BANKING ON SECRECY

With our banks about to go the way of our S&Ls, it's time we made the Freedom of Information Act cover financial institutions too

by Teresa Simons

Say your neighbor just cracked up his car. So he asks to borrow your limited-edition 1991 Acura NSX. But he hems and haws when you ask him how his accident happened and if he's had any others. Are you still going to let him borrow the Acura? Well, maybe. But you're pretty whacked if you don't first make him answer your questions. Some people will still think you're crazy for lending the car. But don't worry. You learn a lot faster than Congress.

Congress allowed our friendly neighborhood thrift regulators to hide under the cloak of official government secrecy—lulling the press and public into complacency—as hard-dollar damages grew from an estimated $50 billion in 1987 to nearly $200 billion today. Add another $300 billion or more for interest costs, additional anticipated thrift failures, and recessionary effects. Yet like a car owner who doesn't heed the warning of an earlier crash, Congress is nevertheless allowing confidentiality to frustrate attempts to assess another potential disaster-in-the-making—the one brewing at the nation's banks. The bank regulators are citing the same confidentiality laws touted by the thrift regulators.

It wasn't just fraud, insider abuse, and an unreasonable government-regulated interest rate structure that created the S&L crisis. There was another culprit: official government secrecy fostered by a major exemption in the federal Freedom of Information Act (FOIA).

Edwin Gray, who headed the Federal Home Loan Bank Board in the mid-1980s, says he was frustrated in trying to sound the alarm by his inability to release pertinent information to the press. The law says that doing so could have cost him his job as well as a year in prison. Gray now contends that the S&L losses would never have grown so large had the public been given more information about the problem sooner. "That would have gone a long way to helping," he says.

House Banking Committee Chairman Henry Gonzalez puts it this way: "The savings and loan scandals grew in the dark basements of official government secrecy."

The information blackout on financial institutions has been so severe that even law enforcement officials have had trouble getting the information they need to stop crooks. Jim Watson, one of the California attorney general's top narcotics officers, said that two years ago he couldn't even get the Federal Reserve to tell him whether banks in its Los Angeles region were sending a lot more cash back to the Reserve than they were taking and, hence, possibly laundering drug money. The Reserve now acknowledges that Los Angeles area banks do have large cash surpluses, but it still won't release cash totals for individual banks. Reserve spokesman Ron Supinski says the secrecy stems from "a business relationship. [The banks] don't want that released, and the Federal Reserve does not want it released, so it's not released."

The main culprit for this sanctimonious secrecy is Exemption 8 in FOIA, which says the American public needs to know about nearly all of its government institutions, except its financial ones. Written broadly

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and interpreted broadly by the courts, the exemption says government officials don't have to release information "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions." This includes records kept by the Office of Thrift Supervision (OTS), which has replaced the Federal Home Loan Bank Board in regulating thrifts; the Comptroller of the Currency, which regulates nationally-chartered banks; the Federal Reserve, which regulates key state-chartered banks; and the Federal Deposit Insurance Corporation (FDIC), which regulates the state-chartered banks that don't belong to the Reserve.

Former thrift regulator Gray argues that because the United States insures all deposits, "that makes every taxpayer in America a shareholder in every federally insured institution, and if they are shareholders, then it seems to me we at least ought to disclose to taxpayers the same kind of information as shareholders get." But we don't. Few banks and thrifts are public, so for the most part, taxpayers can't even learn if an institution is giving its executives excessive salaries or if its activities have drawn the special attention of regulators.

What information is released is not only difficult for lay people to interpret but also may be based on wildly misleading figures. The nation's banks and thrifts produce their own quarterly reports, which are in turn analyzed for the investment community by financial rating firms. But the firms' analyses rely on figures supplied by the financial institutions themselves. (And occasionally the ratings outfits reaped big bucks for their glowing reports at the very same time regulators were privately noting serious problems.)

The most accurate information often appears in the secret reports and memos generated by the government examiners. This is what the public needs to see: whether the examiners found accounting irregularities, whether property appraisals were missing and borrowers were not credit-worthy, whether borrowers were delinquent in repaying their loans, whether an institution's directors received low-interest loans, and whether an institution's managers withheld information.

Secrecy laws covering financial records emanate from a Depression-era mindset obsessed with the idea that release of "sensitive" financial information would cause consumer panic and a run on banks. That thought is perpetuated today by industry lobbyists and regulators who talk about runs the same way the Pentagon used to bring up threats to national security every time anyone asked for information about a defense contract. But in fact, the establishment of government-backed insurance for every deposit of up to $100,000 has significantly reduced the risk of runs on banks and thrifts. And even depositors with more than the insured amount at risk are in effect covered: When the FDIC decided to bail out Continental Illinois Bank in 1984, it covered even enormous deposits because it said it couldn't let such a large bank go under, thereby setting a precedent that has since led the government to bail out all depositors everywhere, no matter the size of their accounts.

Even if the release of thrift examiners' reports had led to a few runs on S&Ls, it's inconceivable that the result would have been a thrift industry as hurting as the one we've got now. Perhaps if a few more thrifts had gone up in smoke five years ago, there would have been fewer thrift failures today. Public pressure would have forced Congress to supply the money and the regulatory action needed to clean up the mess before it got out of control.

The Keating jive

Instead, FOIA's Exemption 8 and related secrecy laws frustrated attempts by the (all-too-few) journalists, economic researchers, and others who suspected problems at thrifts and were trying to get a handle on the damage. What this official government secrecy bred is demonstrated by the autopsies of the few bank and thrift failures about which considerable information has become public—usually through leaks, subpoenas issued in lawsuits, or congressional testimony. In each case, the after-the-fact release of crucial documents has shown that delays in regulatory action—not likely to have occurred had the facts become public sooner—have cost taxpayers billions.

➤When Charles Keating Jr. applied to buy Lincoln Savings and Loan in Irvine, California, he solemnly promised not to change the thrift's primary role, which was to help families buy homes. He wrote thrift regulators that "no changes are expected in the performance by [Lincoln] . . . in meeting the credit needs of its entire service area . . . including low- and moderate-income neighborhoods." Yet in the first year after he took over the thrift, he made only 11 home mortgages, at least four of them to officials of his parent company, American Continental Corp. So officials of the Federal Home Loan Bank Board knew early on that Keating was not keeping his most basic agreement with them, and by the spring of 1986, an agency examiner in San Francisco wrote a memo to his supervisors saying that Lincoln was a "disaster in the making." By mid 1987, the examiners' files clearly indicated that from Chairman Danny Wall on down, the Bank Board knew that Lincoln was essentially bankrupt and had, in effect, turned itself into a federally-insured casino. Yet Washington regulators, pressured by Keating's friends in the Senate, did not close Lincoln for another two years. In the thrift's final year, regulators sat and watched as 23,000 people walked into Charlie Keating's trap and unwittingly threw away $220 million of their life savings. If the public had access to the government examiners' files, Senators Alan Cranston, Dennis DeConcini, and Donald Riegle would have had a hard time claiming, as they actually did, that bureaucratic regulators were harassing Keating. Joseph Cotchett, the lawyer representing the 23,000 buyers of Lincoln's now-worthless junk bonds, says most of his clients would probably still have their money had the examiners' reports been public. The taxpayers' bailout of Lincoln is now expected to cost $2.5 billion.

➤James Moroney says that when he was a staff analyst for the Bank Board's Topeka district in 1986, he went to a fellow supervisor and asked why they were "putting up with" Silverado Banking, Savings and Loan. He was informed that one of the Denver-based thrift's directors was then-Vice President Bush's son. In the fall of 1987, the lawyer for the Topeka district warned top enforcement officials in Washington that Neil Bush was involved in questionable actions on the Silverado board. Then, wrote George Williamson in the *San Francisco Chronicle*, "For the next 15 months, federal regulators increasingly scrutinized, worried about, and—most significantly—put off critical action on the sensitive case. . . . Top thrift regulators engaged in a persistent pattern of delays involving Silverado, culminating with a series of unusual steps in the fall of 1988, when then-Vice President Bush was in the final stretch of his presidential campaign." Finally, on November 9, the day after the 1988 election, the president of the Topeka Federal Home Loan Bank signed a memo recommending a government takeover of Silverado, which occurred a month later. Had the regulators' files on Silverado been public in 1986 and 1987, it is highly unlikely that election-year politics would have delayed the thrift's seizure. Instead, Silverado cost taxpayers hundreds of thousands of dollars each of the hundreds of additional days it remained open, and its collapse is now expected to cost $1 billion.

National archivists will release bank examination reports from the Comptroller of the Currency only if an institution has been defunct for 50 years.

➤Federal regulators knew in 1985 that Don Dixon of Texas was looting Vernon Savings and Loan to pay for hunting trips, a vacation house, prostitutes, and illegal campaign contributions. At that time, the thrift was only a quarter the size it was when finally seized by the government two years later. Sure, making this information public might have resulted in a run on Vernon. But what better time to have had an ugly little run? Taxpayers would have been spared paying most of the eventual $1.3 billion bailout cost. Instead, regulators continued to keep their files secret and did not begin to talk about a takeover until the end of 1986. Even then, former House Speaker Jim Wright, at the urging of then-Rep. Tony Coelho, sought to rescue the man who had let both of them sail his Vernon-financed yacht, *High Spirits*. Wright pleaded for a little more time for Dixon and got it. But in March 1987, the inevitable happened: the Bank Board took over Vernon. Wright probably wouldn't have demanded more time had the public already known the facts. When the details were finally leaked to reporters, Wright's press secretary quickly issued a statement: "The Speaker's aim from the beginning has been to make sure that depositors are protected and that sound and salvageable private businesses are not forced into bankruptcy or foreclosure whenever that can be avoided." Sounds good in theory, but when regulators finally closed Vernon, they found that 96 percent of its loans were bad.

One doesn't need to look just at big cases to find examples of questionable enforcement that certainly would have bothered depositors and taxpayers had they known about them. When the California state archivist last fall inadvertently allowed *San Jose Mercury News* reporter Gary Webb to pore through boxes of confidential documents from the early 1980s, he found many unsettling practices at thrifts that stayed open far too long. In 1983 at Gateway Savings in Oakland, for example, a state Department of Savings and Loan examiner found "unsafe and unsound lending practices," including a $150,000 loan to a borrower with no job or other income, and $9.1 million worth of real estate investments for which no property appraisals had been done. The thrift also made 53 loans totaling $2.1 million to its board members, some of whom were seriously delinquent in repaying them. But Gateway was not seized until 1986, when it was $65 million in debt. At First Security Savings in Eureka, 1983 was also the year that examiners found that two of the thrift's three directors were receiving $70,000 salaries while devoting zero time to the business. The thrift's president was paid a $170,000 salary plus a $439,000 bonus in a year in which his thrift made only a $15,000 profit. Yet regulators did not seize the thrift until 1988.

"If reporters like myself had gotten key documents, this S&L crisis would have been severely shortened," maintains a northern California reporter, Steven Pizzo, who, together with Mary Fricker and Paul Muolo, published a book about the thrift industry's collapse, *Inside Job*, last fall. Pizzo says it took him four years to develop sources who would risk prison to brown-bag him confidential thrift reports. "We had to depend on court cases and hope attorneys would attach exhibits. We had to look at bankruptcy cases, and we *prayed* for divorces because they were very revealing. . . . But we shouldn't have to work on a story like a Ouija board."

Donald Trump card

Despite the obstacles, some reporters have managed to demonstrate that government documents are often the key to uncovering corruption at banks and thrifts. Jerry Kammer and Andy Hall of the *Arizona Republic*, using their state's revealing records on real estate transactions, found that while DeConcini defended Keating from what the senator called "rogue bureaucratic regulators," two of DeConcini's top campaign aides amassed more than $50 million in real estate loans from Lincoln Savings. By examining an exhibit attached to a lawsuit, *The Houston Post*'s Peter Brewton found out that $7 million of the $20 million a Texas S&L had loaned out for a development project went to a company that was laundering drug money. Because her newspaper went to court, *The Washington Post*'s Kathleen Day obtained two Bank Board memos that said D.C. councilwoman Charlene Drew Jarvis and her political adviser and social companion, Woodrow Boggs Jr., successfully pressed the agency to sell an ailing thrift to Citicorp, without disclosing that lobbyists for the New York banking giant had paid Boggs $60,150. But reporters more often than not are still turned down in their requests for information. Even now, when they get information leaked to them they never know whether they're looking at the elephant's leg or the whole elephant. Congressional researchers and public interest groups have the same difficulties.

Assigned to sell off and liquidate thrifts, the Resolution Trust Corporation (RTC) has acknowledged that it has allowed some of the thrifts' former executives to continue to draw six-figure salaries from the government, even though they are no longer working full time for the institutions and may be responsible for their demise. But the RTC has refused to release details on these salary arrangements, prompting Ralph Nader's Public Citizen interest group and Cox Newspapers to file a freedom of information lawsuit against the agency in September, a process that could take years to pry loose any information.

It took nearly three months of cage-rattling for a House Banking Committee staff member to obtain the OTS documents he needed to assess 94 deals the government made with buyers of failed thrifts in 1988. No wonder. The staff member's findings, released to the committee in September, revealed that regulators required the fat cat thrift buyers to invest a mere $2.2 billion in exchange for the government's contribution of $175 billion.

At the same time, other banking committee staff members were having trouble investigating banks' commercial lending practices, such as whether banks were channeling credit to large borrowers and ignoring smaller ones. The staff members wanted to use Donald Trump's loan restructuring as a case study. But Comptroller of the Currency Robert Clarke refused to release the essential information, claiming federal laws other than the FOIA, those governing disclosure of trade secrets and banking information, prohibited him from doing that. (Instead, the committee got the information detailing Trump's $3.2 billion debt, much of which was unsecured, from New Jersey's gaming commission. The commission was involved because Trump had pledged casino equity for the restructuring.) Committee Chairman Gonzalez later wrote Clarke that his agency and the Federal Reserve Board had "flatly stonewalled" the committee's efforts.

Indeed, the FDIC once even sued the comptroller's office for information and still didn't get everything it wanted. Courts have also declined to require regulators to release information on competing bids to take over a failed thrift and have refused to help the Consumers Union get information on banks that are miscalculating interest rates. Former regulator James Barth said that when he was with the Bank Board, people would sometimes ask for information about an S&L that, unbeknownst to them, was in the thrift's own annual report and on file with the U.S. Securities and Exchange Commission, but the Bank Board still wouldn't give it out.

National archivists, in fact, will release bank examination reports from the Comptroller of the Currency only if an institution has been defunct for 50 years. And only rarely will the comptroller authorize release of a report, regardless of how old it is, if the bank is still operating. "We don't allow that, period," says Frank Vance, the comptroller's disclosure officer. "As long as banks are up and running, examination reports are off limits."

Too close for discomfort

This cult of secrecy envelops state regulators as well. Raymond Vickers, a former top bank and thrift regulator for Florida, said he had to fight for a year-and-a-half before he got 60-year-old examination reports from Florida Controller-Banking Commissioner Gerald Lewis last year. Vickers wanted them to study Florida bank failures in the 1920s for his doctoral dissertation. He found that every bank that failed was rampant with fraud or insider abuse. And guess what? The regulators knew what was going on.

"This is an institutional obsession. They [financial regulators] are so obsessed with confidentiality, it's just a knee-jerk reaction," says Mike Malloy, a law professor and graduate studies director at Fordham Law School. "The keepers of those records are the most anal-retentive people on earth," exclaims Kammer of the *Arizona Republic.*

A look at California—which in 1968 adopted a public records disclosure law with an exemption for financial documents virtually identical to Exemption 8 of FOIA—illuminates why the FOIA exemption has persisted despite the S&L debacle. Michael Dorais, general counsel for the California Newspaper Publishers Association, recalls that the public records law would not have passed had its proponents not bowed to the financial industry's lobbyists. "They had relationships that wouldn't quit," says Dorais. "Nobody had more muscle than these guys, except alcohol and horse racing [interests]." Twenty-two years and one S&L scandal later, nothing has changed. State Assemblyman Richard Floyd recently introduced legislation to repeal the exemption for bank and thrift documents, but he couldn't even get it out of committee. "Once they realized that this was going to a hearing, the bankers went into a red-alert mode," says Floyd. A state banking department lawyer argued that even though the information was "of little interest or constructive use to anyone outside the financial regulatory community," it would still result in "serious harm to the financial institutions involved, in many cases potentially causing, in effect, a run on a bank. . . . Presently, this department and the industry we regulate maintain cordial relations in our examination and regulatory activities, due, in large measure, to the knowledge . . . that the information made available to us is not available to the public. This bill would have a very chilling effect on that relationship." Sure, public inspection could ruin the genial relationship that exists between the financial industry and its watchdogs. That's sort of the point.

Your government inaction

Post-S&L crisis efforts to modify the FOIA exemption haven't fared any better. Rep. Joe Kennedy, with assistance from Rep. Gonzalez, managed to get a provision in last year's S&L bailout bill that requires regulators to release information on racial disparities in loan rejections at individual S&Ls. (The measure was prompted by a Pulitzer Prize-winning story in *The Atlanta Journal-Constitution* showing that blacks were rejected more than twice as often as whites when they applied for home loans. The newspaper had been shut out when it tried to get figures for individual thrifts.) But that has been the only change in the confidentiality laws. The House Governmental Operations Committee recently held a hearing on various proposals to modify Exemption 8. Ralph Nader and an ACLU lobbyist testified, but no votes were taken. Sherry Ettleson of CongressWatch says she couldn't even get anyone on the House Banking Committee to conduct a hearing on Exemption 8. One congressional subcommittee held a separate hearing on legislation proposed by Rep. Gerald Kleczka that would have made a number of changes in the FOIA, including a narrowing of the exemption for financial records. But it wasn't voted on either.

This lack of action is deplorable, particularly when there is such confusion and disagreement as to the condition of the nation's banks.

Dan Brumbaugh and James Barth, two economists and former thrift regulators who predicted the S&L crisis in 1985, have been assigned along with a third economist to study the nation's banks for a House banking subcommittee. They fear the institutions could be in far worse shape than FDIC Chairman William Seidman has acknowledged and warn that another taxpayer bailout may be needed. But the three researchers have been denied access to many of the documents they requested for their study. At one point, Rep. Frank Annunzio, the subcommittee chairman, himself asked for a list of the nation's problem banks, promising that it would be kept for the subcommittee's use only. But Seidman refused to release the list to Annunzio, calling it one of the FDIC's "most sensitive documents. . . . I am sure you can appreciate the possible consequences for individual institutions and the banking system should information from the list be disclosed, even if advertently," Seidman wrote. Never mind the consequences for taxpayers and consumers if it is not disclosed.

Brumbaugh says he is "convinced that the reason why they are not giving us the data we need is that they realize an objective analysis of the banks is going to show that they're worse than they have said. Much worse. I think it's a scandal and an outrage. They're covering up." He says that "it was like pulling teeth" just to get the nonconfidential data. Government Accounting Office Comptroller General Charles Bowsher also suspects a disaster waiting to happen. "Not since its birth during the Great Depression has the federal system of deposit insurance for commercial banks faced such a period of danger and uncertainty as it does today," he says. If he's right, why should we have to find out the hard way?

Freeing up FOIA

Of course, just because the information is there, it doesn't follow that the press is going to do its job and report it to Joe Taxpayer. And it doesn't mean that Congress will do the right thing either. Congress knew quite a bit in 1987 when it passed a flimsy bailout bill that grossly underestimated the S&L problem and sided with the people who were causing it. When Michael Binstein was leaked more than 300 pages of secret documents on Lincoln Savings and published the spectacular findings in the Washington D.C. business and politics magazine *Regardie's* in 1987, not one other reporter asked to see the documents. And this year, Steven Pizzo had to go to *Penthouse* to publish a story that he wrote on how CIA freelance operatives took full advantage of the thrift situation, using federally insured bank and thrift money to fund politically unpopular covert activities. (Peter Brewton published stories on the same topic in *The Houston Post*.)

But it would be a lot harder for Congress or the press to sleep on the job if the facts were staring them in the face, or at least were a few blocks away in a room full of public documents. Other publications might have run a story similar to Binstein's if one of their own reporters could get access to the same documents—if it were just a matter of following up on what he or Brewton had already dug up in the public record. Keating's top lieutenant, Judy Wisher, once said in court testimony that the *Regardie's* piece was "very, very damaging," that it curtailed the thrift's brokered deposit program and caused lenders to refuse to renew some of its holding company's credit lines. And that was a story published locally on the other side of the country. Imagine what would have happened if Binstein's piece had run on the front page of the *Los Angeles Times*. The chances are pretty good that Keating would not have subsequently been able to dupe 23,000 southern Californians out of their life savings while Bank Board Chairman Danny Wall and other Washington regulators were offering pat reassurances.

Which points to a truism about government: While some regulators like Wall will always take the easy way out and soften their criticism out of fear that they will upset a powerful figure, in general regulators do a better job if they know their work will become public. And that fact makes it a lot harder for their bosses to suppress their good efforts. The upshot is that taxpayers find out a lot more about their government—disclosure is how safety problems were directly linked to poor management within NASA, how the FBI was caught conducting illegal surveillance of hundreds of American citizens and groups opposed to the administration's policies in Central America, and how we finally learned that former high-level government officials successfully used their political influence at HUD to rake in large fees from developers.

Recent improvements at private medical labs clearly illustrate the kind of cleanup that disclosure can prompt in an industry where the public release of regulators' documents, SEC filings, nonprofit agency tax forms, or other records allow the public to make sure regulators are protecting consumers. *The Wall Street Journal*'s Walt Bogdanich used an array of documents from federal and state health regulators and court records to prove in 1987 that inaccurate and unreliable testing of body fluids and tissues at clinical labs was a serious health hazard as well as a waste of millions of dollars.

Disclosure could be likewise beneficial at banks and thrifts. Small depositors are protected by deposit insurance in the event of a bank or thrift failure, but more information could help them avoid going through the annoyance of having their checking accounts suspended, their checks returned unpaid, or the interest rates promised to them by one institution voided by another. Big depositors and lenders have other reasons for wanting to know more about the financial institutions they're considering doing business with. A builder, for example, who has taken out a partial loan for a development wants to know if his bank is going to be around to issue the money promised for the rest of the project. And some individuals and corporations don't want to invest in a crooked institution simply because they figure that if it cheats the government, it's likely to cheat customers too.

When you get down to it, the only thing non-disclosure really does is protect the unscrupulous operators. Saying you can't let the truth out about a bank or thrift because it could lead to a run on the institution and a lack of consumer confidence in the banking industry is as crazy as saying Transportation officials shouldn't have released information about the deadly defect in the 1973 Ford Pinto's fuel tank because people might have lost confidence in the auto industry.

Members of Congress who have criticized the secrecy of bank and thrift regulation should now do something about it. Congress wrote the confidentiality laws, and it can rewrite them. We shouldn't just wait for the courts to change them, even though some judges may want to. When Consumers Union sought to obtain information on banks' compliance with truth-in-lending laws 12 years ago, U.S. Court of Appeals Judge J. Skelly Wright wrote: "First, a central proposition underlying Exemption 8—that certain information must be kept from the public for fear that it will be misunderstood and lead to overreaction—is somewhat inconsistent with the philosophy behind the Freedom of Information Act. Second, the mere fact that there is a long-standing tradition of confidentiality of bank records—a tradition occasionally referred to with some reverence in testimony before the Senate subcommittee—strikes me as irrelevant. It may be time for a reexamination."

What better time than now? The public has more than paid the price of admission to the regulators' archives. □

The Worst City Government

So far, the contest for the Worst City Government remains a close race between New York City and Washington, but other nominations are welcome.

What with the New York City school bureaucracy's killer combination of teacherless classrooms and more school administrators than the whole of France, you'd think kids would have enough obstacles to learning. But the city's gold-broomed custodial contract illuminates how educational indifference trickles down.

An October *Village Voice* study of the local International Union of Operating Engineers shows how city janitors have managed to earn up to $70,000 a year—more, needless to say, than any classroom teacher—while hamstringing dozens of educational opportunities for the kids who need creative help the most. Janitors, you see, hold the keys to the schools.

In 1988, the city gave custodians raises averaging $11,500 in exchange for permitting parents and teachers to conduct educational programs after hours. Yet today, if a PTA wants to hold tutoring sessions or parenting classes that keep the school open beyond the contracted extra six hours a month, it's got to pony up $90 to Mr. Mop—a huge price for tiny PTAs on the Lower East Side.

And that's provided parents get the requisite paperwork in on time. The union offers a helpful 25-page instruction booklet for that. Between the red tape and the highway robbery, the usual PTA enterprises—remedial math, fundraising for extra books, balls, and toilet paper—easily fall by the wayside.

Of course, funding all this friendly service isn't just a matter of $90 payoffs. In addition, taxpayers cover an astonishing custodial budget of $230 million a year (more than New York spends to house its homeless). In exchange, the custodians have agreed to mop cafeteria floors *once a week.*

While federal and local subsidies serve up a morning dose of Frosted Flakes and scrambled eggs to hundreds of thousands of America's low-income kids, that good cause doesn't penetrate New York's custodial kingdom. At one elementary school, the school custodian steadfastly bars the cafeteria workers from the building until 8 a.m., which keeps them from having enough time to prepare breakfast. The custodian's contract doesn't say anything about giving a damn.

What the contract *does* spell out offers far better reason to get up in the morning. Within what the City Council once described as their "autonomous empire," custodians find their perks include everything from Jeep Cherokees to Macintosh computers. New York City's school janitors have the power to use Board of Education bucks to buy their own school "supplies." But there's a kicker: After five years, the ownership of that four-wheel drive or lawnmower can become the janitor's *private property.* (At $70,000 a year, you might think he could afford his own.)

Janitors do a dirty job, union officials point out rightly; why not sweeten their deal? The answer is growing in the schoolyard. Why won't someone cut that raging crabgrass outside of Kruse Elementary in Jackson Heights? Because the departing custodian took the lawnmower with him. Where's that elaborate computer/phone setup the Board of Education spent thousands on in 1985? Try the ex-janitor's house on Long Island.

—*Katherine Boo*

The *Monthly* depends on its readers to keep track of the breakdown of big-city government. Please send your nominations to:

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