

Arlington, VA

Arlington Man Becomes Focus of Internet Copyright Debate

Year-Long Fued With Church Ends In N. Arlington Raid

by NITA RAO
 Staff Writer

tology teachings. The teachings are provided to church members only after they have signed a contract agreeing never to disclose the information.

The Internet postings released by Lerma, who left the church on less-than-amicable terms in 1980, include testimony from former church officials who describe the Church of Scientology, which boasts more than eight million members, as a dangerous cult.

According to Lerma, who is a vocal critic of church practices, the information he posted came from a public court document — an affidavit in a California case involving the church.

"I confined all postings to court documents in the public's interest," he states. "I've never had any of their copyright stuff and never have."

Lerma also refutes the church's charge that the Internet postings violate the trade secret

theory, which is a unique corollary to copyright law because it is the only way to legally qualify information as property.

According to a local copyright lawyer who asked not to be named, information may be characterized as a trade secret only if it offers the holder a competitive advantage of some sort, such as knowledge of a secret production process or marketing strategy.

Lerma, who considers the search and seizure of his home that was authorized by U.S. District Judge Leonie M. Brinkema of Alexandria a "travesty" and a "farce," is also angry that the church informed Brinkema that his postings were "stolen property."

Mike Godwin, a lawyer for the San Francisco-based Electronic Frontier Foundation, an Internet civil liberties group, sides with Lerma.

"The church is arguing copy-

right infringement as well as violation of trade secret theory because copyright is the only 'remedy' that gave the marshals the right to come in and do the seizure," explains Godwin, who is considered one of the nation's foremost authorities on computer law.

Godwin also notes that if the church had relied solely upon copyright infringement as the charge against Lerma, the case would not have held up in the court systems.

"If they had only used copyright violation, the judge could have cited the Fair Use Doctrine," says Godwin.

Many area copyright lawyers define the Fair Use Doctrine as a copyright statute that excludes those who use copyrighted material for "legitimate" educational or informational purposes from copyright violation.

According to Godwin, it is likely that Brinkema would have

defined Lerma's postings as "educational and newsworthy" passages released by an Internet publisher.

The Church of Scientology disagrees with the arguments proposed by both Lerma and Godwin and continues to assert that Lerma was never authorized to publish the materials on Internet.

"There's a distinction between his [Lerma] criticism of the church and his postings of copyrighted material. There was enough evidence of copyright infringement that the judge ordered the raid," said church spokeswoman Pat Jones.

Lerma's widespread distribution of the church's upper-level teachings on Internet will cause financial harm to the church, according to church officials, who say that members usually donate funds to learn the same informa-

Continued on page 4

Internet

Continued from page 1

tion posted by Lerma.

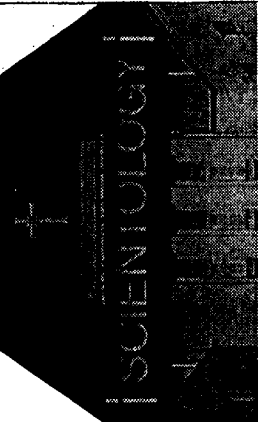
"The law is clear: if you are going to violate copyrights, you will have to answer for it in court," said church lawyer Earle C. Cooley of Boston.

Jones said that in addition to violating copyright laws, Lerma also disregarded the confidentiality agreement that he signed as a member of the church.

speech, but hastens to add that "free speech does not mean free theft, and no one has the right to cloak themselves in the First Amendment to break the law."

Currently, Lerma has lost possession of his computer equipment, software, and all related paperwork. U.S. Marshals also served him with a court order forbidding further infringements.

In addition to the restraining order and seizure, the suit also seeks a statutory \$100,000 fine for each of Lerma's infringements.



Church in Cyberspace

Its Sacred Writ Is on the Net. Its Lawyers Are on the Case.

By Marc Fisher
Washington Post Staff Writer

It was 9:30 and Arnie Lerma was lounging in his living room in Arlington, drinking his Saturday morning coffee, hanging. Suddenly, a knock at the door—who could it be at this hour?—and boom, before he could force anything out of his mouth, they were pouring into his house: federal marshals, lawyers, computer technicians, cameramen.

They stayed for three hours last Saturday. They inventoried and confiscated everything Lerma cherished: his computer, every disk in the place, his client list, his phone numbers. And then they left.

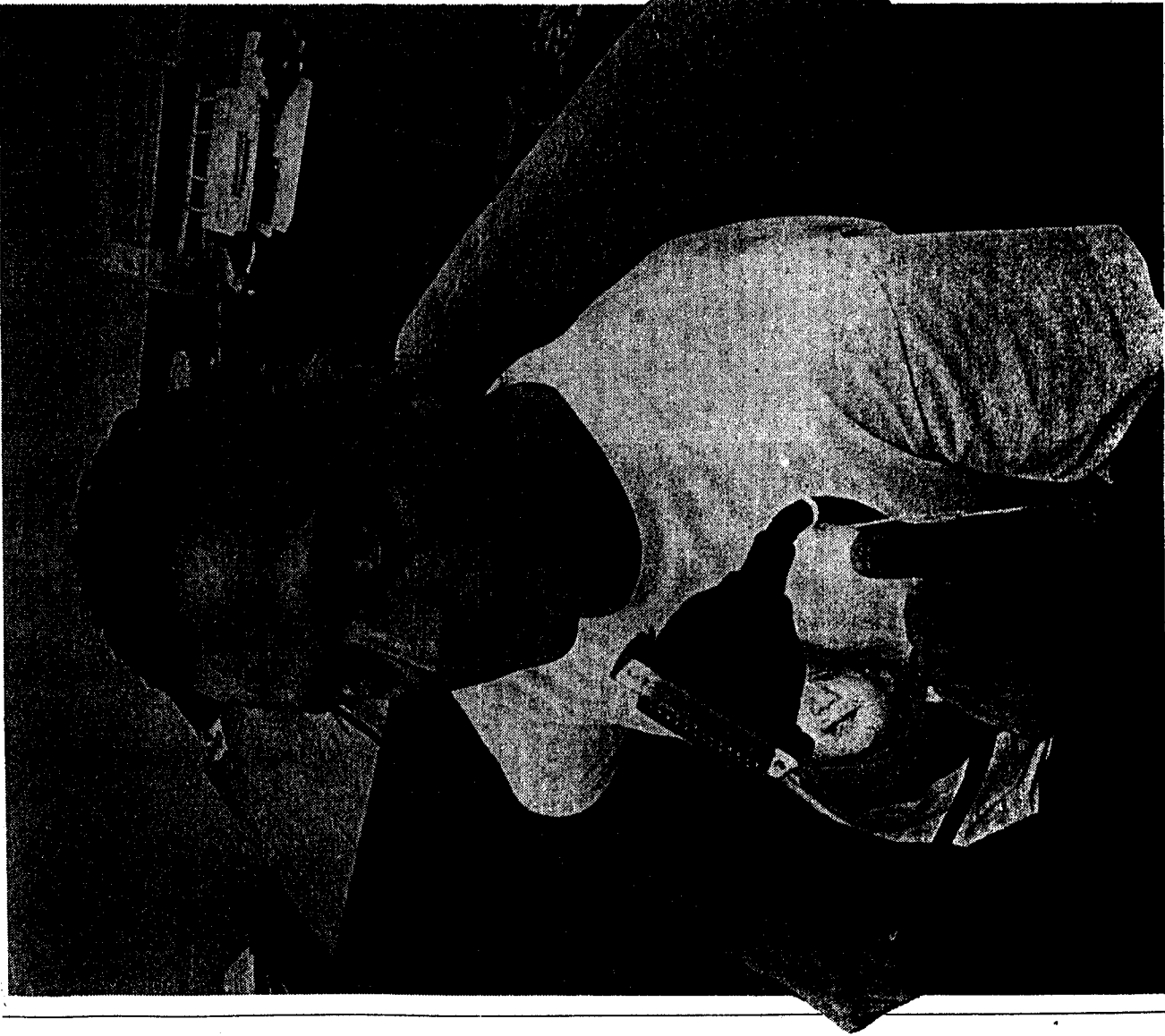
"I'm one of those guys who keeps everything—my whole life—on the computer," Lerma says. "And now they have it all."

They're lawyers for the Church of Scientology, the controversial group that Lerma once considered his home, his rock, his future. Now they call him a criminal, accusing him of divulging trade secrets and violating copyrights.

Founded in 1954 by science fiction writer L. Ron Hubbard, Scientology has grown into a worldwide organization that has been recognized as a religion by the Internal Revenue Service but has been called a cult by the German government. The church claims membership of more than 8 million; its critics say the figure is dramatically lower.

Lerma spent nearly 10 years in Scientology. But that was almost two decades ago. Since then, he's lived in Virginia, designing sound and video systems for nightclubs and other clients.

It was only in the past year or so that Scientology was only in the past year or so that Scientology, OK, Col. 1



BY ROBERT A. LEECH—THE WASHINGTON POST
Arnie Lerma holds the plug to his computer, confiscated by the Church of Scientology after he posted copyrighted documents on the internet. "We take very forceful and elaborate steps to maintain the confidentiality," says one Scientology official.

Bumping Into the Church

SCIENTOLOGY, From C1

logy and Arnie Lerma have gotten reacquainted, and this time Lerma has a different view of the church: He considers it a dangerous cult, a corrupt organization dedicated to brainwashing its followers.

To convince others of this view, Lerma used his facility with computers to distribute some of Scientology's most sacred texts, documents he says were obtained from a public court file in Los Angeles. In recent months, Lerma and others have placed dozens of these documents on the Internet, in a discussion group called alt.religion.scientology, a busy place in cyberspace where Scientology critics and adherents gather to trade arguments, insults and threats.

"I thought it essential that the public know this, so people can make an informed decision when some kid on a street corner asks you, 'Would you care to take a free personality analysis?'" Lerma says.

For a long time, the church treated its Internet critics as bothersome pests, sometimes answering their critiques, sometimes ignoring them. But in the past week Scientology has revved up its awesome legal machinery, launching a fierce campaign to protect its most closely guarded scripture.

A federal judge ordered the raid on Lerma's house after the church filed a lawsuit accusing Lerma of copyright infringement and revealing trade secrets. Church officials also paid a surprise visit to the home of a Washington Post reporter that Saturday evening, seeking the return of documents Lerma had sent him. And in Los Angeles, the church has persuaded a judge to seal the court file containing the disputed Scientology documents.

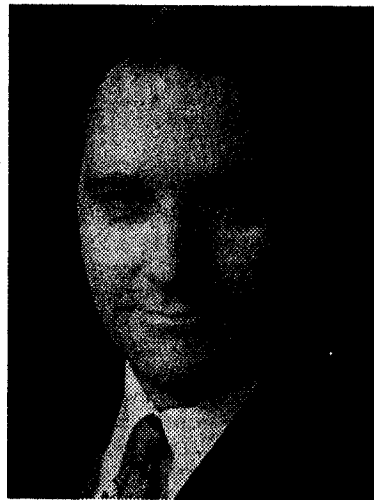
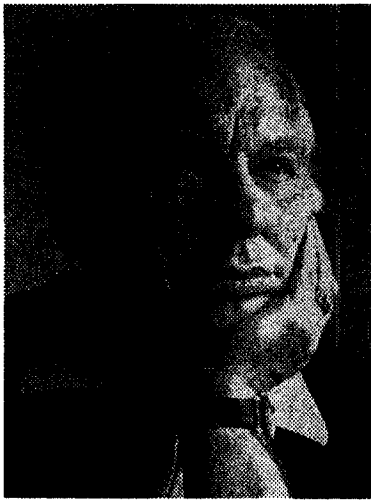
Arnie Lerma was lost without his computer. He resorted to jotting everything on legal pads. Finally this week, he got a new laptop. And then a sympathetic stranger mailed him a modem. But Lerma, 44, is deeply shaken. Tears drip down his cheeks at the slightest provocation. He descends into deep, barking sobs and cannot understand why.

He believes the church will try to harass him until he is silent. But he says that will not happen. On the Internet, Lerma signs his postings "Arnaldo Lerma, Clear 3502, Ex-Sea Organization Slave." It's a reference to his old Scientology code name and his status as a mostly unpaid church staffer. And then he writes: "I would prefer to die speaking my mind than to live fearing to speak."

Except that when he recites the line, Lerma cannot get it out without collapsing into spasms of sorrow.

'Ruin Him Utterly'

From the documents Lerma posted on the Internet, an oft-quoted Hubbard directive on litigation against unauthorized use of the church's texts:



PHOTOS COURTESY CHURCH OF SCIENTOLOGY
Scientology founder L. Ron Hubbard, left, and church official Kurt Welland, who says: "This is not a free-speech issue. It's a copyright issue."

The purpose of the suit is to harass and discourage rather than to win. The law can be used very easily to harass and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.

The church has long been quick to use the legal system against government investigators, ex-members turned critics, and news organizations that publish criticism of Scientology. At one point a few years ago, it had 71 active lawsuits against the IRS alone. In 1992 the church filed a \$416 million libel suit—still pending—against Time magazine, which had published a cover story titled "Scientology: The Cult of Greed." Earlier this year in California it filed suit against—and confiscated computer disks belonging to—another former member whom it accused of distributing copyrighted texts. And in the past year, the church has spent millions of dollars on an advertising blitz accusing the German government of a "hate campaign against Scientology."

A Scientology document filed in the Los Angeles case advises church members to discourage news reports on Scientology anywhere but in religion pages, and to "be very alert to sue for slander at the slightest chance so as to discourage the public presses from mentioning Scientology."

Free Speech vs. Copyright

The Church of Scientology says the Lerma case is a simple matter of trade secrets and copyright violations. The church's unpublished, copyrighted texts—previously available only to church members who have paid thousands of dollars to rise through Scientology's hierarchy of training courses—have been placed on the Internet, open to all.

This, Scientology lawyers argue, threatens the church's intellectual property rights.

"Of course we want Scientology to go out as far and wide as possible," says Kurt Welland, a director of the Church of Scientology International. "There are 60 books written by the founder. There is one small section, the upper-level materials, which are trade secrets based on our religious understanding. A person has to have advanced in an orderly fashion, spiritually, in order to understand its content."

"We are determined to maintain their confidentiality. We take very forceful and elaborate steps to maintain the con-

fidentiality. This is not a free-speech issue. It's a copyright issue."

Scientology, which runs a celebrity outreach program and counts among its members John Travolta, Tom Cruise and Lisa Marie Presley-Jackson, offers to help people attain a near-god state through several levels of training sessions. At the upper levels, church doctrine reads like a science fiction plot.

The church believes that 75 million years ago, the leader of the Galactic Federation, Xenü, solved an overpopulation problem by freezing the excess people in a compound of alcohol and glycol and transporting them by spaceship to Teegeeack—which we know as Earth. There they were chained to a volcano and exploded by hydrogen bombs. The souls of those dead—"body thetans"—are the root of most human misery to this day.

Much of Scientology's upper-level training consists of re-creations of that galactic genocide. Welland says most church members pay up to \$20,000 to reach the final stages of the training. Critics estimate the total cost at closer to \$300,000.

It is the texts of those training sessions—known as "Operating Thetan" or "OT" courses—that the church now seeks to keep secret.

In the lawsuit against Lerma, court documents unsealed Wednesday in U.S. District Court in Alexandria contain 30 color photographs showing how Scientology protects its sacred scriptures. Members ready to learn the material obtain magnetized photo ID cards and sign agreements to keep the information confidential. To see the material, they scan their ID cards to walk through two sanitized white doors, and security guards unlock the scriptures from cabinets where they are wired in place. Then guards escort the members to a room where they are locked in and monitored on video cameras.

But despite the church's precautions, the OT documents have been in a public court file for two years, ever since they were submitted in Los Angeles by Steven Fishman, a former Scientologist who was quoted in the Time magazine article in 1991 and subsequently was sued by the church for libel. The suit was dropped last year, but for more than a year, federal court clerks say, eight people have served as a rotating guard, arriving each morning at the L.A. courthouse to check out five volumes of the Fishman case file and keep them all day.

"They get here when the door opens

at 8:30—they come every day, faithfully," says Tyrone Lawson, exhibit custodian for the U.S. District Court clerk's office. "They never miss a day. It's like they don't want anyone to read it."

On Monday, after a Washington Post staffer asked the clerk for the file, one of the men challenged the clerk's right to take it to copy it, according to Joe Nunez, another official in the clerk's office.

"He came at me [saying], 'Oh, do you have the right to take this away?'" Nunez says.

When the Post staffer approached two of the men Tuesday, they would not say for whom they work. "We're just helping out," one said. "It's not public," the other claimed when the staffer asked to look at the file.

Weiland confirms that the people in the clerk's office were Scientology employees. "We took elaborate steps to assure that no one made copies of our copyrighted material," he says. "We actually had people there." Weiland says the only copies ever made from the court file were those made for the Washington Post staffer.

After learning that the Post had received the documents, Scientology lawyers renewed their efforts to seal the file in the Fishman case. Federal Judge Harold Hupp had denied previous Scientology motions to seal the material, but the church won a temporary sealing of the file pending the judge's next decision.

But that may not change anything, says Los Angeles lawyer Graham Berry, who represented Fishman's co-defendant, psychologist Uwe Geertz, in the libel case. "Now that it's all on the Internet, the genie is out of the bottle, and no amount of pushing and shoving by the Church of Scientology will put it back in."

Copyright lawyers say Scientology does not lose its copyright on the sacred texts simply because they are filed in court. "The Church of Scientology is correct," says Ilene Gotts, a partner in the Washington office of Foley and Lardner who specializes in intellectual property law. "The mere fact that you file something in the public domain does not get rid of its copyright protection."

Gotts says any citizen has the right to go to a courthouse and read anything in the files. But making photocopies of copyrighted materials could get you in trouble, as warning signs in many libraries, for example, make clear. And putting those documents on the Internet can further muddy the waters, Gotts says.

"That's something courts grapple

The Washington Post

THE WASHINGTON POST

...R SATURDAY, AUGUST 19, 1995 C5

tions for leaders of the OT training sessions. They are written in the dense jargon of the church: "If you do OT IV and he's still in his head, all is not lost, you have other actions you can take. Clusters, Prep-Checks, failed to exteriorise directions."

Scientology's jargon is often similar to the self-actualization lingo used by self-help groups that emerged from California in the 1960s and '70s. Like est and Lifespring, it includes concentration exercises in which trainees sharpen their perceptive abilities by focusing deeply on objects or people around them. In one high-level OT session, trainees are asked to pick an object, "wrap an energy beam around it" and pull themselves toward the object. Another instructs the trainee to "be in the following places—the room, the sky, the moon, the sun."

Many excerpts from Scientology texts have been published in news accounts over the past 20 years. What appears to be new in the Fishman documents is a 1980 "Confidential Student Briefing" on OT-VIII. The church calls the four-page briefing a fake. Purportedly written by Hubbard, who died in 1986, it tells the story of the church founder's "mission here on Earth," and warns that "virtually all religions of any significance on this planet" are designed to "bring about the eventual enslavement of mankind." It also states that "The historic Jesus was not nearly the sainted figure [he] has been made out to be. In addition to being a lover of young boys and men, he was given to uncontrollable bursts of temper and hatred."

Ultimately, the briefing says Hubbard will return to Earth "not as a religious leader but a political one. That happens to be the requisite beingness for the task at hand. I will not be known to most of you, my activities misunderstood by many, yet along with your constant effort in the theta band I will effectively postpone and then halt a series of events designed to make happy slaves of us all."

The text concludes, "L. Ron Hubbard, Founder." But Scientology director Weiland says it is "a complete forgery."

Genie Out of the Bottle

Forgery or the real thing, the documents are out there. The Internet newsgroups where the Scientology

texts have been posted are among the most popular in cyberspace, and a recent brouhaha over the erasure of Internet messages has drawn new readers.

"I'm a computer scientist, and I knew nothing about Scientology until all this started happening," says Dick Cleek, a professor of geography and computer science at the University of Wisconsin Center in West Bend who believes Scientologists are behind the erasures. "This is about the ability of people to speak out. It's as if every letter you sent saying 'Vote Republican' got removed from the mails. . . ."

"Every time they cancel one message, three more people post the documents," says Cleek, who is also a member of the Ad Hoc Committee Against Internet Censorship, a group of academics, computer users and Scientology critics who want law enforcement authorities to investigate the erased messages. "In the past, the church has harassed individuals who dared to criticize them. Now they've attacked the Internet, and they get people like me involved."

The church says it has never removed any messages from the Internet. "There are thousands of messages there about Scientology," says Weiland. "Those people were critical and obscene and we never did a thing about it."

Weiland says people who post messages about Scientology are "just a bunch of people of low moral standards. They don't have a life. It's really only a handful of people, maybe 15 to 20 guys who just post, post, post, and they just get high on each other's verbiage."

Despite the church's claim to copyright protection of its documents, Scientology will be hard-pressed to eliminate distribution of information already zipping around the world on the computer network, says Gotts. "The beauty and the beast of the Internet is that information gets out immediately," the lawyer says. The church could win every court battle, yet still find its sacred texts flying across phone lines from Bethesda to Beijing.

Which would suit Arnie Lerma just fine. His goal is to dissuade people from joining Scientology by revealing the church's philosophy to be empty and corrupt.

Lerma—who says he left the church

after leaders forced him out of a budding romance with a daughter of the church founder—is an angry and sad man. He says Scientology took advantage of him as a boy of 16, luring him into a life of virtual slavery, housing him in cold dormitories with insufficient food. "They prey on the naive with stars in their eyes. I just wanted to save the world."

Weiland says Lerma left because "Scientology has certain ethical standards. And Arnie Lerma was not able to live up to these standards and therefore decided to leave. There were problems with honesty."

"Ultimately," Weiland says, "his motivation is money." The director adds that Lerma never asked Scientology for money. "Not yet," he says.

Lerma contends he has violated no copyright, and intended only to distribute portions of the court file, "a public court record that I had a public duty to make available to the people because they were keeping it secret."

Arnie Lerma is a man given to causes. For years, he sought solutions through Scientology. More recently, he became intensely active in Ross Perot's abortive presidential campaign. Then he dived into efforts to unmask what he calls Perot's "terrible misdeeds." Now he has turned to Scientology once more.

Or, rather, against it. He says he does not seek revenge, only justice. He says that after he left the church, he went through a post-traumatic stress reaction, then through denial and, finally, a "reawakening."

Lerma lights up another Marlboro. He says he's smoking too much now. Every time the phone rings, he jumps up off the couch. Every time there's a knock at the door, he glances around the room.

Suddenly, he recalls the moment in 1977 when he called his mother in Georgetown and asked her to take him away from Scientology. "I said, 'Mom, I want to come home now and see if I can make life make some sense, because it surely doesn't right now.'"

And now, 18 years later, as Lerma says those words once more, he rolls over on his couch, drops his cigarette, and sobs until he laughs.

Special correspondent Kathryn Wexler in Los Angeles and staff writer Lan Nguyen in Alexandria contributed to this report.

with every day," she says. "A short passage for educational purposes is one thing, but if you're talking about 60, 80 pages, that defense is not going to work."

Clusters and Prep-Checks

If the court clerk's daily visitors made it difficult for citizens to see the public file, some copies of the documents nonetheless got out. Lerma says several former Scientologists passed the copies among themselves and then gave them to him; he then used a scanner to put them onto the Internet. Lerma also put the copies in an envelope and sent them to Richard Leiby, a Washington Post reporter who has written frequently about Scientology.

On the evening after the raid on Lerma's house, church lawyer Helena Kobrin and Scientology executive Warren McShane arrived unannounced at Leiby's home and demanded all copies he might have of the disputed documents.

Weiland says Scientology representatives went to Leiby's home "because Arnie Lerma gave stolen materials to Richard Leiby to hide." Lerma says he sent the papers to the reporter in search of publicity. This week, at Lerma's request, The Post returned the papers.

Meanwhile, the Post staffer in Los Angeles got copies of the documents from the court file.

Most of the 103 pages of disputed texts from the Fishman file are instruc-

The New York Times

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THE NEW YORK TIMES, SUNDAY, AUGUST 20

August 13-19

• Japan apologizes for World War II atrocities. • The nation's estimate of the rape rate doubles. • Scientology's secrets are spilled on the Internet. • Ruby Ridge family gets millions from the Justice Department. • Faulkner flees The Citadel.

WEEK IN REVIEW
SUNDAY, AUGUST 20, 1995

Japanese Remorse

Prime Minister Murayama Says "Owabi" at Last

Prime Minister Tomiichi Murayama this week did what no other Japanese leader has ever dared to do: he apologized for the suffering Japan inflicted on other countries during World War II.

Japanese officials have always danced around the problem by saying they felt "remorse" or "deep reflection" for committing atrocities that include sexual enslavement, forced labor and gruesome experiments on Chinese and other Asians. This time, though, Mr. Murayama used "owabi," an unambiguous word for apology, and he referred explicitly to Japan's "colonial rule" and "invasion."

While many Japanese say that Mr. Murayama's apology is long overdue, others argue that as the target of two atomic bombs, Japan does not need to apologize for the smaller horrors it caused in Asia.

SHERYL WUDUNN

Crime Survey

Rape Was Underreported Because No One Asked

Of all crimes, rape is the most underreported because women are afraid of facing their attackers in court and

putting their integrity on trial. Indeed, even in surveys, women are apt to underreport rape.

Last week the Department of Justice released a report that doubled the annual national estimates of rapes and attempted rapes to 310,000. Justice Department officials said the increase was not due to a rise in the number of rapes, but in the way the interviewers asked their questions. In its annual crime survey of 100,000 Americans interviewers asked women for the first time directly whether or not they were the victim of a rape.

Even the new estimate may be low. Many women whose husbands or boyfriends force them to have sex will not say yes when asked whether they have been raped.

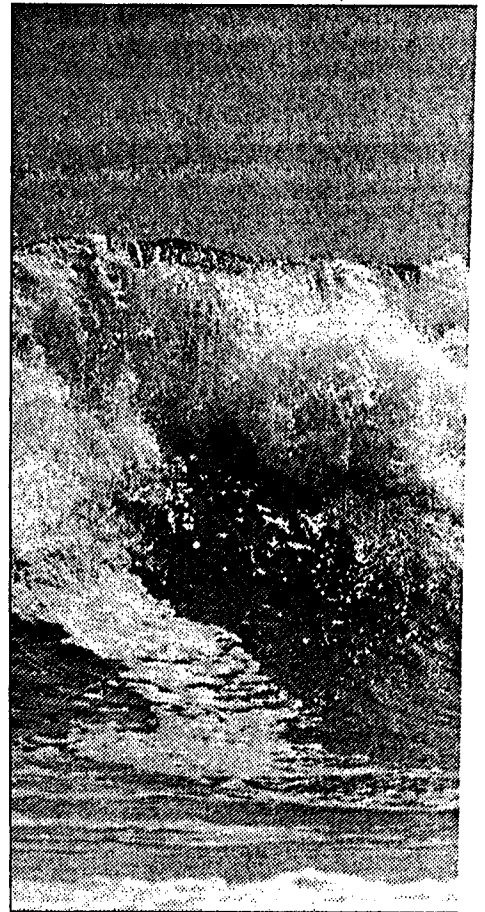
CLIFFORD KRAUSS

Internet Gospel

Scientology's Expensive Wisdom Now Comes Free

To reach what the Church of Scientology calls the seventh level of spirituality, the church's scriptures instruct followers to go to zoos and parks to communicate with plants and animals and go to train stations to put thoughts in the minds of strangers.

Advice like that doesn't come cheap. Scientologists pay tens of thousands of dollars for such spiritual teachings. Now, to the church's dismay, they're free with an Internet account.



Cowabunga!

For a brief and shining spell last week, the Rockaways look like a surfer's

The scriptures had been entered as an affidavit in a court case in Los Angeles. Arnaldo P. Lerma of Arlington, Va., a former church employee who is part of a band of on-line dissidents fighting Scientology, posted a copy of the affidavit on the Internet. Copies of the scriptures were then downloaded around the world. In China, the operator of a computer bulletin board said demand for the Scientology documents was slowing network access for the whole country.

The church sued Mr. Lerma, charging copyright infringement, and United States marshals seized his computer and 400 disks. Computer experts hired by the church tried to purge all the bootleg gospels from his system. And the judge in the Los Angeles case sealed the file. But computer dissidents say the texts are still available at Internet sites on several continents.

In the purloined scripture, Scientologists warn that unauthorized readers can die of pneumonia. No epidemic has been reported.

MIKE ALLEN

Who Was the First Upright Man?



The jaw bones of a 4.1 million-year-old human ancestor were dug up by Meave Leakey in Kenya.

The Washington Post

A16 TUESDAY, AUGUST 22, 1995

THE WASHINGTON POST

The Washington Post

AN INDEPENDENT NEWSPAPER

Speech in Electronic Space

AS USE OF the Internet grows, one thing that's becoming uncomfortably clearer is just how much of existing communications and copyright law depends on the physical limitations of records and publications kept on paper. A copyright infringement suit brought recently in Alexandria, concerning dissemination via the Internet of supposedly secret and copyrighted documents belonging to the Church of Scientology, brings some of these newly problematic issues into sharp relief. It's only one of a string of recent cases that show how much things are changing because of the new medium and how difficult it will be to enforce existing law by existing mechanisms.

In the Scientology case, a federal judge in Alexandria ordered marshals to seize the computer equipment of a man who had allegedly transmitted an unpublished but copyrighted "secret" text about Scientology, containing theological precepts and instructions, to a computer "newsgroup," or public space, from which it was instantaneously copied by thousands of other computer users all over the world. A lawyer for the church told the New York Times, "There are people out there who think the Internet has created a new medium where all the rules go away, and it's not true."

Legally, she's right: Copyright remains theoretically binding on the Internet when you can catch up with it. The trouble is that the Internet is international, and copying materials is effortless, so while individual copyright violators can be punished, that won't necessarily have the effect that copyright is designed to produce. The church of Scientology, for instance, had been able to charge people money for access to its docu-

ments. Now there are so many millions of copies available that they were reported to have clogged distribution outlets in Germany, Finland and Beijing.

Besides being of interest to publishers and authors (and, we might note, newspapers with on-line distribution services, such as this one), the future of copyright in cyberspace is of urgent concern to academics, who had made use in recent years of a special copyright exemption carved out to allow the photocopying of published articles for use in class (as long as no extra fee was charged beyond the cost of reproduction). Academics now want to distribute such work to students electronically, and some want libraries to provide it that way—including, perhaps, the Library of Congress, which is under pressure to get on line quickly with more material. But publishers and the owners of copyrighted material on, say, CD-ROMs are vigorously opposed to measures that could render them possibly unnecessary and certainly financially unviable. They want the copyrights enforced, even as others are calling them unenforceable—and as machines that can "scan" books directly into computers make the pace of reproduction ever faster and more painless.

Some of this will require legislation. The Commerce Department has held sessions on the topic without coming up with a plan, as has the publishing industry. What the courts rule on specific cases may prove less important to the structure of future law than an evolving technological understanding of just what kinds of rules can be imposed with some reasonable hope of results.