



# SECURITY REPORT CARD 2005



Quantitative Indicators of Secrecy in the  
Federal Government

A Report by  
OpenTheGovernment.Org  
*Americans for Less Secrecy, More Democracy*

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### About OpenTheGovernment.org

OpenTheGovernment.org is an unprecedented coalition of journalists, consumer and good government groups, environmentalists, labor and others united out of a concern for what U.S. News and World Report called a “shroud of secrecy” descending over our local, state and federal governments. We’re focused on making the federal government a more open place to make us safer, strengthen public trust in government, and support our democratic principles.

To join the coalition, simply read and sign your name (as an organization or individual) to our Statement of Values, available at [www.OpenTheGovernment.org](http://www.OpenTheGovernment.org).

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## BY THE NUMBERS

### The Courts

#### 1,754 Orders of the Secretive Foreign Intelligence Surveillance Court

The Foreign Intelligence Surveillance Court does not reveal much about its activities. It approved 1,754 orders -- rejecting none -- in 2004 but does not identify the activities being investigated or provide basic information about how the orders are used. In fact, throughout its history, it has only rejected 4 government requests for surveillance orders.

### Private Enterprise

#### 124 New Patents Kept Secret, 4,885 “Secrecy Orders” in Effect

In 2004, the federal government closed the lid on 124 patents. Overall, that brings the total number of inventions kept under “secrecy orders” to 4,885.

### Classified Documents

#### \$148 Spent Creating New Secrets for Every \$1 Spent Releasing Old Secrets

For every \$1 the federal government spent in 2004 releasing old secrets, it spent an extraordinary \$148 creating new secrets. That’s a \$28 jump from 2003. In contrast, from 1997 to 2001, the government spent less than \$20 per year keeping secrets for every dollar spent declassifying them.

#### 15.6 Million Classification Decisions Costing \$7.2 Billion

The government decided to stamp documents secret a record 15.6 million times in 2004. The U.S. government last year alone spent \$7.2 billion securing its classified information. That’s more than any annual cost in at least a decade.

#### Every Choice to Classify Documents As Secret Costs Taxpayers \$460

In 2004, every document classified cost the government \$460 to secure plus its accumulated secrets.

### Scientific and Technical Input

#### 64% of Advisory Committee Meetings Closed to the Public

Nearly two-thirds of the 7,045 meetings of federal advisory committee that fall under the Federal Advisory Committee Act were completely closed to the public, undermining one purpose of the law. (Others were partially closed.)

### Freedom of Information Act

#### The Public Made 4,080,737 Requests for Documents

In 2004, the public made over 4 million requests for information from government agencies, which is a 25 percent jump in overall requests from the previous year, despite only a 5 percent rise ( to \$336.8 million) in spending on FOIA.

### 84% of Agencies Can’t Keep Up

Of the roughly 90 agencies surveyed by the Department of Justice, only 14 were able to keep up with FOIA requests they received. But that’s good news: Only 7 agencies had been able to keep up in 2003.

### Used Rarely in the Cold War, “State Secrets” Privilege Used at least 7 Times since 2001

The “state secrets” privilege allows the sitting U.S. president to nearly unilaterally withhold documents from the courts, Congress and the public. At the height of the Cold War, the administration used the privilege only 4 times between 1953 and 1976. Since 2001, it has been used at least 7 times.

### Secrecy Laws Flourish in Statehouses

At least 62 new state laws expanded secrecy in 2004; Only 38 laws strengthened open government. One new law in Louisiana bars the use of electronic scanners to copy public documents. A homeland security measure? No, the sponsor wanted the government to keep the revenue from those copying fees.

### PLUS:

A Beginning Encyclopedia of “Sensitive But Unclassified” Secrets: “50 Ways to Keep Your Secrets”

## EXECUTIVE SUMMARY

OpenTheGovernment.org's second annual report, *Secrecy Report Card 2005*, shows the government continues to expand secrecy across a broad array of government action.

Government secrecy has been a problem for this and previous administrations. Particularly excessive in recent years, secrecy extends to more and more classified activity, nearly two-thirds of federal advisory meetings of outside experts, new patents hidden by "secrecy orders," and fast-growing domestic surveillance activity. Perhaps most alarming, the report describes at least 50 types of designations the government now uses to restrict unclassified information deemed "sensitive but unclassified." Many of these numerous terms are duplicative, vague, and endanger the protection of necessary secrets by allowing excessive secrecy to prevail in our open society.

The 2005 version of the *Secrecy Report Card* also includes data about secrecy laws in the states, taxpayer savings from whistleblowers, and the 4 million public requests for information from government in 2004 (a new record).

## INTRODUCTION

Secrecy continues to expand across a broad spectrum of activities, including the courts, new private inventions, and the scientific and technical advice that the government receives. The sheer cost of securing and storing the nation's classified documents continues to rise. The public relies more on cumbersome but essential legal guarantees like the Freedom of Information Act to obtain information from our government. At the same time, openness in our government and society is increasingly threatened.

A keystone value of our democracy, openness more practically helps root out abuse of power, bad decisions or embarrassing facts that may put lives at risk. For instance, the military gave U.S. troops in Iraq body armor vests that failed ballistics tests. Documented by reports obtained under the federal Freedom of Information Act (FOIA), this decision was reversed and the body armor recalled once the story was about to hit the newsstands.<sup>1</sup>

### Why a Report Card Now?

OpenTheGovernment.org issued the first edition of the *Secrecy Report Card* to call attention to the remarkable expansion of secrecy in the fed-

eral government. Last year's report asked whether government secrecy could be quantified, and the answer appeared to be a qualified "yes."

This year's expanded report seeks to provide a more complete picture of secrecy in the federal government. This year, we expand the indicators to cover inventions, whistleblower protections, the Patriot Act and other areas. We also delve deeper on some issues and added data to topics we covered previously.

This report comes at a time when secrecy continues to expand. But it also comes at a time when there is something very different compared with last year: There is a vocal chorus pushing back against secrecy. Congress is considering several pieces of legislation that would make government more open. Perhaps the broadest reform bill is the bipartisan OPEN Government Act, sponsored by Senator John Cornyn (R-Texas) and co-sponsored by Sen. Patrick Leahy (D-VT). The bill, S. 394, would make the federal Freedom of Information Act easier to use when the public seeks documents from government. It would make several changes in the way the government handles FOIA requests, including creating an ombudsman to review agency responses

## HIGHLIGHTS

- For every dollar spent declassifying old secrets, federal agencies spent a record in 2004 of \$148 creating and storing new secrets. Agency heads are shifting taxpayer dollars from efforts at declassifying pages of documents to efforts to secure its existing secrets.
- With 1,754 secret surveillance orders approved in 2004, federal surveillance activity under the jurisdiction of the secretive Foreign Intelligence Surveillance Court doubled in five years.
- Nearly two-thirds (64 percent) of federal advisory committee meetings in 2004 were completely closed to the public. More were partially closed. Such secrecy undermines one of the key purposes of the Federal Advisory Committee Act.

to FOIA requests, establishing a tracking system for the public to check the status of requests, and making it easier for the public to recover legal fees in pursuing their requests. The House version is H.R. 867. In addition, the public and press appear to give more attention to stories of how secrecy and transparency in government affects everyday lives.

### A Note on the Indicators

OpenTheGovernment.org sought to identify measurable indicators of secrecy that could be used as a benchmark to evaluate openness and secrecy in government in the United States. We included data based on three criteria. First, we sought data that showed trends over time. Second, we wanted data that had an impact across the federal government or the general public. Third, we sought data that already exists and required little or no further analysis. There are many indicators out there that could be included, and we will continue to add to the indicators. These indicators are not intended to be comprehensive.

What follows is a brief look at how the main indicators we examine have changed over time.

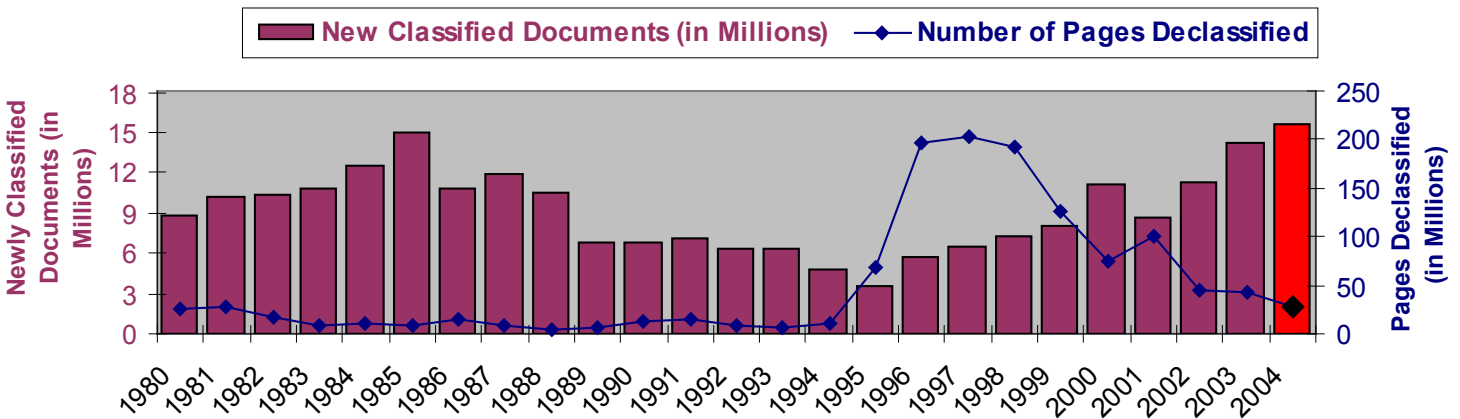
<sup>1</sup> See "The Marines' Flawed Body Armor," *Marine Times*, <http://www.marinetimes.com/print.php?f=1-292925-832873.php>; accessed 8/26/05.

## QUANTITY OF INFORMATION MOVING IN AND OUT OF THE CLASSIFICATION SYSTEM<sup>2</sup>

With 15.6 million new documents stamped secret in fiscal year 2004 (see chart), the federal government created 81 percent more secrets than it did in the year prior to the terrorist attacks on September 11, 2001.<sup>3</sup> While some increase in classification is to be expected in wartime, this dramatic rise runs counter to recommendations by the 9/11 Commission and the congressional Joint Inquiry into 9/11, both of which recommended reforms to reduce unnecessary secrets.

Fiscal Year	New Classified Documents	Number of Pages Declassified
1995	3,579,505	69,000,000
1996	5,790,625	196,058,274
1997	6,520,154	204,050,369
1998	7,294,768	193,155,807
1999	8,038,592	126,809,769
2000	11,150,869	75,000,000
2001	8,650,735	100,104,990
2002	11,271,618	44,365,711
2003	14,228,020	43,093,233
2004	15,645,237	28,413,690

### U.S. Classifies More, Releases Fewer 'Old Secrets'

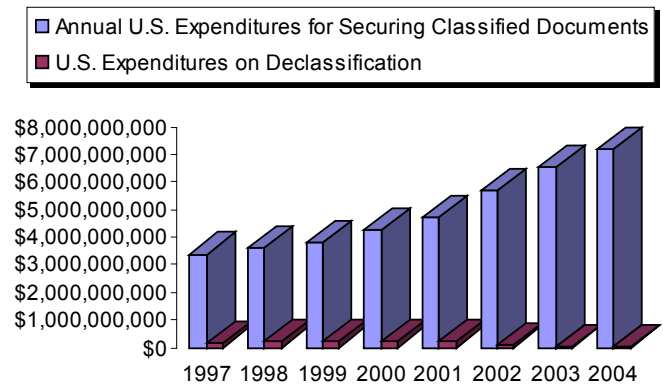


Source: Information Security Oversight Office  
Compiled by OpenTheGovernment.org & National Security Archive

## WHERE THE DOLLARS GO: EXPENDITURES ON THE CLASSIFICATION SYSTEM

The chart to the right and the accompanying table show the amount of money spent on the entire classification system. These costs include the costs associated with securing facilities and personnel in the United States and abroad that hold classified information, training, technology investments and declassification efforts. In 2004, the total expenditure figure includes estimates from 41 federal agencies, including the Department of Defense. The Central Intelligence Agency is not included, because its spending on classification activities is itself classified.

### Spending on Secrecy Rises While Spending on Declassification Drops



Source: Information Security Oversight Office  
Compiled by OpenTheGovernment.org

<sup>2</sup> The data on expenditures and the quantity of information moving through the classification system does not include data from the CIA because the agency has classified that information.

<sup>3</sup> Fiscal year 2001 actual ended 19 days after the terrorist attacks of September 11, 2001. Thus, number of classified and declassified documents for FY2001 includes activity during 19 days after 9/11. The number of new documents created that were classified during that 19 period is likely higher than during September 12 to Sept. 30, 2000, so the actual number of documents classified in the 365 days prior to 9/11 is likely lower than the cited figure.

The amount of money government agencies spent to secure classified documents steadily rose from 1997 to 2004. The 2004 estimate of \$7.2 billion represents an 11 percent rise from 2003. The overall spending is increasing, although not at as high a rate as in recent years. In fiscal year 1998, the total cost of securing classified information rose 5.9% from the previous year and another 6.1% the next year. In 2000, 2001, and 2002, estimated costs jumped 12.4 percent, 10.3 percent, and 20.8 percent, respectively. The \$6.5 billion spent in fiscal year 2003 represents a 14.8% jump over the previous year. The numbers for 2004 are rounded historical data estimated to the nearest dollar because of a change in the way that ISOO reports the estimated numbers.

### Cost of Keeping Classified Documents Versus Cost of Declassifying Old Secrets (\$148 to \$1)

For every one dollar the government spent declassifying documents in 2004, it spent an extraordinary \$148 maintaining the secrets already on the books. This represents a \$28 jump from 2003. With fewer resources for

### Federal Expenditures on Classification and Declassification (excluding CIA)

Fiscal Years	Securing Classified Information	Portion Spent on Declassifying Documents	Classification Costs Per \$1 Spent on Declassification	Classification Decisions	Cost per Decision to Classify
1997	\$3,380,631,170	\$150,244,561	\$22	6,520,154	\$518
1998	3,580,026,033	200,000,000	17	7,294,768	491
1999	3,797,520,901	233,000,000	15	8,038,592	472
2000	4,270,120,244	230,903,374	17	11,150,869	383
2001	4,710,778,688	231,884,250	19	8,650,735	545
2002	5,688,385,711	112,964,750	49	11,271,618	505
2003	6,531,005,615	53,770,375	120	14,228,020	459
2004	7,200,000,000	48,300,000	148	15,645,237	460

Source: *OpenTheGovernment.org* calculations based on data from the National Archives Information Security Oversight Office

releasing information that no longer endangers national security (and the many classified documents that never did), Washington is starving openness to pay for its secrecy.

We calculated this figure by first subtracting the declassification cost from the total classification cost to arrive at the total cost of classification not related to declassification. In other words, we calculated for each year how much the government spent keeping and maintaining its secrets. Then, we divide this figure by the expenditures on declassification. Spending on declassification activities continues to drop to a new low of \$48.3 million in 2004. To put these figures in context, from 1997 to 2001, the government spent less than \$20 per year to keep its secrets for every dollar spent on declassifi-

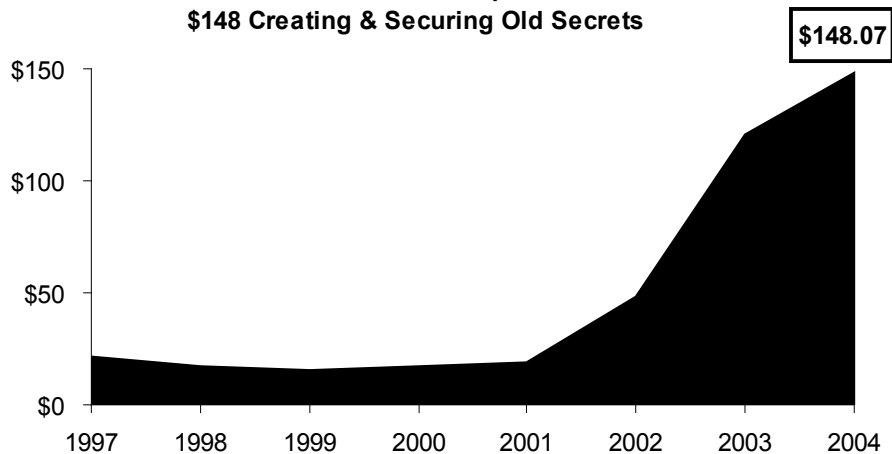
cation.

### Cost of Each New Secrecy Decision (\$460)

Another measurable indicator of the cost of secrecy in dollar terms is the amount of money estimated to cost the American taxpayer for every new secrecy decision. For every new classification decision, we estimate that each of the 15.6 million choices to classify information made in 2004 will cost taxpayers \$460 in storage and security costs. That figure is up just a dollar from last year's costs and down significantly from 2001 and 2002 levels.

We calculate this figure by dividing the total cost of the classification system (including the current cost of declassification, as these secrets most likely will eventually be declassified at some cost to the taxpayer) by the estimated number of new classification actions. We do not adjust these figures to account for inflation. We also do not estimate the cost of new technologies for storing and maintaining secure work environments such as Sensitive Compartmented Information Facilities. If anything, then, these figures underestimate the real costs.

**For Every Tax Dollar Spent Declassifying Old Secrets, The Government Spends \$148 Creating & Securing Old Secrets**



### Tip of the Iceberg:

## 4,007 “original classifiers.”

Several thousand federal workers have the authority to create a new memo, analysis, report and classify the information contained in the document as either “top secret,” “secret” or “confidential.” In government parlance, these people have “original classification authority.”

Of course, this is just the tip of the iceberg. This classified information is then referred to, summarized, cited, or otherwise used in many documents by many people throughout the federal government.

In all these derivative uses, the information is still classified. Unknown is how many people actually use classified information throughout the government, but the government does track the number of people whom the president has granted “original classification authority.”

### Persons in Government With Original Classification Authority

Year	# of Persons
1993	5,661
1994	5,461
1995	5,379
1996	4,420
1997	4,010
1998	3,903
1999	3,846
2000	4,130
2001	4,132
2002	4,006
2003	3,978
2004	4,007

Source: U.S. Department of Justice

## THE FREEDOM OF INFORMATION ACT (FOIA)

### Total Number of Freedom of Information Act Requests

Public requests for information under the Freedom of Information Act have more than quadrupled over the past six years - from fewer than one million (869,576) in 1998 to top the three million mark (3,266,394) in 2003 and hitting a new high of over 4 million requests in 2004.

### Fulfilling FOIA Requests

At the same time, the number of federal agencies reporting no backlog in FOIA requests rose from 7 in 2003 to 14 by the end of 2004. While FOIA requests doubled since 2001, federal resources devoted to training personnel and processing FOIA requests has fallen behind, rising only 17 percent over the same time period. Unclear is whether the rise

in agencies reporting no backlogs is due to increased agency efforts to process requests, fewer actual requests allowing agencies to catch up, or agencies more strictly applying rules and procedures. Some evidence suggests that, to reduce

### Public Requests under the Freedom of Information Act

Year	Number of FOIA Requests	Total Cost of FOIA
1999	1,908,083	\$286,546,488
2000	2,174,570	\$253,049,516
2001	2,188,799	\$287,792,041
2002	2,429,980	\$300,105,324
2003	3,266,394	\$323,050,337
2004	4,080,737	\$336,763,628

Source: U.S. Department of Justice

their caseloads, agencies may deny more requests on technicalities than they have in the past or are waiving fees less often. One public interest group, the People For the American Way, was told its request for documents about people detained

as part of government anti-terrorism efforts would cost the group nearly \$400,000. Like many non-profit groups and journalists, PFAW had repeatedly used the Freedom of Information Act to investigate potential problems and receive documents from government agencies without any fees.

## SECURITY ON NEW PATENTS

### Patent “Secrecy Orders”

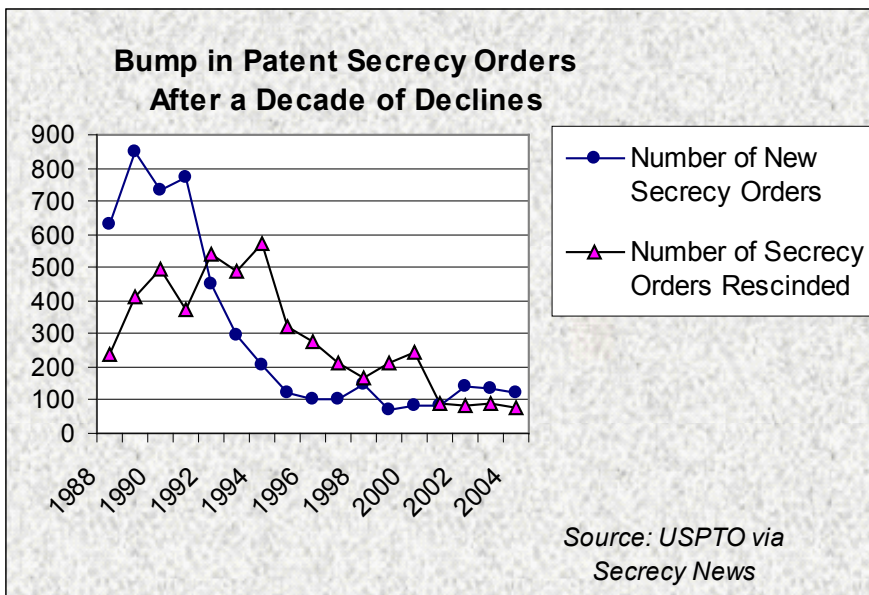
The federal government can impose secrecy on any new patent to be kept secret by issuing a “secrecy order” under federal law (35 USC 181). After over a decade of fewer and fewer new secrecy orders imposed on new patents, the number of new secrecy orders jumped just after 9/11 from 83 in 2001 to 139 in 2002. This increased use of secrecy orders shows

no sign of abating with 136 new orders in 2003 and 124 new orders in 2004. This number is less than the number of secrecy orders in effect during the Cold War, but is more than we saw several years ago.

At the same time, the number of secrecy orders that were rescinded follows a downward trend. The result is an uptick in the total number of secrecy orders in effect from a low

of 4,736 in 2001 to 4,885 in 2004, a 3.1 percent increase. To put that into perspective, the total number of newly issued patents rose only 2.8 percent during the same period (from 166,037 to 170,637).

## SECURITY ON NEW PATENTS (CONT'D)



## New Privately Held Patents Classified by the Federal Government

Year	# of New Security Orders	# of Security Orders Rescinded	Total # of Security Orders in Effect
1988	630	237	5122
1989	847	413	5556
1990	731	496	5791
1991	774	372	6193
1992	452	543	6102
1993	297	490	5909
1994	205	574	5540
1995	124	324	5340
1996	105	277	5168
1997	102	210	5060
1998	151	170	5041
1999	72	210	4903
2000	83	245	4741
2001	83	88	4736
2002	139	83	4792
2003	136	87	4841
2004	124	80	4885

Source: United States Patent and Trademark Office via Federation of American Scientists, [www.fas.org/sgp/othergov/invention/stats.html](http://www.fas.org/sgp/othergov/invention/stats.html); accessed 8/25/05.

## Number of FISA Applications Presented and Approved

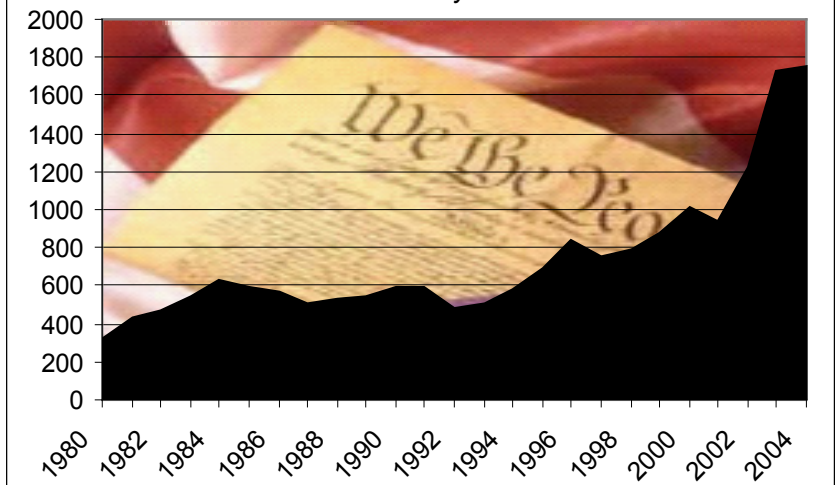
Year	FISA Apps
1980	322
1981	433
1982	475
1983	549
1984	635
1985	587
1986	573
1987	512
1988	534
1989	546
1990	595
1991	593
1992	484
1993	509
1994	576
1995	697
1996	839
1997	748
1998	796
1999	880
2000	1012
2001	932
2002	1228
2003	1724
2004	1754

## THE JUDICIAL BRANCH: THE FOREIGN INTELLIGENCE SURVEILLANCE COURT

The Foreign Intelligence Surveillance Court does not reveal much about its activities while approving orders to conduct surveillance on foreign nationals in the United States. It approved 1,754 requests in 2004 from the federal government to collect information but does not identify the activities investigated or basic information about how the subpoenas are used. The FISC rejected zero government orders in 2004. In fact, through its history, it has only rejected 4 government requests for surveillance orders.

## Secret FISA Court Orders (Approved)

Source: Electronic Privacy Information Center





## WHISTLEBLOWERS

Over the last decade, whistleblowers helped the federal government recover \$7,626,566,750, according to the latest figures from the U.S. Department of Justice. The large savings for taxpayers comes even as court decisions have undermined whistleblower protections passed by Congress in 1989, to the point that Congress is poised to strengthen legislative safeguards.

Recoveries dropped in 2004, while several pending lawsuits with potential large recoveries dragged into 2005. According to Taxpayers Against Fraud, a nonprofit public education center based in Washington, DC, the 2004 drop does not suggest larger trends are at work. A few big cases can significantly affect the total amount recovered in any given year. The group estimates that 2005 recoveries are likely to total over one billion dollars.

### Whistleblowers Recover Billions for Taxpayers

Year	Savings
1989	\$15,111,719
1990	\$40,558,367
1991	\$69,775,271
1992	\$135,093,903
1993	\$177,416,383
1994	\$381,468,397
1995	\$247,276,827
1996	\$138,598,636
1997	\$629,882,525
1998	\$462,038,795
1999	\$516,778,031
2000	\$1,199,766,754
2001	\$1,286,791,859
2002	\$1,089,252,722
2003	\$1,501,554,095
2004	\$554,626,506

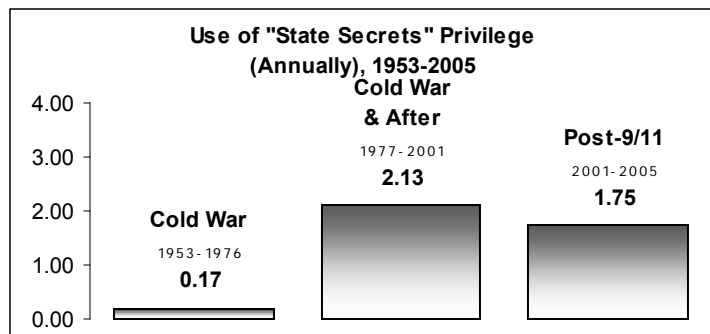
Source: US DOJ (via Taxpayers Against Fraud)

## STATE SECRET: THE EXECUTIVE BRANCH'S TRUMP CARD

The executive branch has broad, near unilateral authority to declare information "state secret." In 1953, the U.S. Supreme Court allowed the executive branch to keep secret, even from the Court, details about a military plane's fatal crash. That case, *United States v. Reynolds*, allowed the executive branch to withhold information that would threaten national security.<sup>4</sup> This ruling gave the executive branch a power to impose secrecy with little opportunity for appeal or judicial review.

Between 1953 and 1976, the federal government invoked the "state secrets" privilege only four (4) times, or a rate of once every 6 years. Between 1977 and 2001, administrations invoked the privilege 51 reported times (a rate of just over 2 times per year). Since 2001, the state secrets privilege has declined slightly. Reportedly the privilege has been invoked at least 7 times, or a rate of 1.75 each year.

### Use of State Secrecy Privilege



	1953 to 1976	1977 to 2001	2001 to 2005
Times Invoked	4	51	7
Period (in years)	23	24	4
Yearly Invocations (Avg.)	0.17	2.13	1.75

Source: William G. Waver and Robert M. Pallitto, "State Secrets and Executive Power," *Political Science Quarterly*, 120:1 (2005).

4 345 U.S. 1, 10 (1953) as cited in William G. Waver and Robert M. Pallitto, "State Secrets and Executive Power," *Political Science Quarterly*, 120:1 (2005).

## SEEKING SCIENTIFIC AND TECHNICAL ADVICE THROUGH FEDERAL ADVISORY COMMITTEES

Nearly two-thirds of the 7,045 meetings of federal advisory committees that fall under the Federal Advisory Committee Act (FACA) were completely closed to the public. In passing the Act in 1972, Congress intended for the federal government to receive open scientific and technical advice, which is free from the undue influence of “any special interest.” 5 USC Sec. 5(b)(3) Congress allowed certain exceptions but wrote directly into the law its assumption that “(e)ach advisory committee meeting shall be open to the public.” 5 USC Sec. 10(a)(1)

The majority of the closed committee meetings consisted of groups advising three agencies: The Department of Defense, Department of Health and Human Services and National Science Foundation. When these three agencies are excluded, the numbers still show growing secrecy in advisory committee meetings overall. As the following table shows, the number of closed meetings sponsored by the remaining agencies tripled between 2001 and 2004 even though the number of meetings overall rose 21.8 percent.

Year	Total Number of Meetings	Closed Meetings, % of Total
1997	5698	51
1998	5898	50
1999	6256	53
2000	6211	56
2001	5872	58
2002	6281	61
2003	6799	61
2004	7045	64

Source: Compiled by OpenTheGovernment.org from Federal Advisory Committee Act Database, [www.fido.gov/facadatabase](http://www.fido.gov/facadatabase); accessed August 12, 2005.

### Closed Meetings of Remaining Agencies (Excluded: Dept. of Defense, Dept. of Health & Human Services, National Science Foundation)

	1997	1998	1999	2000	2001	2002	2003	2004
Meetings Completely Closed	240	233	257	255	130	262	318	396
Total number of Meetings	2100	2233	2159	2028	1837	2062	2297	2237
Portion Completely Closed	11.4%	10.4%	11.9%	12.6%	7.1%	12.7%	13.8%	17.7%

Source: Compiled by OpenTheGovernment.org from Federal Advisory Committee Act Database, [www.fido.gov/facadatabase](http://www.fido.gov/facadatabase); accessed August 12, 2005.

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## SECRECY LAWS FLOURISH IN STATEHOUSES

Throughout the country, state legislators favored secrecy over openness. While bills promoting access and bills extending secrecy were introduced in roughly equal numbers (see chart), nearly half (49 percent)

of secrecy bills eventually were signed into law, while roughly a quarter of access bills (27 percent) became law.

Some caveats: These numbers cannot be considered comprehensive.

Some bills may have been signed into law after the research was conducted. The Reporters Committee for Freedom of the Press annually

compiles a summary of legislation dealing with secrecy, access and the First Amendment. Using that summary (with permission), we scored each proposed bill or law based on the Reporters Committee description on whether the proposal advanced secrecy or access. We excluded from our count some bills that could not be categorized into one or the other because they included elements that advanced both secrecy and access.

Type of bill	Introduced	Passed (one or more houses)	Known signed in to law	% signed into law
Secrecy	126	72	62	49
Openness	117	62	38	32

## SENSITIVE BUT UNCLASSIFIED: AN INCOMPLETE ENCYCLOPEDIA

We identified 50 types of restrictions on unclassified information. Through laws, regulations or mere assertions by government officials that information should not be released to the public, we counted at least 50 different ways the federal government keeps unclassified information from the public. Some protections are necessary for unclassified information, such as personal privacy information or trade secrets.

However, as the list of 50 types of “sensitive but unclassified” categories shows, the federal government has greatly expanded its ability to control unclassified, public information through vague restrictions that give government officials wide lati-

tude to declare information beyond the public’s reach. Such unchecked secrecy threatens accountability in government and promotes conflicts of interest by allowing those with an interest in disclosure or concealment to decide between openness or secrecy. For examples of specific information no longer made available, see Steven Aftergood’s article in Slate entitled, “The Age of Information,” available at <http://slate.msn.com/id/2114963/>. Ultimately, these efforts to control and restrict information make it harder for authorities to inform the public about potential dangers in their own communities and defy the physics involved in the free flow of information in a democratic, open society.

The exact number of these loose definitions is not clear. Some have put the number at between 50 and 60 different designations. The compilation below is a beginning effort to identify and count the many uses of SBU. Only through identifying and counting SBU can their creation and use be limited.

It should be noted that the classification system, which is governed by an executive order of the president of the United States, allows government to stamp documents as “secret” through the classification system. The following compilation involves terms the government uses to keep unclassified information secret. Some of these terms are duplicative or overlapping. For example, “controlled unclassified information” (CUI), consists of several of the other

categories in our list. As one Library of Congress researcher noted recently, “Key terms often lack definition, vagueness exists regarding who is authorized to applying markings, for what reasons, and for how long. Uncertainty prevails concerning who is authorized to remove markings and for what reasons.”

Just as there certainly are SBU designations in this list whose inclusion is arguable, there are almost certainly other designations that are missing. Some designations we included are used by a single agency while others are used by many agencies (such as “sensitive but unclassified”).

### Some Sensitive But Unclassified Designations

1	“Information [held by DHS] that could be sold for profit”	
2	“Information that could pose a physical risk to personnel”	
3	Chinese Space Program Equipment or Technology	
4	Computer Security Act Sensitive Information	(CSASI)
5	Confidential Business Information	(CBI)
6	Contractor Access Restricted Information	(CARI)
7	Controlled But Unclassified	(CBU)
8	Controlled Unclassified Information	(CUI)
9	Critical Energy Infrastructure Information	(CEII)
10	Critical Infrastructure Information	(CII)
11	DEA Sensitive	(DEA-S)
12	Defense Information (Formerly Restricted Data)	
13	Department of Homeland Security Information Technology	(DHS IT)
14	Export Administration Regulation Information	(EAR)
15	Federal Information Security Manangement Act Information	(FISMA)
16	Financial Institution Information	(FOIA b8)
17	For Official Use Only	(FOUO)
18	General Services Admin. Sensitive But Unclassified Building Information	(GSA-SBU-BI)
19	Grand Jury Information	
20	Internal Personnel Rules and Practices	(FOIA b2)
21	International Traffic in Arms Regulation	(ITAR)

continued...

22	Law Enforcement Sensitive	(LES)
23	Limited Official Use Only	(LOU)
24	Missile Technology Control Regime Annex	(MTCR)
25	Missile Technology Control Regime MTCR) U.S.-Nominated Agents	(MTCR)
26	Nonpublic Information (Office of Government Ethics)	
27	Nuclear Nonproliferation Act Information	(NNAI)
28	Official Use Only	(OUO)
29	Operations Security Protected	
30	Secret Patents	
31	Personal Privacy Information	(FOIA b6)
32	Privacy Act Protected Information	(PAPI)
33	Privileged Information	(FOIA b5)
34	Proprietary Information	(PROPIN)
35	Safeguards Information (Nuclear Regulatory Commission)	(SGI)
36	Select Agent Sensitive Information	(SASI)
37	Sensitive But Unclassified (Department of Homeland Security)	(SBU DHS)
38	Sensitive But Unclassified (Department of State)	(DOS-SBU)
39	Sensitive But Unclassified Technical Information	(SBUTI)
40	Sensitive Homeland Security Information	(SHSI)
41	Sensitive Security Information	(SSI)
42	Sensitive Unclassified	(SU)
43	Special Nuclear Material	(SNM)
44	Specifically Exempt from Disclosure by Statute	(FOIA b3)
45	Trade Secrets	(FOIA b4)
46	Unclassified Controlled Nuclear Information	(UCNI)
47	Unclassified Export-controlled Department of Defense Technical Data	
48	United States Munitions List	(USML)
49	Voluntarily-provided Information (Federal Aviation Administration)	(FAA)
50	Well Information	(FOIA b9)

