

Homeland Secrecy

July 30th, 2002

Editorial

The San Francisco Chronicle

IMAGINE IF YOU had the chance to create a new Cabinet-level federal agency that employed 170,000 workers and absorbed 22 former agencies. What an opportunity! You could implement every value you've ever cherished and create something that matched your greatest ideals.

That is exactly what the Bush administration appears to be doing with the new Department of Homeland Security. Only its dreams may turn out to be our nightmares. The president, for example, wants to exempt the new agency from the Freedom of Information Act and to eliminate all whistle-blower protections for employees. Fortunately, such efforts to curtail civil liberties have met fierce resistance from the American Civil Liberties Union, the Government Accountability Project, the Federation of American Scientists, as well as dozens of legislators, who want to make the new agency accountable to the American people.

But the battle continues. Last week, the House not only provided blanket exemption from all FOIA requests, but also pre-empted all state and local open-record laws. Such secrecy, proponents argue, is necessary in order to encourage corporations to volunteer information to the new agency. But that is a disingenuous argument because FOIA already protects trade secrets. The real reason, as many House Democrats repeatedly stated, is that the administration wants to offer its corporate friends immunity from legal suits.

Let's say a corporation manufactures a widget that is supposed to prevent a particular kind of terrorist threat. If that widget fails to operate, no one would be able sue the corporation for negligence. Even more, as David Sobel of the Electronic Privacy Information Center has testified, the Department of Homeland Security could not be held accountable if it fails to make use of the information it receives. "What did DHS know and when did it know it?" will be a question that goes unanswered.

Wisely, both the House and Senate rejected the administration's efforts to deny whistle-blower protection to the new department's employees. But even the status quo is woefully inadequate. Any employee who experiences retaliation must first go through an arduous administration process before seeking a trial in one specific Washington court that has, in 74 out of 75 cases, ruled against federal whistle-blowers. In contrast, Congress just gave corporate whistle-blowers a quick route to a speedy jury trial.

The final details for what Rep. Jan Schakowsky, D-Ill., has called the Department of Homeland

Secrecy will have to be ironed out in a congressional conference committee. In the rush to create the department, however, Congress should not allow the Bush administration to shroud a new federal agency in secrecy. We must preserve public accountability and civil liberties. Anything less will make us less free, but not more secure.