

file Gulf War 0008

Internet Laws Overturned In New York and Georgia

Curbs on Smut and Anonymity Are Blocked

By ROBERT D. McFADDEN

In separate but related cases that could shape the future of the Internet, federal judges in Manhattan and Atlanta ruled yesterday that the States of New York and Georgia could not enforce laws intended to protect children from computer-network pornography and to bar anonymous cyberspace communications.

In the New York case, Judge Loretta A. Preska held that a 1996 law making it a criminal offense to send pornographic materials to minors over the Internet violated a clause of the United States Constitution that prohibits states from unduly interfering in the commerce and activities of people in other states.

The judge ordered Gov. George E. Pataki and Attorney General Dennis C. Vacco, the defendants — and by extension all district attorneys in New York — not to prosecute anyone under the law, noting in a 61-page ruling that such a virtual ban on the Internet that users in California, Oregon, Oklahoma or anywhere might have run afoul of a law they did not even know about.

"The Internet is one of those areas of commerce that must be marked off as a national preserve to protect users from inconsistent legislation that, taken to its most extreme, could paralyze development of the Internet altogether," Judge Preska said, adding: "Only Congress can legislate in this area."

In the Georgia case, Judge Marvin Shoob blocked the enforcement of a recent state law making it a criminal offense to communicate anonymously or to use a pseudonym over the Internet, saying that the statute violated the free-speech protections of the First Amendment.

The decisions were the first by the Federal courts to limit growing state efforts to regulate the content of the Internet, a global network of computers that is used by more than 40 million people and is expected to grow to more than 100 million by 1999. The state laws were held to be well-intentioned but unconstitutional and injunctions were granted to bar any criminal prosecutions. Officials in both states said they were considering appeals.

The rulings were hailed by civil liberties groups, library and book-seller associations, publishers and others who were plaintiffs in the cases, who use the Internet to display and disseminate a wide range of communications, and who might have been exposed to prosecutions under the laws that were challenged.

"We believe this is a historic decision," said Norman Siegel, executive director of the New York Civil Liberties Union, which helped represent the plaintiffs in the New York case. "It is a huge win for the people of the State of New York. It vindicates what we've been telling Governor Pataki and the State Legislature — that they could not and should not censor the Internet."

Ann Beason, a national staff attorney for the American Civil Liberties Union, who was an attorney for the

plaintiffs in both cases, also praised the rulings as a victory for Internet users. "Together, these cases send the powerful message that states cannot constitutionally regulate speech on the Internet."

Ms. Beason said the New York law was "almost identical" to the Federal Communications Decency Act, which makes it a federal crime to display "patently offensive" sexually explicit material over the Internet in a manner available to children. The United States Supreme Court is expected to rule soon on the constitutionality of that law.

Attorneys General Vacco of New York and Thurbert Baker of Georgia deigned substantive comments on the rulings, saying they were under study and that appeals would be considered. A spokesman for Mr. Vacco, Marie Carey, called the New York law "a reasonable balance between First Amendment free-speech rights and protecting children against pornography on the Internet."

Signed by Governor Pataki last Nov. 1, the law made it a crime to

A Federal judge compares the Internet to interstate commerce.

sending "indecent" materials to minors by E-mail or other direct means, although pornographic material posted on the World Wide Web or other locations for general viewing were not covered.

But it also outlawed generally posted Web sites or other devices that made deliberate, specific efforts to lure children into viewing pornography. The law imposed prison terms of up to four years for anyone convicted of sending sexually explicit material to children on the Internet, and up to seven years for those convicted of making sexual advances to children on computer networks.

Online services, electronic publishers, other Internet users and civil liberties groups filed suit soon after the law became official, and, pending the outcome, no one was prosecuted, officials said. The suit contended that the law violated the First Amendment free-speech rights of Internet users, and the so-called Commerce Clause of the Constitution, which was written by the framers to prevent overreaching by individual states that might jeopardize the growth of the nation and might interfere in its communications and trade.

The suits, in response, argued that the law had been aimed solely at conduct within New York's borders, and had been narrowly drawn to criminalize only those who tried to harm children, who not to interfere with freedom of speech.

THE PRESIDENT HAS SEEN

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The New York Times

SATURDAY, JUNE 21, 1997

Lawmakers Ask White House To Revisit Gulf War Illnesses

By PHILIP SHENON

WASHINGTON, June 20 — Eighty-six members of the House today urged a special White House panel of experts to review itself and conclude that Iraqi chemical weapons were responsible for some of the health problems reported by veterans of the 1991 Persian Gulf war.

The lawmakers, responding to a draft of a new Commission report that linked Iraqi nerve gas with the sorts of illnesses seen among the veterans, said in a letter to the White House committee that "the evidence is clear that exposure to a wide variety of chemicals in the Persian Gulf may be a significant factor in Persian Gulf illness."

The panel, the Presidential Advisory Commission on Gulf War Veterans' Illnesses, concluded earlier this year that Iraqi chemical weapons were probably not responsible for the veterans' health problems, and that it was far more likely the ailments

were linked to stand published alongside other G.A.O. efforts, and that "the errors of commission and omission are so serious that the publication of this draft in its current form would do a disservice to the Congress and President's efforts to address Gulf war veterans' illnesses."

The Defense Department acknowledged last year that thousands of American troops may have been exposed to chemical weapons after the demolition of an Iraqi ammunition depot. But Pentagon officials have been reluctant to link that exposure to veterans' health problems.

"I hate to concern these people," Mr. Sanders said of the White House committee, which includes prominent scientists and doctors. "But it's what happens in politics. They are backing themselves into a corner. And I think that's very unfortunate."

The House letter was signed by lawmakers from both parties. "This is absolutely a bipartisan issue," Mr. Sanders said.

A Pentagon spokesman, Bryan Whitman, said lawmakers were wrong to suggest that the Defense Department was not aggressively hunting an answer to the health problems of veterans.

"We're embarking on a very extensive research program," Mr. Whitman said. "We take very seriously the reports of chemical exposures."

The House letter was released as three senior Democratic Senators called on the accounting office to open a new investigation of American military doctrine on how to deal with low-level exposure to chemical weapons of the sort American troops may have faced in the Gulf war.

The Senators — Carl Levin of Michigan, ranking Democrat on the Armed Services Committee; Robert C. Byrd of West Virginia, ranking Democrat on the Appropriations Committee; and John Glenn of Ohio, ranking Democrat on the Governmental Affairs Committee — were in a letter to the accounting office that they were concerned "that U.S. military doctrine has not changed to reflect the lessons learned from the Gulf war experience."

"We believe that the most effective course of action is to prevent the exposure or combination exposures from occurring," the Senators said.

James J. Tuite Jr., a former Senate investigator who is now the director of the Gulf War Research Foundation, said a new investigation was needed because "the Pentagon's attendant denial of a cause and effect relationship between exposure and illness had resulted in policies and doctrine that continue to place our active duty forces in harm's way."

Capitol Hill shapshots of a Presidential panel's conclusions.

were linked to wartime stress.

But the panel's findings have been challenged in recent weeks, most significantly by the General Accounting Office, the investigative arm of Congress, which is expected to release a report next week that will harshly criticize the commission.

A draft of the report said there was "substantial evidence" linking nerve gas to the sorts of health problems seen among the veterans.

The author of the House letter, Representative Bernard Sanders, independent of Vermont, said today that the White House panel might have overlooked the possibility that chemical weapons had caused the veterans' illnesses because the commission depended on the Pentagon and the Department of Veterans Affairs "for a lot of its information."

The panel's chairman, Joyce C. Leach, the former dean of the public health school at the University of California at Berkeley, said the commission members stood by their findings and that their conclusions were reached "after an extensive review of the peer-reviewed literature — we looked at all of these issues."

In a response this month to the General Accounting Office, Dr. Leach said the draft report was "not

EB/Valley
We need to be careful in the way we report things

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JUN 30 6:22

Please staff
1 page memo
to POTUS

6/26

Study -

Is their copy we need to make sure this is all handled absolutely correctly. The president wants to make sure we don't miss anything.

*file Gulf war***Busick, Paul E.**

From: Busick, Paul E.
To: @EXECSEC - Executive Secretary
Cc: /R, Records at A1; @GWI - Gulf War Illnesses; @DEFENSE - Defense Policy; @INTEL - Intelligence Programs; @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs; @PLANNING - Strat Plan & Comm; @PRESS - Public Affairs; @NSA - Natl Security Advisor
Subject: GWI Update Bulletin... [UNCLASSIFIED]
Date: Friday, June 13, 1997 6:28PM

Don:

A few items of note...

1) We have received a draft copy of the GAO report called for in the '97 defense authorization act analyzing the effectiveness of the government's clinical care and medical research programs relating to possible Gulf War-related illnesses. It is addressed to the Senate Armed Services Committee and the House National Security Committee. The draft is critical of PAC and agency activities. The chief criticism is that the delays and missteps in developing a coherent approach to GWI issues (more recent improvements are acknowledged in a revised draft) have resulted in clinical and research strategies which will not resolve the most important questions about the causes and treatment of Gulf War-related illnesses. The report concludes that only more targeted research based on better information on the degree and nature of troop exposure to harmful substances will be able to eliminate alternative explanations and lead to better clinical treatment of Gulf War illnesses.

2) The PAC response (to the initial draft) was very pointed and rebutted many of GAO's criticisms of their conclusions in a point-by-point 10-page letter. After some significant back-and-forth, DOD sent a partial concurrence to the revised draft, acknowledging their earlier failures, but pointing out they are currently addressing the problems noted in the findings. VA asked for an extension which was not forthcoming. They are drafting a response which they plan to send to GAO Monday taking exception to those findings they feel are in error. I am monitoring closely and have pressed VA to push back on GAO where there is factual error, or where they have failed to adequately account for current activity. Phil Shenon is aware of the GAO draft, called the PAC from Brussels for a comment, (but didn't get one), so we may see a piece on it this weekend.

3) Ideally, the exposure modelling recently concluded at Dugway will help enable us to address some of the GAO report's criticisms as well. The Dugway tests were small scale demolitions of 9 stacked rockets. The tapes show several slow motion flyaways and warheads cracking on impact and leaking into the ground, as opposed to the vaporization many in the media expected. This is "good news" as it means there was less chemical warfare agent in the air to be dispersed over troops in the area. The data is still very preliminary as DOD/CIA have to scale-up the demolition model to the larger stacks actually destroyed, then apply that info to a meteorological model developed separately. That will then be compared to troop locator data which is also being significantly improved to determine who might actually have been exposed. All of this is scheduled for completion by 20/21 July and will be publicly briefed.

4) David Martin of CBS will probably have a piece on the evening news about the Dugway tests. Martin told CBS they'd, "probably like the story", indicating they were impressed with the vigor, level of effort and detail with which CIA and DOD are pursuing the issue. CBS is likely to conclude that fewer people were actually exposed than had previously been thought, though DOD and CIA say its too early to make that determination.

5) I will meet with a large group of VSO's next Wednesday morning at VA to participate in a briefing of the DOD Birth Defect study recently published in the New England Journal of Medicine. The objective is to give them the facts for their consideration prior to their summer conventions. I will also highlight POTUS' continuing commitment to the issue.

Paul

cc: Kitty Higgins & Anne McGuire; Jack Gibbons & Cliff Gabriel; Melanne Verveer & Nicole Rabner; Al Maldon; Laura Marcus

*file Gulf war***Busick, Paul E.**

From: Busick, Paul E.
To: @EXECSEC - Executive Secretary
Cc: @DEFENSE - Defense Policy; @GWI - Gulf War Illnesses; @INTEL - Intelligence Programs; @LEGAL - Legal Advisor; @LEGISLAT - Legislative Affairs; @NSA - Natl Security Advisor; @PLANNING - Strat Plan & Comm; @PRESS - Public Affairs; /R Records
Subject: GWI Update Bulletin... [UNCLASSIFIED]
Date: Monday, June 16, 1997 3:17PM

Don:

Here's a quick status report on events today:

1) There continues to be press interest in the draft GAO report although Mike McCurry did not get any questions at the afternoon press event. We provided press guidance for White House and First Lady's office use this morning. SEC Cohen made some brief remarks on his trip indicating DOD's commitment to seeking out answers to the problems and his personal concerns. DOD is going to make Dr. Rostker (their Special Assistant on the issue) and Dr. Christopherson (from Health Affairs) available this afternoon to respond to questions on the issue. They will NOT be critical of GAO, but will point out those areas where GAO has said they need to do things differently that may in fact already be in progress.

2) Kitty and I were able to arrange a 1400 meeting between the PAC and GAO to review the PAC's concerns on the report. That will be followed by a 1600 VA, DOD and GAO meeting to review the report. DOD will mention the meetings today at their press availability. I plan to have someone from NSC/GWI attend the 1600 meeting. I emphasized to GAO that our concerns were: a) POTUS' commitment to leaving no stone unturned, b) that their report accurately reflect the state of play as to what the agencies' current programs are, and c) to that end that it would be most helpful to the veterans if we could resolve as many points of contention as we can before the GAO final report is released. I also noted that our interests lay in finding the cause or causes of the illnesses and any recommendations that will help us improve our program.

3) We'll provide a more complete update later this evening when reports from the GAO meetings and press availability are available.

Paul

cc: Kitty Higgins & Anne McGuire; Jack Gibbons & Cliff Gabriel; Melanne Verveer & Nicole Rabner; Al Maldon; Laura Marcus

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NATIONAL SECURITY COUNCIL

GULF WAR ILLNESSES

DIRECTORATE

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From: Jeremy Pam**To: Thurgood Marshall Jr. & Ann McGuire; Jack
Gibbons & Cliff Gabriel; Melanne Verveer & Nicole
Rabner; Al Maldon; Laura Marcus****Agency: EOP****Fax Number: 6-2983/6-6021/6-6244/6-2604/6-1907****Date/Time: 6 Aug 97/1815****No. of pages to follow: 1****Subject: GWI Update Bulletin...**

Busick, Paul E.

From: Busick, Paul E.
Sent: Wednesday, August 06, 1997 6:09 PM
To: Kerrick, Donald L.; @EXECSEC - Executive Secretary
Cc: @DEFENSE - Defense Policy; @INTEL - Intelligence Programs; @LEGAL - Legal Advisor;
@LEGISLAT - Legislative Affairs; @NSA - Natl Security Advisor; @PLANNING - Strat Plan &
Comm; @PRESS - Public Affairs; @GWI - Gulf War Illnesses; @NESASIA - NE/South Asia;
Bolan, Christopher J.
Subject: GWI Update Bulletin... [UNCLASSIFIED]

Don:

1) The PAC holds its final public hearing on SEP 4 and 5. As expected, the agenda consists of a final review of progress on the recommendations they made in their final report last January, and updates on several investigations ongoing primarily within DOD. Of significant concern is the PAC staff's preliminary view that the Committee is very likely to conclude that DOD still requires considerable oversight of its efforts to investigate events that occurred in the Gulf War that may have bearing on veterans' illnesses and of DOD's implementation of many of the PAC's recommendations, particularly with respect to medical monitoring issues.

2) That outcome raises the issue of how we might wish to respond to a recommendation for continued oversight. While the variety of possibilities is large, there are several broad categories from which to choose to begin to focus our thought process, including the following questions.

Do we want continued oversight?

If yes: should it be "Presidential" in nature?(extend the PAC or daughter of PAC?)
should it provide oversight to all agencies or just DOD?

If no: would some other group/body be likely to do this anyway? (Congress, other?)

Recognizing the independence of the PAC, and the near certainty they will recommend continued oversight, should we try to orchestrate an outcome before the PAC hearing or see what we get and then respond?

3) I would appreciate thoughts from all addressees by Friday so that I might be able to pull together an options paper to focus our thinking early next week.

Paul

cc: Thurgood Marshall, Jr./Ann McGuire; Jack Gibbons/Cliff Gabriel; Melanne Verveer/Nicole Rabner; Al Maldon; Laura Marcus

*file Gulf War***Rosa, Frederick M.**

From: Busick, Paul E.
To: @EXECSEC - Executive Secretary
Cc: /R, Record at A1; @GWI - Gulf War Illnesses; @DEFENSE - Defense Policy; @LEGAL - Legal Advisor; @LEGISLAT-Legislative Affairs; @PLANNING - Strat Plan & Comm; @PRESS - Public Affairs; @NSA - Natl Security Advisor
Subject: GWI Update Bulletin... [UNCLASSIFIED]
Date: Wednesday, February 05, 1997 7:15PM

Don:

1) As reported last evening, SENs Specter and Rockefeller announced the hire of Michael Rotko for a one-year investigation into Gulf War Illnesses. We understand they've also asked the Rules Committee for authority to hire up to 20 additional people to form a "special investigation unit" within the Committee staff. SEN Rockefeller's press release says it is to look at allegations of "inadequate health care at VA facilities," and the "Pentagon's lack of credibility" in its investigative efforts. SEN Specter's release says the investigation will look at "the adequacy, focus and conclusions of the... research [portfolio]...", "the extent to which DOD will "...account for its failure to provide all information on the use or destruction of Iraqi chemical and biological weapons...", "whether vets were "subjected to experimental vaccines...", and why so many vets "report that VA treatment... is ineffective."

2) I briefed the Joint Chiefs today on my sense of the "White House" view on GWI issues. Dr. Rostker also presented an update on his efforts to investigate past events in the Gulf War. I commended DOD for its efforts since November, and then stressed the need for openness, continued commitment, the need to act cooperatively with VA and HHS, and the absolute requirement of a strong follow-through to implement PAC recommendations. I made it clear that the overall DOD response to the PAC recommendations will ultimately be the litmus test for the public in terms of whether DOD restores its damaged credibility. The Chairman is clearly engaged on the GWI problem.

3) I met with Bob Tyrer(sp?), SEC Cohen's chief of staff, for about an hour with both Rostker and Scott Harris. I made roughly the same points (as in #2 above), and praised both Dr. Rostker and Dr. White for their efforts. He confirmed the Secretary's interest in the issue. I also raised the issue of the Specter/Rockefeller announcement today, and pointed out that there were 2 IGs and an Intel Oversight investigation already in progress. SEC Cohen stepped into the meeting for a few minutes to express his interest and appreciation for our efforts.

4) DOD thinks the "Eye on America" segment on Khamisiyah will now air Friday because of interest in both the Army's Sergeant Major sexual harassment allegations and DOD budget politics.

5) As reflected in several recent press reports, the "Khamisiyah cohort" (i.e., those within 50 km of the event) may increase in size from approximately 25k to almost 40k owing to DOD's receiving information that GEN McCaffrey's entire division was within the 50km zone. Dr. Rostker's team is evaluating this information and will send out as many additional notifications and surveys as necessary to all of the new personnel identified.

cc: Kitty Higgins & Ann McGuire; Jack Gibbons & Cliff Gabriel; Melanne Verveer & Nicole Rabner; Al Maldon