. "*CDC's argument is breathtakingly backwards,"* says Sunshine Project Director Edward Hammond, *"The threat that this request is about has nothing to do with foreign terrorists. Rather, it is the threat posed by the release of biological weapons agents from biodefense labs, a danger palpably proven by Boston University's microbiological mess."*

CDC's response confirms what many feared about new US bioterrorism law: that it would be invoked to prevent release of information of high public interest and zero security value that is requested by citizens and public interest organizations concerned about biological safety and public accountability. Says Hammond, "*We've explained to HHS why release of this information poses no security threat and does not violate the Bioterrorism Act. Unless HHS reverses its secretive position, many will conclude that the real target of CDC's implementation of the Bioterrorism Act is the public's right to know.*"

The Sunshine Project filed its FOIA request on January 22nd. CDC replied by fax on January 31st; but didn't formally deny the expedited request until a letter received on February 14th. The appeal was filed today.

11 March 2005

Deputy Assistant Secretary for Public Affairs (Media)
US Department of Health and Human Services
Room 17A-46
5600 Fishers Lane
Rockville MD 20857

By fax (301-443-0925) and certified mail

FREEDOM OF INFORMATION ACT EXPEDITED REQUEST APPEAL

Dear Sir or Madam:

By this letter sent within 30 days of receipt of initial denial, the Sunshine Project appeals the Centers for Disease Control's denial of our Freedom of Information Act (FOIA) request of 22 January 2005. Specifically, we appeal denial of items one through seven of our request, wherein we asked for:

1. Any record indicating the effective date of CDC permission to Peter A. Rice, Boston University to handle the select agent tularemia, as required by the Bioterrorism Act of 2002 and implementing regulations;

2. Any record indicating the effective date of CDC permission to Mary Ellenberger, Boston University to handle the select agent tularemia, as required by the Bioterrorism Act of 2002 and implementing regulations;

3. Any record indicating the effective date of CDC permission to Daniel S. Shapiro, Boston University to handle the select agent tularemia, as required by the Bioterrorism Act of 2002 and implementing regulations;

4. Any record indicating the effective date of CDC permission to Jacqueline Sharon, Boston University to handle the select agent tularemia, as required by the Bioterrorism Act of 2002 and implementing regulations;

5. Any record indicating the effective date of CDC permission to Lee M. Wetzler, Boston University to handle the select agent tularemia, as required by the Bioterrorism Act of 2002 and implementing regulations;

6. Any record indicating the effective date of CDC permission to handle the select agent tularemia, as required by the Bioterrorism Act of 2002 and implementing regulations, by any other person at Boston University working under NIAID grant 1U19AI056543;

7. Any record indicating the effective date of approval for work with the select agent tularemia in each Boston University laboratory utilized by the persons identified in items one through six of this request;

CDC did not perform a search and denied our request citing the Public Health Security and Bioterrorism and Bioterrorism Preparedness and Response Act of 2002, more commonly known as the Bioterrorism Act of 2002. The denial refers to section 351A(h)(1)(A), which states that CDC may not, under FOIA, divulge:

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Any registration or transfer documentation submitted under subsections (b) and (c) for the possession, use, or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used, or transferred by a specific registered person or discloses the identity or location of a specific registered person.

We appeal this denial because release of the only information that we have requested that is not already public record – the dates on which select agent permits were issued – is not prohibited by Bioterrorism Act of 2002 nor, for that matter, would its release create even the slightest security vulnerability. In fact, because one or more of these individuals may have mishandled a select agent (leading to three laboratory-acquired infections), possibly in violation of the same Bioterrorism Act that CDC cites, release of the dates of registry of these individuals is of profound public interest and would encourage safety in biomedical research.

The Bioterrorism Act of 2002 prohibits release (under FOIA) of two types of information: 1) select agent registration documentation submitted to CDC and 2) CDC information derived from that documentation to the extent that it identifies registered persons and select agents (or toxins) utilized or transferred.

In this request, the effective date of CDC permission to five registered persons is the Sunshine Project's only interest (we have requested any record bearing the dates, which might be something so simple as a list). Contrary to CDC's denial, the Bioterrorism Act simply does not prohibit release of dates of registry: The date is determined by CDC and is not contained in BU's application, so dates are not "*registration or transfer documentation submitted*".Nor are dates of registry among the types of derived information that are exempted in the Act: A date is not a person, nor an agent or a toxin, nor a location or transfer. Therefore, no date of registry can be withheld under the Bioterrorism Act of 2002.

In this context, with respect to the names of these registered persons, the names have already been identified in the request. They were included in the request on the basis of information released to the public by HHS. This information may be obtained from the NIH's Computer Retrieval of Information on Scientific Projects (CRISP) database at: http://crisp.cit.nih.gov. Please refer to grant 1U19AI056543 ("Immuno-Prophylaxis-Therapy & Diagnosis of Tularemia") and its subprojects. Therefore, because HHS already publicly identifies these individuals as registered persons, CDC may reply to the request without releasing the persons' identities – because they are already released.

It also bears mentioning that the identities of these registered persons may also be obtained by filing a FOIA request with HHS that included any of a variety of records related to this research award (e.g. the contract). And, of course, nearly all recipients of NIH awards involving handling of select agents have websites and publish papers that identify them as registered persons. In fact, the easiest way to identify such registered persons, working for HHS or in extramural activities, is by performing a search on NIH's own PubMed.

As HHS is well-aware, short of classifying biomedical research in general, which few would disagree would be a disaster for US science and international peace and security, the identities and activities of scientists that HHS funds to handle select agents will in most cases remain public record.

The purpose of the narrow FOIA exemptions set forth in the Bioterrorism Act are not as CDC claims. They do not create a blanket prohibition on FOIA release of information that is already public, nor on information about HHS grants, nor are they intended to hide the identities of registered persons in

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general. (If the latter was the case, then scientific meetings and the scientific publication enterprise insofar as they relate to infectious disease and toxins might as well be shut down.)

Rather, the exemptions of the Bioterrorism Act are aimed at 1) protecting some personal and security-related information contained in the applications for registry and 2) preventing the filing of a FOIA requests whose intent is to use CDC select agent registry as a means of identifying classified activities. We have not requested the first type of information, and this request does not use FOIA for the second purpose. Accordingly, our request does not run afoul of the Bioterrorism Act's intent and CDC's denial is incorrect.

We have filed this expedited FOIA request because of widely-publicized safety lapses at Boston University. The dates upon which individuals at Boston University were permitted to handle tularemia is of widespread public interest because it is an important aspect of a current news story that has garnered national headlines. The information we have requested has an important bearing on issues of laboratory biosafety, particularly in view of the expanding biodefense program. and may prove relevant to the effective investigation of incidents and enforcement of other provisions the Bioterrorism Act.

In view of the above, the Sunshine Project insists that the records requested be released immediately.

Sincerely,

Edward Hammond
Director

(Sunshine Project, 2005).

n September 2002, the Sunshine Project presented extensive documentation proving the illicit US chemical warfare program (*US Operates Secret Chemical Weapons Program*). Since then, a variety of additional details about the program have been unravelled, most recently a US patent on a grenade designed to deliver biological weapons (*US Army Patents Biological Weapons Delivery System*) and a 1997 research paper from Lawrence Livermore National Laboratory (Livermore, CA) on the use of chemical incapacitants, including use of opiates in scenarios similar to that which resulted in the Moscow Theater tragedy (See the Sunshine Project's JNLWD Document Clearinghouse). The Sunshine Project's Freedom of Information Fund is filing a series of requests with the Pentagon to bring further information about this research into public view (Sunshine Project, 2003).

Title: Disease By Design: 1918 "Spanish" Flu Resurrection Creates Major Safety And Security Risks
Date: October 5, 2005
Source: Sunshine Project

Abstract: The resurrection of 1918 influenza has plunged the world closer to a flu pandemic and to a biodefense race scarcely separable from an offensive one, according to the Sunshine Project, a biological weapons watchdog.

"There was no compelling reason to recreate 1918 flu and plenty of good reasons not to. Instead of a dead bug, now there are live 1918 flu types in several places, with more such strains sure to come in more places," says Sunshine Project Director Edward Hammond, "The US government has done a great misdeed by endorsing and encouraging the deliberate creation of extremely dangerous new viruses. The 1918 experiments will be replicated and adapted, and the ability to perform them will proliferate, meaning that the possibility of man-made disaster, either accidental or deliberate, has risen for the entire world."

The 1918 experiments are part of the US biodefense program and are of no practical value in responding to outbreaks of "bird flu" (H5N1). The 1918 virus is a different type (H1N1) of influenza than "bird flu". 1918 flu is more than eighty five years old and no longer exists in nature, posing no natural threat. While it is reasonable to determine the genetic sequence of 1918 and other extinct influenza strains, there is no valid reason to recreate the virulent virus, as the risks far outweigh the benefits.

But the most significant story isn't Tumpey, Taubenberger, and colleagues. It is the Centers for Disease Control's (CDC) attitude about the experiments and its implications. "The biggest news about resurrecting 1918 flu is the US government's enthusiastic embrace of designer disease and the impact that it will have on our future." says Hammond, "By encouraging genetic riffs on influenza and other viruses with the explicit intent of building more dangerous pathogens, CDC is fueling the gathering dangers of competition to discover the worst possibilities of biotechnology applied to bioweapons agents. Some might do it just to keep up with the Americans, resulting in a further blurring of defense and offense and heightening the biological mistrust evident in US foreign policy."

In addition to the potentially broad damage to international security and cooperation in the biological sciences if novel diseases continue to be created, the 1918 experiments heighten the chance that a flu lab will be the source of the next pandemic.

CDC says that it plans to keep its vials of 1918 flu under close guard in one place. But that's a red herring according to the Sunshine Project. Influenza with as many as five 1918 flu genes, and which are potentially pandemic, have already been handled at labs in at least four places other than CDC, including labs in Athens, GA, Winnipeg, MB (Canada), Seattle, WA, and Madison, WI. With the exception of the Canadian lab, none of these facilities has maximum (BSL-4) biological containment, and it is a virtual certainty that more labs will begin 1918 flu work now.

In fact, the only possible source of a new 1918 influenza outbreak is a laboratory. The situation of the 1918 flu is not dissimilar to SARS, whose natural transmission is believed to have been halted. The experience with SARS accidents is chilling: It has escaped three different labs to date. A 1918 influenza escape would be very likely to take a higher human toll. The US biodefense program has also had a number of lab accidents since 2002, including mishandling of anthrax and plague and laboratory-acquired infections of tularemia. In Russia, a researcher contracted ebola and died last year.

Importantly, human error and equipment failures aren't the only ways for a disease agent to escape a lab - something vividly illustrated by the anthrax letters in the US four years ago. Unlike anthrax, however, 1918 influenza would transmit from human to human.

"We are no safer from a pandemic today than yesterday. In fact, we're in greater danger, not only from influenza; but from the failure of the US to come to grips with and address the threats posed by the research it sponsors, in terms of legislation, ethics, and self-restraint." concludes Hammond (Sunshine Project, 2005).

Title: BARDA's Biggest Secret Is The Public's Loss: Are Biodefense Labs And National Security Agencies Arriving At A Secrecy Agreement?
Date: February 7, 2006
Source: Sunshine Project

Abstract: The biggest casualty of a conflict between scientists and security agencies may be open research institutions and the public's right to know about dangerous experiments with biological weapons agents. With proposed new secrecy, lab accountability will diminish, leading to more accidents, poor judgment, and a decline of international confidence in US biodefense research.

In a proposed law on the Senate floor, a giant new biodefense "sensitive but unclassified" (SBU) hole would be torn in the Freedom of Information Act, creating new secrecy at labs across the country. It is a ham fisted attempt to resolve conflicts between secretive spies and cocky scientists who disagree over the risks posed by research on biological weapons agents.

BIODEFENSE BOOM & SECURITY: Since 2001, scores of US universities and biotechnology companies have benefited handsomely from billions of dollars in biodefense cash. Across the country, biodefense labs are sprouting up like weeds. The unrelenting spigot of federal money has put thousands of scientists and technicians in the business of studying bioweapons agents. Almost all of them are novices in the field.

Contrary to what some might expect, US national security agencies have not been altogether pleased with the defense boom. It has created many new risks in many new places. A major concern that the agencies have is that dangerous dual-use technologies (such as genetically-modified poxviruses) and the skills needed to create bioweapons will proliferate, thereby undermining security.

Defense priorities and obsession with secrecy at the security agencies, however, makes them ill-suited to intervene in bioscience policy. But, generally for different reasons than the spies, some public interest groups are also concerned that the essentially unregulated biodefense labs are not interested in, or capable of, adequate self-policing, and that this problem may lead to a disaster.

BIOSCIENCE FAILS TO ADDRESS ITS PROBLEMS: Yet biodefense labs have generally responded to the proliferation and accident concerns with a disinterested yawn and an outstretched hand (for more money). In sum, their reply has consisted of little more than inconsequential verbiage about voluntary codes of conduct and perfunctory bioethical genuflection.

Rather than stepping forward with serious proposals for mandatory oversight of dangerous dual-use research, science has gone on taking the federal money and pleading "scientific freedom". Stalling, the cash-flush biodefense labs are hoping that security is just a passing fad. This is evident, for example, at the National Science Advisory Board on Biosecurity (NSABB), a newly-minted but flaccid body that, despite heavy responsibilities, can't even find enough substance to make itself look busy for a one day meeting.

SECRET MODUS VIVENDI?: But these radically different institutions - the spooks and the scientists - may be moving toward a modus vivendi. Unfortunately, the secretive "solution" that has been proposed would make things worse. It is to tear a hole in the Freedom of Information Act by creating a new exemption for "sensitive but unclassified" (SBU) biodefense research. The proposal is found in a bill on the US Senate floor (S.1873) sponsored by Richard Burr (R-NC), the same bill that would create a new Biomedical Advanced Research and Development Agency (BARDA).

The proposed legislation takes a radically wrong tack. The exemption is so broad that it could make all substantive aspects of practically every biodefense project funded by BARDA a secret. According to Sunshine Project Director Edward Hammond, "*Two alpha male elephants are colliding, and you don't need a microscope - or a wiretap - to find out who's being squished in the middle: The public and its right to know are getting pancaked between these two beasts.*"

ALTERNATIVE PROPOSAL: It needn't be this way, says the Sunshine Project. "*It's easy to sympathize with Senator Burr's aim, in the sense that many agree that labs with bioweapons agents need strong new regulation*," says Hammond, "*but this ham fisted proposal is the worst of both worlds - all secrecy and no openness. It would create mistrust and reduce accountability, which will encourage both accidents and poor judgment.*"

"*Instead of punishing the public for offenses by science*," says Hammond, "*the Senator should be sticking a fork in those that are profiting from the biodefense boom yet refusing to come to terms with their responsibilities. A 'sensitive but unclassified' accident is still an accident, just one that nobody learns from. Disturbing discoveries will still seep into the public domain. Covering things up would worsen the problems and could build a false sense of security.*" Publishers have rejected 'sensitive but unclassified' reasoning.

The Sunshine Project is calling for the proposed Freedom of Information Act exemption to be removed in its entirety from S.1873. Instead, and for all biodefense projects, the Congress should make compliance with federal lab safety guidance a matter of law, rather than an unenforced

suggestion. Congress should also block the self-interested institutions that take biodefense cash from overseeing themselves, given their refusal - and probable inability - to self-regulate.

"*Transparency is critical to everyone's safety and security,*" says Hammond, "*A mountain of SBU or classified information will do more to obscure emerging threats than to resolve them. Secrecy will heighten the chances of a catastrophic lab accident and increase the possibility of biodefense labs veering off-course into prohibited areas of research. We need more accountability, not less*" (Sunshine Project, 2006).

Title: NBAF: Transparency Urged For Homeland Security BSL-4 Biolab
Date: September 18, 2006
Source: Sunshine Project

Abstract: At a site to be determined late this year or early next, the US Department of Homeland Security proposes to construct one of the largest labs for the study of biological weapons agents in the world. Called the National Bio- and Agro-Defense Facility (NBAF), the main lab building of NBAF is planned to be over 500,000 square feet (46,500 m2) - the size of more than five Wal-Mart stores. NBAF will cover a tract of land of up to 100 acres (40 ha) and include biosafety level four (BSL-4) labs for work with incurable disease agents.

The cloak of secrecy being wrapped around its biodefense programs has brought controversy and criticism to the Department of Homeland Security (DHS). To shine light on the Agency's plans, the Sunshine Project is working to obtain and publicize the 18 written bids (called "Expressions of Interest") submitted by twelve consortia seeking to host the NBAF facility. Public distribution of these bid documents will help stimulate discussion of the NBAF facility and build public awareness of the activities and risks of the DHS biodefense program.

Until now, only two of the eighteen expressions of interest under consideration by DHS have been made available to the public. Using freedom of information requests, the Sunshine Project has acquired five more, including three from Texas and two from Georgia. These join bids from Kentucky and Missouri, already made available online. The bids make interesting and informative reading. For example, the Texas documents discuss classified research on biological weapons agents by the Southwest Foundation for Biomedical Research in San Antonio.

Four bidders have refused to share their NBAF expression of interest with the public. The Sunshine Project has objected to the denials. Those opposed to disclosure and debate are the University of Wisconsin at Madison, University of California / Lawrence Livermore National Lab, Texas A&M University, and Oklahoma State University. Each of the four secretive lab bidders has been asked to reconsider its decision.

"*This is an undesirable facility for which the federal government has not made a compelling case*," says Sunshine Project Director Edward Hammond, "*NBAF's negative implications are large and insufficiently recognized. Public debate is necessary and will help dispel DHS secrecy.*"

"*Do we want university biology departments to be consumed by top secret research?*" asks Hammond, adding "*Are communities near the proposed sites comfortable with life under threat of a BSL-4 accident?"*

"It is not good government to keep these bids secret," Hammond adds, "*The allegiance of the bidding institutions should be to the citizens they serve, not to handouts from a troubled federal agency with too much money and a bioresearch agenda with insufficient respect for international law*" (Sunshine Project, 2006).

Title: 113 Universities, VA Hospitals, And Pharmaceutical Houses Charged With Refusing To Reveal Biotech Research Ops As Required By Law
Date: January 8, 2007
Source: Infowars

Abstract: Some 113 university, government, hospital and corporate laboratories engaged in research often with potential to be used for germ warfare have refused to disclose their operations to the public as required by Federal rules, a nonprofit watchdog agency has charged.

Instead of shutting their operations down, however, the National Institutes of Health(NIH), of Bethesda, Md., the government agency tasked with oversight
of these laboratories, allows them to continue to operate, a peculiar stance for an entity that describes itself as "the steward of medical and behavioral research for the Nation."

From California to New Jersey and from Boston to San Antonio, often in the heart of major centers of population, biological warfare labs lavishly financed with their share of about $20-billion by the Bush administration since 2001 are literally crawling with deadly germs from Spanish flu to plague to anthrax to tularemia to rift valley fever. Reportedly,in some of the laboratories security is lax and safety procedures inadequate to protect the public from exposure to deadly pathogens.

Under U.S. law, recipients of Federal funds for biotech research must comply with guidelines issued by the NIH. These include making available to the public the minutes of the labs' Institutional Biosafety Committees(IBC)meetings, describing their operations and plans. In a number of instances, these IBC's have never bothered to hold a meeting. In other cases, the minutes they furnish are devoid of substance.

Basically, their operations in many cases are being kept secret, according to watchdog Sunshine Project of Austin, Tex., a nonprofit that attempts to protect the public from the risks of biotechnology experiments. The 1972 Biological Weapons Convention(BWC), which the US signed, prohibits research on offensive biological weapons. If the work is performed in secret, however, weapons designed for offensive use could be concealed. In the 1930s, the Japanese military masked its secret germ warfare scheme as a water purification project.

As the government-funded labs engage in "dual-use research," (pathogen research having both offensive and defensive applications), Sunshine's Edward Hammond reports he "has encountered grave problems with the system." These include "risky experiments approved with dubious safety precautions and/or inadequate IBC review, dysfunctional and otherwise noncompliant committees, and other types of biosafety problems."

Francis Boyle, an international legal expert at the University of Illinois, Champaign , puts it more bluntly. He called the in-house university committees "a joke and a fraud" that provide "no protection to anyone." Boyle, who drafted the Biological Weapons Anti-Terrorism Act of 1989 enacted by Congress, states the Pentagon "is now gearing up to fight and 'win' biological warfare" pursuant to two Bush national strategy directives adopted "without public knowledge and review" in 2002.

Last November 7th, Hammond lodged a complaint with Dr. Amy Patterson, director of the Office of Biotechnology Activities at NIH, citing 113 institutions "for
non-compliance with the NIH Guidelines," specifically for refusing to honor requests for IBC meeting minutes.

"Honoring these requests is not only mandatory under the NIH Guidelines that you are charged with enforcing (but) transparency is also a moral duty of
institutions that conduct research, such as rDNA and select agent work that could endanger the public," Hammond added. He wrote Patterson, "Failing prompt compliance by these institutions we note that your office must do its duty under NIH Guidelines and terminate funding."

NIH's Dr. Patterson apparently had troubles of her own obtaining information from labs on the Federal payroll. On Dec. 6, 2004, she issued a "reminder" to universities engaged in research that stated

"compliance with the NIH Guidelines is critical to the safe conduct of research and to the fulfillment of an institutional commitment to the protection of staff, the environment, and public health."

Since 9/11, biotech houses, military laboratories, and State and private universities across America, and others sited in Canada, Australia, and South Africa, have collectively lapped up record sums in Federal R&D dollars.

How big is this enterprise? At just one venue, the Southwest Foundation for Biomedical Research(SFBR) in San Antonio, Tex., there are 6,000 caged chimpanzees, baboons, and other primates, Sunshine reports, whose upkeep alone costs U.S. taxpayers $6-million annually. SFBR genetically engineers monkeys and harbors some of the world's most dangerous viruses such as Ebola and Lassa, authorities state.

Again, the Battelle National Biodefense Institute(BNBI) of Columbus, Ohio, has just received a $250-million, five-year award from the Department of Homeland Security to run the new biodefense analysis center under construction at Fort Detrick, Md., according to The Washington Post of December 25, 2006. Earlier, on July 30th of last year, The Post reported much of what transpires at the center may never be publicly known as the Bush administration "intends to operate the facility largely in secret."

Battelle also does not maintain an effective IBC, Sunshine charges. "Some of the resarch falls within what many arms-control experts say is a legal gray zone, skirting the edges of an international treaty outlawing the production of even small amounts of biological weapons," The Post reported. "The administration
dismisses these concerns, however, insisting that the work...is purely defensive and thus fully legal. It has rejected calls for oversight by independent
observers outside the (Homeland Security) Department's network of government scientists and contractors."

The paper quoted Milton Leitenberg, a weapons expert at the University of Maryland stating, "If we saw others doing this kind of research, we would view it as an infringement of the bioweapons treaty. You can't go around the world yelling about Iranian and North Korean programs ---about which we know very little ---when we've got all this going on."

The Post reported the operation would encompass about 160,000 gross square feet of working area and accommodate a staff of about 120. The Post noted, "Fort Detrick's history as the incubator of germ warfare research casts a long shadow over the new lab. When the fort held the Pentagon's very highly classified and long abandoned biological warfare program, it was a magnet for antiwar protests in the Vietnam War era." In such labs, scientists can create new strains of disease for which those attacked would have no ready defense. Such weapons, once loosed, are notoriously difficult to control, and could ignite epidemics to sicken and terrify civilian populations.

Hammond believes there are about 400 bioweapons agents labs across the U.S., some of which encounter unexpected difficulty when they try to comply with the law.

David Perlin, president of the Public Health Research Institute(PHRI) of Newark, N.J., told Sunshine the FBI requested PHRI to enter into an agreement with them to "not publicly disclose which specific select agent pathogens and/or strains are stored at our facility."

Those who tend to dismiss NIH's laxity about enforcing its own regulations have only to recall the October, 2001, anthrax attacks on Congress and the media. The deadly strain released is believed to have come from a U.S. germ warfare lab at Fort Detrick although there is no certainty as the FBI has never solved the murders. Since then, the vast proliferation of such labs by the Bush administration has educated many new employees --- in some cases undergraduate students --- in germ warfare ops. Four employees at Fort Detrick are known to have died after performing lab work. Lack of transparencey is cause for concern if only because of the history of secret CIA and Pentagon experiments in germ warfare that used the American people as guinea pigs. In " Rogue State," (Common Courage Press) reporter William Blum noted those agencies over two decades "conducted

tests in the open air in the United States, exposing millions of Americans to large clouds of possibly dangerous bacteria and chemical particles."

Between 1949 and 1969, the Army tested the spread of dangerous chemical and bacterial organisms over 239 U.S. populated areas including San Francisco, New York and Chicago with no warnings to the public or regard for the health consequences, Blum wrote. The Pentagon even sprayed navy warships to test the impact of germ warfare on U.S. sailors. Even deadlier cocktails were secretly provided to dictator Saddam Hussein for his war of aggression against Iran. Washington denied supplying them but as Robert Fisk reported in Great Britain's "The Independent" last December 31st, "prior to 1985 and afterwards, US companies had sent government-approved shipments of biological agents to Iraq," including anthrax. Fisk gives this eye-witness account of what he saw on a military hospital train carrying stricken men from the front back to Tehran:

"I found hundreds of Iranian soldiers coughing blood and mucus from their lungs --- the very carriages stank so much of gas that I had to open the windows--- and their arms and faces were covered with boils. Later, new bubbles of skin appeared on top of their original boils. Many were fearfully burnt. These same gases were later used on the Kurds of Halabja."

Thus, the Reagan administration, which escalated germ warfare research and allowed the sale of the pathogens to Hussein, took its place in the dark annals of military history along with Italy under Benito Mussolini, whose aviators dumped mustard gas on the Ethiopians and Japan under Emperor Hirohito, whose Imperial Army's germ warfare attacks killed thousands of Chinese civilians.

Because of their comparative cheapness to manufacture, biological weaponshave been dubbed "the poor man's nuclear bomb." Yet their potential may be even deadlier.

Jeremy Rifkin, author of "The Biotech Century"(Penguin), noted a government study in 1993 found "the release of just 200 pounds of anthrax spores from a plane over Washington DC could kill as many as three-million people."

The secret operations of the labs' would be less ominous if the Bush administration hadn't led the fight to demolish the international inspection system. Jackie Cabasso, executive director of Western States Legal Foundation, Oakland, Calif., warned, "Last year (2001), the U.S. single-handedly blew apart an international system for inspections of these kinds of (biological) laboratories, a system that would have made great strides toward ensuring that biodefense labs aren't abused for offensive purposes. Having thumbed our nose at the world, the US is now massively expanding its biodefense program, mostly in secretive facilities."

According to Boyle, President Bush "sabotaged the Verification Protocol for the BWC" as it was on the verge of conclusion and success. He said the U.S. "fully intended to get back into the research, development and testing of illegal and criminal offensive biowarfare programs."

Boyle is the author of "Biowarfare and Terrorism," Clarity Press. And Elisa Harris, former arms control official under President Clinton, told The New York Times in 2003 "It (the administration's actions) will raise concerns in other capitals in part because the United States has fought tooth and nail to prevent the international community from strengthening the germ treaty."

Among pharmaceutical houses not in compliance with NIH disclosure requirements are Abbott Laboratories of Abbott Park and Worchester, Agencourt Bioscience Corp.; Antibody Science, Inc.; BASF Plant Science, Bristol-Myers Squibb and its Pharmaceutical Research Institute of Connecticut; Centocor, Inc.; Chiron; Discovery Genomics Inc.; DuPont Central Research and Development; Embrex, Inc.; Genentech, Inc., Genzyme Corp. of Cambridge and Framingham, Mass.; GlaxoSmithKline, Merck & Co., Inc. and its Rahway, N.J., research site; Integral Molecular; Introgen Therapeutics; L2 Diagnostics LLC; Merck & Co. Inc., West Point; Merck Research Laboratories, Rahway, N.J.; Meridian Bioscience Inc.; Monsanto Co. Mystic, Conn.,research; New Link Genetics; NovaFlora, Inc.; NovoBiotic Pharmaceuticals; OSI Pharmaceuticals; Pfizer Inc., and Pfizer Pharmaceuticals of St. Louis, Roche Bioscience, Schering-Plough Research Institute; SelectX Pharmaceuticals; Serono Research Institution; Third Wave Technologies; and Vaxin, Inc. Federal

entities involved include the Center for Disease Control, the Walter Reed Army Medical Center, VA hospitals in Stratton, Va.; the Jerry Pettis Memorial hospital and the VA Pittsburgh Healthcare System. Also, the Idaho National Laboratory, Lawrence Livermore National Laboratory, the Oak Ridge National Laboratory, Plum Island Animal Disease Center of the U.S. Department of Homeland Security, the U.S. Department of Agriculture, and Walter Reed Army Institute of Research and Navy Medical Research Center.

Other fund recipients include AERAS Global TB Vaccine Foundation, Battelle, CBR Institute for Biomedical Research, Inc.; Children's Hospital Oakland
Research Institute, Children's National Medical Center, Cincinnati Children's Hospital Medical Center, Columbus Children's Research Institute, Hadassah Medical Organization, Lovelace Respiratory Research Institute, Memorial Sloan-Kettering Cancer Center, Mystic Aquarium & Institute for Exploration, and Scripps Clinic.

Among universities in non-compliance: Alabama A&M, Albany Medical College, Ball State, Brigham Young, Bucknell, Central Michigan, Drexel College of
Medicine, Hackensack University Medical Center, Hunter College, Indiana State University, Purdue University, Loma Linda, Missouri State, New York Medical College, and Queens College of City University of New York.Also, Rider, Rockefeller University, Rosalind Franklin University of Medicine and Science, South Dakota State University, St. John's University, State University of New York at Binghamton, Brockport, and Buffalo; Towson, Robert Wood Johnson Medical School(UMDNJ), and University Medical Center of Southern Nevada. Also, the universities of Arizona, California at San Francisco, Maryland, Massachusetts, Miami, Fla.; Mississippi; Puerto Rico, Rhode Island, Southern Mississippi, Texas at Arlington and San Antonio, Tulsa, Utah State, Wake Forest, Washington University in St. Louis, Western Kentucky and Wilkes.

Foreign institutions include the University of Sydney, Australia; the University of British Columbia , and University of Witwatersrand, Johannesburg, South Africa . This listing covers most, but not all, of the names submitted to NIH by the Sunshine Project. Three years ago, Sunshine said if it had to pick the labs with the worst biosafety record-keeping, he would choose Princeton University, the University of Texas Southwestern at Dallas; the University of Vermont at Burlington and the University of Delaware at Newark.

Sunshine's Hammond said there has yet to be any formal response to his letter of last November from NIH. He added, "I doubt I will ever get one."

The NIH was asked to respond to the charges contained in this article but has yet not done so.

In sum, the costliest, most grandiose research scheme ever attempted having germ warfare capability is going forward today under President Bush and in
apparent defiance of international treaties such as the Geneva Convention of 1925 that bans biological agents. What's more, where once the use of germ warfare was an isolated happenstance -- such as when an English general in 1767 gave smallpox-laced blankets to the Indians that decimated their tribes -- research in this grim area today suggests it has been elevated to an instrument of national policy. And this program, involving some of the world's deadliest and most loathsome pathogens, many of which could trigger plagues and epidemics, is being conducted largely in secret without adequate oversight and in flagrant contempt of NIH's own rules. Why? (Infowars, 2007).

Title: Biodefense Blackout: Texas BSL-4 Lab Keeps Records Secret, UTMB Resists Attorney General's Ruling, Case Moves to the Courts
Date: February 28, 2007
Source: Sunshine Project

Abstract: The University of Texas Medical Branch (UTMB), the largest university center of research on biological weapons agents in the US, is refusing to obey the Texas Attorney General and release documents requested by the Sunshine Project. Instead, UTMB has sued the Attorney General in a bid to block his ruling and keep the paperwork secret. The Sunshine Project has intervened in the case, and has asked a Texas judge to order UTMB to turn over the documents.

The Sunshine Project made its Texas Public Information Act request on 24 October 2006. The request was for nine separate categories of information, including: details on accidents in UTMB's biosafety level four (BSL-4) and BSL-3 labs, records related to the National Science Advisory Board on Biosecurity (NSABB), and contracts of UTMB's federally-funded regional biodefense center, among other items.

UTMB, which is located in Galveston, strenuously objected to handing over many of the papers, which total between nine and ten thousand pages. It filed a lengthy briefing seeking the Attorney General's permission to deny major elements of the Sunshine Project's request. Some of UTMB's partners, including the Southwest Foundation for Biomedical Research, a BSL-4 lab in San Antonio, Texas, also fought to keep information under wraps. The Sunshine Project submitted comments to the Attorney General explaining why it believes that the records should be public.

On 11 January 2007, the Attorney General's Office issued its ruling. It rejected most of UTMB's arguments and determined that the University must release many biodefense records that it sought to keep secret.

But instead of following the ruling and making the papers public, on January 22nd UTMB filed suit against the Attorney General. The case is in the 419th District Court in Austin (Travis County), Texas. UTMB's filing does not clarify which elements of the Attorney General's ruling it is contesting and, to date, it has made none of the requested records available.

The Sunshine Project has intervened in the case and on 16 February asked the judge to order UTMB to release the records. The Sunshine Project is represented by Joseph Larsen of Ogden, Gibson, Broocks, and Longoria of Houston, Texas. A hearing has not yet been scheduled.

Ironically, the Sunshine Project's decision to file the request was influenced by a March 2006 *Science* op-ed co-authored by one of UTMB's leaders, Dr. Stanley Lemon. A member of the NSABB, Lemon's editorial criticized an unspecified group of "*politicians and their constituents*" who are said to favor restricting the flow of information about research involving biological weapons agents. Lemon claims that "*such measures won't reduce risks and may cause a false illusion of security*."

The Sunshine Project, and most bioweapons experts, agree that transparency is critical for biological security. But according to Sunshine Project Director Edward Hammond, there can be a gap between rhetoric and reality: "*Talk can be cheap when it comes to biodefense transparency. We've asked UTMB's leadership to put its paperwork where its mouth is*." So far, UTMB is flunking the transparency test, undermining the credibility of its public commitment to openness. "*UTMB has some explaining to do for its secretive actions*," says Hammond.

The Sunshine Project is the largest biodefense-related Freedom of Information Act requester in the country. Hammond concludes "*This case reflects what the Sunshine Project's Freedom of Information program is all about: applied transparency. Abstract endorsements of biodefense transparency in policy circles don't necessarily translate into openness in practice. Real-world transparency is what matters most*" (Sunshine Project, 2007).

Title: Earth Calling NSABB: Voluntary Compliance Won't Work
Date: April 18, 2007
Source: Sunshine Project

Abstract: *The record of voluntary compliance with NIH biotech guidelines is dismal.18 of the top 20 US biotech companies don't comply with existing guidelines. Sunshine Project backs contention with original letters from companies. Biosecurity review of bioweapons agent and related research must be mandatory.*

Tomorrow, a working group of the National Science Advisory Board on Biosecurity (NSABB) will table critically flawed recommendations on managing the risks of dual-use research with biological weapons implications. The recommendations will have the result, which is entirely predictable, of not reigning in the biosecurity problems they purport to address.

A main reason? They are voluntary. Original documents from leading biotechnology companies are a devastating indictment of NSABB's proposed reliance on voluntary compliance to ensure that new federal dual-use research guidelines are actually followed.

Experience with the NIH Guidelines on genetic engineering research demonstrates that NSABB's recommendations for guidelines on dual-use research are doomed to fail because voluntary compliance typically means noncompliance. In fact, many institutions that are obligated to follow NIH's existing guidelines do not do so, a problem that the Sunshine Project has systematically documented since 2004. (For more information on general problems of noncompliance with the NIH Guidelines, please see the publications cited below.)

"*One especially clear proof that NSABB's bioweapons recommendations are half-baked,*" says Sunshine Project Director Edward Hammond, "*is the dismal rate of compliance with NIH's genetic engineering guidelines by the private sector.*" Since 2004, two unprecedented national surveys of compliance with the NIH Guidelines have revealed that so-called voluntary compliance is typically nothing but a ruse.

From the biggest biotech multinationals down to start-up gene boutiques, the vast majority of companies, as well as many non-profits and public institutions, do not comply with the NIH Guidelines (see chart). Important examples are summarized here, and this news release is accompanied online with link to a file (click here) that contains letters from some of the biggest names in biotechnology, all expressly stating that they do not obey the NIH Guidelines or view compliance with them as an on-again, off-again cherry picking exercise.

A system that half or more of its target members ignore is pointless. "*NSABB is divorced from reality if its members believe that another set of voluntary NIH guidelines is sufficient, and would be remotely effective, at preventing dual-use disasters*," says Hammond, "*Effective federal management of dual-use risks requires making safety and security oversight truly mandatory and subject to the sobering light of public scrutiny. We shouldn't wait for a bioweapons disaster to protect ourselves from ourselves*."

Examples: "Voluntary Compliance" with NIH Guidelines by the Biotech Industry:

The **DuPont Corporation**, one of the world's largest biotechnology companies, has "*deactivated our voluntary compliance with the NIH Guidelines,*" according to a letter it sent to the Sunshine Project on 26 October 2006.

Bristol-Myers Squibb, a major pharmaceutical multinational, does not comply with the NIH Guidelines, even though NIH says that it does. In a letter sent from its lawyer on 15 November 2006, the company emphatically demanded that the Sunshine Project delete from its website "*any suggestion that Bristol Myers Squibb Company or its affiliated companies are subject to the NIH Guidelines"* despite the fact that the "suggestion" was actually a list of allegedly NIH guidelines-compliant institutions provided by NIH itself.

Eli Lilly Corporation says that it voluntarily complies with the NIH Guidelines; but according to a letter it sent the Sunshine Project on 31 May 2006, voluntary compliance means that it can pick and choose when and where it wishes to comply, or not comply and, in the instant case, it chose not to comply.

According to NIH records, **Genencor Corporation** complies with the NIH Guidelines at sites in California and Iowa. We asked Genencor, and on 25 July 2006, it denied following the NIH Guidelines in Iowa and said that while its California operation "*complies voluntarily*," in actual fact, it was not complying with NIH rules at that time.

According to NIH, the **Merck Corporation** complies with its biotechnology guidelines at some but not all of its locations. The Sunshine Project has repeatedly asked the allegedly compliant Merck sites for minutes of the safety committees that compliance with the NIH Guidelines mandate; but Merck refuses to reply.

Biogen IDEC, one of the world's largest biopharmaceutical companies, does not comply with the NIH guidelines. Formerly independent companies, according to records obtained by the Sunshine Project under the Freedom of Information Act, IDEC ditched the NIH Guidelines in September 2001, and Biogen followed suit in October 2002 (before merging).

Syngenta Corporation, a Swiss giant and one of the world's largest agricultural biotechnology companies, does not comply with the NIH Guidelines. At one time, one of its subsidiaries, Rogers Seed, did; but when Syngenta assumed control, compliance ended.

Hoffman - La Roche Corporation, the well-known pharmaceutical company, only voluntarily complies with the NIH Guidelines at its Palo Alto, California facility and not elsewhere (Sunshine Project, 2007).